

Employment and Training Administration, Labor

§ 638.200

- 638.530 Emergency use of personnel, equipment and facilities.
- 638.531 Limitation on the use of students in emergency projects.
- 638.532 Annual leave.
- 638.533 Other student absences.
- 638.534 Legal services to students.
- 638.535 Voting rights.
- 638.536 Religious rights.
- 638.537 Disclosure of information.
- 638.538 Disciplinary procedures and appeals.
- 638.539 Complaints and disputes.
- 638.540 Cooperation with agencies and institutions.
- 638.541 Job Corps training opportunities.
- 638.542 Child care services.
- 638.543 Community relations program.

Subpart F—Applied Vocational Skills Training (VST)

- 638.600 Applied vocational skills training (VST) through work projects.
- 638.601 Applied VST budgeting.

Subpart G—Experimental, Research, and Demonstration Projects

- 638.700 Experimental, research, and demonstration projects.

Subpart H—Administrative Provisions

- 638.800 Program management.
- 638.801 Staff training.
- 638.802 Student records management.
- 638.803 Safety.
- 638.804 Environmental health.
- 638.805 Security and law enforcement.
- 638.806 Property management and procurement.
- 638.807 Imprest and petty cash funds.
- 638.808 Center financial management and reporting.
- 638.809 Audit.
- 638.810 Reporting requirements.
- 638.811 Review and evaluation.
- 638.812 State and local taxation of Job Corps deliverers.
- 638.813 Nondiscrimination; nonsectarian activities.
- 638.814 Lobbying; political activities; unionization.
- 638.815 Charging fees.

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Subpart A—Purpose and Scope

§ 638.100 General.

(a) *Purpose and Scope.* The purpose of this part is to delineate the policies, rules, and regulations that govern the operation of the Job Corps program,

authorized under title IV-B of the Job Training Partnership Act (Act). Job Corps is one of the broad range of programs for youth authorized by the Act. Job Corps centers are located in both rural and urban areas and provide training, education, residential and a variety of other support services necessary to prepare students to become more responsible, productive, and employable. (Section 421)

(b) *Job Corps Policy and Requirements Handbook.* The policies and procedures required in this part which are to be established by the Job Corps Director shall be contained in a policy and requirements handbook which shall be incorporated by reference in each contract or agreement to operate a Job Corps center, program, or entity.

(c) *Definitions.* Definitions for terms used in this part are found in section 4 of the Act and in subpart B of this part. Statutory authority for the regulations in this part is found in section 169(a) of the Act (29 U.S.C. 1579(a)). Applicable statutory provisions, including sections of the Act other than section 169(a), are noted parenthetically in this part.

Subpart B—Definitions

§ 638.200 Definitions.

In addition to the definitions contained in section 4 of the Act, the following definitions apply to programs under title IV-B of the Act and under this part:

Absent Without Official Leave (AWOL) means the absence of a student without official leave. For purposes of tort claims, federal employees' compensation, pay status and leave accrual, a residential student is considered AWOL if AWOL for 24 continuous hours. A non-resident student is considered AWOL if AWOL for one full day of center training.

Act means the Job Training Partnership Act.

Allotment means:

(1) A portion of the readjustment allowance prescribed by this part, which portion is paid monthly during the period of service of a student directly to a spouse of the student, to the child(ren) of the student, or to any other relative of the student who draws

substantial support from the student; and

(2) A supplement to the portion allotted by the student, made by the payment of an equal amount by DOL. (Section 429(d))

Allowance means a benefit provided by DOL to students by cash, check, credit, voucher, direct provision, or otherwise for such personal travel, leave, quarters, subsistence, transportation, equipment, clothing, recreational services, and other expenses as the Job Corps Director may deem necessary or appropriate to the students' needs. (Section 429)

Capital improvement means any modification, addition, restoration or other improvement:

(1) Which increases the usefulness, productivity, or serviceable life of an existing site, facility, building, structure, or major item of equipment;

(2) Which is classified for accounting purposes as a "fixed asset"; and

(3) The cost of which increases the recorded value of the existing building, site, facility, structure, or major item of equipment and is subject to depreciation.

Center means an organizational entity, including all of its subparts, providing Job Corps training and designated as a Job Corps center by the Job Corps Director.

Center Director means a center's chief official or the Center Director's designee.

Center operator means an agency or contractor that runs a center under an agreement or contract with DOL.

Center review board means the group at a center consisting of representatives from staff and students that reviews charges brought against students for infractions of center rules for which the penalty of termination might be imposed.

