

all students by means of a clothing purchase allowance and by center issue.

§ 638.526 Tort and other claims.

(a) Students shall be considered federal employees for purposes of the Tort Claims Act (28 U.S.C. 2671 *et seq.*). (Section 436(a)(3)). In the event a student is alleged to be involved in the damage, loss, or destruction of the property of others, or of causing personal injury to or the death of other individual(s), claims may be filed with the Center Director by the owner(s) of the property, the injured person(s), or by a duly authorized agent or legal representative of the claimant. The Center Director shall collect all of the facts, including accident and medical reports and the names and addresses of witnesses, and submit the claim for a decision to the DOL Regional Solicitor's Office. All tort claims for \$25,000 or more shall be sent to the Associate Solicitor for Employee Benefits, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

(b) Whenever there is loss or damage to persons or property, which is believed to have resulted from operation of a Job Corps center and to be a proper charge against the Federal Government, a claim for such damage may be submitted by the owner(s) of the property, the injured person(s), or by a duly authorized agent or legal representative of the claimant to the Regional Solicitor, who shall determine if the claim is cognizable under the Tort Claims Act. Claims shall be filed no later than two years from the date of such loss or damage. If it is determined not to be cognizable, the Regional Solicitor shall consider the facts and may settle the claim pursuant to section 436(b) of the Act in an amount not to exceed \$1,500.

(c) The Job Corps may pay claims to students for lost, damaged, or stolen property, up to a maximum set by the Job Corps Director when such loss is not due to the negligence of the student. Students shall file claims no later than two years from the date of such loss. Students shall be compensated for losses when they are the result of a natural disaster or when the student's property is in the protective

custody of the Job Corps, which shall be the case when the student is AWOL. The Job Corps Director shall provide for claims to be filed with regional offices for a determination on the claim. The regional office shall promptly notify the student and the center of its determination.

§ 638.527 Federal employees' compensation.

(a) Students shall be considered federal employees for purposes of Federal employees' compensation (FEC). (Section 436(a)(2))

(b) Resident students shall be considered to be in the "performance of duty" as Federal employees from the date they leave their homes and begin authorized travel to their center of assignment until the date of their scheduled arrival at the official travel destination upon the termination from Job Corps. During this period the youths shall be known as students, and this period shall constitute their period of enrollment. During this period, resident students shall be considered as in performance of duty at all times, during any and all of their activities, 24 hours a day, seven days a week, except as described in paragraph (d) of this section.

(c) Non-resident students shall be considered to be "in performance of duty" as Federal employees from the time they arrive at any scheduled center activity or program until they physically leave such activity or program.

(d) No student shall be considered as being in performance of duty status if he/she is absent without official leave (AWOL) or after arrival home on administrative leave without allowances.

(e) In computing compensation benefits for disability or death, the monthly pay of a student shall be deemed that received under the entrance salary for a grade GS-2 Federal employee, and 5 U.S.C. 8113 (a) and (b) shall apply to students.

(f) Compensation for disability shall not begin to accrue until the day following the date on which the injured student completes his or her Job Corps termination.

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(g) Whenever a student is injured, develops an occupationally related illness, or dies while in the performance of duty, the Job Corps Director shall ensure that procedures set forth in the DOL Employment Standards Administration regulations at 20 CFR chapter I are followed. The Job Corps Director shall ensure that a thorough investigation of the circumstances and a medical evaluation are completed and that required forms are filed with the DOL Office of Workers' Compensation Programs.

§ 638.528 Social Security.

The Act provides that students are covered by title II of the Social Security Act (42 U.S.C. 401 *et seq.*) and shall pay applicable employment taxes (*e.g.*, the Federal Insurance Contributions Act (FICA) tax) on their living and readjustment allowances. (Section 436(a)(1))

§ 638.529 Income taxes.

The Act provides that students are Federal employees for the purposes of the Internal Revenue Code of 1986 (title 26, U.S. Code). The Job Corps Director may obtain from tax authorities information regarding taxation of student income and provide this to center operators and to the finance center.

§ 638.530 Emergency use of personnel, equipment and facilities.

The Job Corps Director may provide emergency assistance when there is a threat of natural disaster. Students may be asked to volunteer their services to help in such cases. The center operator shall arrange that any expenses consequent to such assistance shall be borne, to the extent possible, by the benefiting organization.

§ 638.531 Limitation on the use of students in emergency projects.

The Job Corps Director shall develop procedures, when necessary, to safeguard the rights and safety of students who volunteer to be used in emergency situations.

§ 638.532 Annual leave.

The Job Corps Director shall issue procedures to administer the accrual

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and use of student leave. Such procedures shall provide that:

(a) Except for the initial pay period, students shall accrue annual leave at the rate of one calendar day for each pay period provided that the student was not AWOL or on administrative leave without pay during that pay period. For the initial pay period, a student shall accrue one day of annual leave regardless of the date of enrollment provided that the student was not AWOL or on administrative leave without pay from the date of enrollment. Accrual time shall begin on the day the student departs for a center and end on the date of his or her scheduled arrival home or at a place of employment.

(b) Annual leave shall continue to accrue during periods of home, emergency, and administrative leave with pay and shall be suspended only when the student is AWOL or on administrative leave without allowances.

(c) Students shall not be paid at termination for unused accrued leave.

(d) Students may use accrued annual leave at any time subject to approval by the Center Director. Annual leave with transportation at government expense shall be allowed only after the student has spent 180 days in pay status in Job Corps, and only once per year of enrollment.

(e) Students shall not be charged annual leave for travel time to and from home and center by the most direct route. Saturdays, Sundays, and holidays that are officially recognized at the center shall not be charged as annual leave.

§ 638.533 Other student absences.

The Job Corps Director shall develop procedures for authorized student absences and to account for all absences whether authorized or unauthorized.

§ 638.534 Legal services to students.

(a) The Job Corps Director shall develop procedures to afford students effective and competent legal representation in criminal and certain civil cases. This shall include assisting students in obtaining free or low cost legal assistance or obtaining local attorneys or public defenders to represent students, and paying for such legal services (provided that attorney fees in criminal