Civilian Conservation Center (CCC) means a center operated on public land under an agreement between DOL and another federal agency, which shall provide, in addition to other training and assistance, programs of work experience to conserve, develop, or manage public natural resources or public recreational areas or to develop community projects in the public interest.

Contract center means a center administered under a contract between Job Corps and a corporation, partnership, public agency, or similar legal entity.

Contracting officer means a DOL official authorized to enter into contracts or agreements on behalf of DOL.

Deliverer means any individual or organization that receives federal funds directly from DOL to establish, operate, or provide service to any Job Corps program or activity.

Department of Labor (DOL) means the United States Department of Labor, including its agencies and organizational units.

Disruptive home life means a home life characterized by such conditions as:

(1) The youth is living in an orphanage or other protective institution;

(2) The youth is suffering from serious parental or familial neglect or abuse; or

(3) The youth's father, mother, or legal guardian is a chronic invalid, alcoholic, narcotics addict, or has any other serious health condition.

Economically disadvantaged means an individual who:

(1) Receives, or is a member of a family which receives, cash welfare payments under a Federal, State, or local welfare program;

(2) Has, or is a member of a family which has received a total income for the 6-month (annualized) period prior to application to the program which, in relation to family size or for an individual, was not in excess of the higher of:

(i) The poverty level determined in accordance with criteria established by the Department of Health and Human Services; or

(ii) 70 percent of the lower living standard income level;

(3) Is receiving (or has been determined within the 6-month period prior to the application for the program involved to be eligible to receive) food stamps pursuant to the Food Stamp Act of 1977, as administered by the U.S. Department of Agriculture;

(4) Is a foster child on behalf of whom State or local government payments are made; or

(5) Is an individual with handicaps whose own income meets the requirements of paragraphs (1) or (2) of this

Employment and Training Administration, Labor

§ 638.200

definition, but who may be a member of a family whose income does not meet such requirements.

Employment and Training Administration (ETA) means the agency within DOL which includes the Job Corps.

Enrollee means a student.

Enrollment means:

(1) For resident students, the period of time from the date the student leaves home to begin government-authorized travel to the assigned center to the date of the scheduled arrival at the official travel destination authorized by the Center Director upon termination from Job Corps; and

(2) For nonresident students, the period of time from the time the student arrives at any center activity or program until he or she physically leaves such activity or program.

Environmental health program means the center program of health, safety, and prevention of environmental hazards for staff and students.

Facility survey means a review of center facilities conducted by professional architects and/or engineers to establish the condition of a facility and determine repairs, alterations, or replacement, if any, necessary to meet health and safety, building code or programmatic requirements.

Family means persons living in a single residence who are related by blood, marriage, or decrees of court and are included in one or more the following categories:

(1) A husband, wife and dependent children,

(2) A parent or guardian and dependent children, and

(3) A husband and wife. A step-child or step-parent is considered to be related by marriage.

Finance center means the agency or contractor which handles the payment of student allowances, allotments, and transportation charges.

Imprest fund means a cash fund of a fixed amount established by an advance of funds, without charge to an appropriation, from an agency finance or disbursing officer to a duly appointed cashier, for disbursement as needed from time to time in making payment in cash for relatively small purchases. Imprest funds occur only at

CCCs. (For contract centers, see definition of "petty cash fund".)

Income means all income actually received from all sources by an individual or, in the case of a family, by all members of the family for the 6-month (annualized) period prior to application. Family size is the maximum number of family members during the 6-month period prior to application. When computing family income, income of a spouse and other family members is counted for the portion of the 6-month (annualized) period prior to application that the person was actually a member of the family.

(1) For the purpose of determining an individual's eligibility for participation in the Job Corps program, family income includes:

(i) Gross wages, including wages from community service employment (CSE), work experience, and on-the-job training (OJT) paid from Job Training Partnership Act funds, and salaries (before deductions);

(ii) Net self-employment income (gross receipts minus operating expenses); and

(iii) Other money income received from sources such as interest, net rents, OASI (Old Age and Survivors Insurance) social security benefits, pensions, alimony, and periodic income from insurance policy annuities, and other sources of income.

(2) Family income does not include:

(i) Non-cash income such as food stamps or compensation received in the form of food or housing;

(ii) Imputed value of owner-occupied property, *i.e.*, rental value;

(iii) Public assistance payments;

(iv) Cash payments received pursuant to a State plan approved under title I, IV, X, or XVI of the Social Security Act, or disability insurance payments received under title II of the Social Security Act;

(v) Federal, State, or local unemployment benefits;

(vi) Capital gains and losses;

(vii) One-time unearned income, such as, but not limited to:

(A) Payments received for a limited fixed term under income maintenance programs and supplemental (private) unemployment benefits plans;

(B) One-time or fixed-term scholarship or fellowship grants;

(C) Accident, health, and casualty insurance proceeds;

(D) Disability and death payments including fixed-term (but not lifetime) life insurance annuities and death benefits;

(E) One-time award and gifts;

(F) Inheritance, including fixed-term annuities;

(G) Fixed-term workers compensation awards;

(H) Soil bank payments; and

(I) Agricultural crop stabilization payments;

(viii) Pay or allowance which were previously received by any veteran while serving on active duty in the Armed Forces;

(ix) Educational assistance and compensation payments to veterans and other eligible persons under chapters 11, 13, 31, 34, 35, and 36, of title 38, U.S. Code;

(x) Payments made under the Trade Act of 1974;

(xi) Payments received under the Black Lung Benefits Act (30 U.S.C. 901 *et seq.*);

(xii) Any income directly or indirectly derived from, or arising out of, any property held by the United States in trust for any Indian tribe, band, or group or any individual; per capita payments; and services, compensation or funds provided by the United States in accordance with, or generated by, the exercise of any right guaranteed or protected by treaty; and any property distributed or income derived therefrom, or any amounts paid to or for the legatees or next of kin of any member, derived from or arising out of the settlement of an Indian claim; and

(xiii) Child support payments.

Individual means a person who lives alone, or who lives with unrelated individuals, or who lives in a single residence where no family member claims that person as a dependent. An individual with disabilities has an option of applying and being considered as a member of a family or as an individual.

Individual with disabilities means any person within the definition at 29 CFR part 33 or 34 or 41 CFR part 60-741 as applicable. Although the definition employs the plural form "disabilities,"

and individual with a single impairment is covered within the definition. See §§ 638.539(g) and 638.811(a).

Interagency Agreement means that formal agreement between DOL and another Federal agency administering and operating centers. This agreement establishes procedures for the funding, administration, operation, and review of those centers as well as the resolution of any disputes.

Job Corps means the agency of the Department of Labor established by section 422 of the Job Training Partnership Act (JTPA) (29 U.S.C. 1692) to perform those functions of the Secretary of Labor set forth in title IV-B of JTPA (29 U.S.C. 1691 *et seq.*).

Job Corps Director means the chief official of the Job Corps or the Job Corps Director's designee.

Leisure-time employment means part-time paid employment of students.

Lower living standard income level means the income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary based on the most recent "lower living family budget" issued by the Secretary.

Maximum benefits means the apportioning of various segments of Job Corps training so that individual needs of each student are met and the student achieves as much benefit from the Job Corps as his or her abilities allow.

National office means the national office of Job Corps.

National training contractor means a labor union, union-affiliated organization, business organization, or a combination thereof, having contracts with the national office (or in the case of CCCs, a Federal agency at the national level) to provide vocational training, placement, or other services under a single contract including multi-area operations.

Occupational exploration program means the center program whereby a student is made aware of the vocational training opportunities made available by the center in order for the student to make an informed vocational selection.

Operational support services means activities or services required for the operation of Job Corps, such as outreach

and screening services, contracted vocational training and off-center educational training, placement services, certain health services, and miscellaneous logistical services.

Petty cash fund means a cash fund of a fixed amount from a contract center finance or disbursing officer to a contract center's duly appointed cashier, for disbursement as needed from time to time in making payment in cash for relatively small purchases. Petty cash funds occur at contract centers. (For CCCs, see definition of "imprest fund".)

Placement means student employment, entry into the Armed Forces, or enrollment in other training or education programs, within six months following termination from Job Corps (or such other period as may be announced by the Job Corps Director by notice in the FEDERAL REGISTER).

Placement agency means an organization acting pursuant to a contract with Job Corps that provides placement services to students.

Poverty level means the annual income level at or below which families are considered to live in poverty, as annually determined by the Department of Health and Human Services.

Readjustment allowance means the money accumulated by and reserved for each student on a monthly basis during tenure in Job Corps that is paid in a lump sum after termination.

Readmission means re-enrollment of a student who has previously been enrolled in Job Corps for less than 24 months and applies for reenrollment to the basic program and can be expected to complete a program within the remaining portion of the youth's 24-month enrollment period.

Regional appeal board means the board designated by the Regional Director in a regional office that considers student appeals of disciplinary discharges.

Regional Director means the chief official of a regional office or the Regional Director's designee.

Regional office means a regional office of Job Corps.

Regional Solicitor means the chief official of a regional office of the DOL Office of the Solicitor or the Regional Solicitor's designee.

Screening agency means an organization acting pursuant to a contract with the Job Corps that performs outreach, screens, and enrolls youth into Job Corps.

Secretary means the Secretary of Labor (the chief official of DOL) or the Secretary's designee.

Site survey means a survey of a potential location for a center that includes a preliminary engineering evaluation of the condition and capacity of existing buildings, pavements, utility systems, installed equipment, and all other real property components as well as a preliminary cost estimate for acquisition of facilities, necessary rehabilitation, modification, and new construction required that would, among other considerations, take into account structural accessibility for persons with handicaps.

State means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau/Trust Territory.

Student means an individual who is enrolled in Job Corps.

Student handbook means the document developed by the center operator and given to each student during orientation that outlines center services, rules, and regulations and student rights and responsibilities. See § 638.501 of this part.

Termination means the act of officially ending a student's enrollment in Job Corps for any reason.

Transfer means the reassignment of a student from one center to another.

Unauthorized goods means firearms and ammunition; explosives and incendiaries; knives with blades longer than 2" (two inches); homemade weapons; all other weapons and instruments used primarily to inflict personal injury; stolen property; drugs, including alcohol, marijuana, depressants, stimulants, hallucinogens, tranquilizers, and drug paraphernalia except for drugs and/or paraphernalia that are prescribed for medical reasons; and any other goods prohibited by the center operator in the student handbook.

Utilization study means an architectural/engineering report which is developed subsequent to a site survey or assessment after the regional and national offices have agreed, on the basis of the site survey, that the site is potentially favorable for a center. After the utilization study is approved by the Job Corps Director it becomes the basis for scope of work, budget, design, rehabilitation, and construction of facilities for the center.

Vocational skills training (VST) means activities that provide vocational instruction to students through actual construction or improvement of permanent facilities or other approved projects.

Work experience program means a program for assignment of a student to an actual job situation, either on-center or off-center, for the purpose of enhancing a student's employability. Work experience requiring the student to work over 25 hours per week is subject to the provisions of the Fair Labor Standards Act and State and local minimum wage laws for hours worked in excess of 25 hours per week.

[55 FR 12996, Apr. 6, 1990, as amended at 58 FR 69099, Dec. 29, 1993]

Subpart C—Funding, Site Selection, and Facilities Management

§ 638.300 Eligibility for funds and eligible deliverers.

(a) Funds shall be made available by the Secretary to eligible deliverers for the operation of centers and for the provision of Job Corps operational support services.

(b) Eligible deliverers for the operation of centers and for the operational support services necessary to center operation shall be units of Federal, State, and local government, State and local public agencies, private-for-profit and nonprofit organizations, Indian tribes and organizations, and labor unions, union-affiliated, and union/management organizations.

§ 638.301 Funding procedures.

(a) Contracting officers shall request proposals for the operation of all contract centers and for provision of oper-

ational support services, pursuant to the Federal Acquisition Regulation (48 CFR chapter 1) and the DOL Acquisition Regulation (48 CFR chapter 29) for work to be done under contract. The requests for proposal for each contract center and for each operational support service contract shall describe specifications and standards unique to the operation of the center and for the provision of operational support services.

(b) Job Corps contract center operators shall be selected and funded on the basis of proposals received, according to criteria established by the Job Corps Director. Such criteria shall be listed in the request for proposals.

(c) The contracting officer shall negotiate with eligible deliverers for operational support services on the basis of the criteria developed for each specific service to be rendered. Such criteria shall be listed in the request for proposals.

(d) The Secretary may enter into interagency agreements with eligible deliverers that are Federal agencies for the funding, establishment, and operation of CCCs. Such interagency agreements shall ensure compliance by such Federal agencies with the regulations under this part.

(e) Job Corps payments to Federal agencies that operate CCCs shall be made by a transfer of obligational authority from DOL to the respective operating agency on a quarterly basis.

(f) The Secretary is authorized to expend funds made available for Job Corps for the purpose of printing, binding, and disseminating data and other information related to Job Corps to public agencies, private organizations, and the general public. (Section 438(3)(A))

(g) Notwithstanding the limitations of titles II, III, and IV of the Act, funds made available under those titles and transferred to the Job Corps program pursuant to § 638.541 of this part may be used for the Job Corps program in accordance with the provisions of this part. (Sections 427(b) and 439)

(h) (1) In accordance with this section and procedures established by the Job Corps Director, the contracting officers shall enter into contracts with public or private (including nonprofit) entities for the provision of outreach and