

**§ 637.230 Use of incentive bonuses.**

(a) During any program year, the Governor may use an amount not to exceed 5 percent of the State's total bonus payment for the administrative costs incurred under this program, including data and information collection and compilation, recordkeeping, or the preparation of applications for incentive bonuses (section 504(a)(1)(A)).

(b) The remainder, not less than 95 percent of the incentive bonuses received, shall be distributed to SDAs and Job Corps Centers within the State in a manner consistent with an agreement between the Governor and these SDA's and centers. This agreement shall reflect an equitable method of distribution which is based on the degree to which the effort of the SDA and/or Center contributed to the State's qualification for incentive bonus funds under title V (section 504(a)(1)(B)).

(c) Not more than 10 percent of the incentive bonus received in any program year by each SDA and/or Job Corps Center may be used for the administrative costs of establishing and maintaining systems necessary for operation of programs under title V, including the costs of providing incentive payments described in paragraph (d) of this section, technical assistance, data and information collection and compilation, management information systems, post-program followup activities, and research and evaluation activities (section 504(a)(2)).

(d) Each SDA and/or Job Corps Center may make incentive payments to service providers, including participating State and local agencies, and community-based organizations, that demonstrate effectiveness in delivering employment and training services to eligible individuals under this title (section 504(b)).

(e) All remaining funds received by each SDA shall be used for activities described in sections 204 and 264 of JTPA and shall be subject to the regulations governing the operation of programs under titles II-A and II-C of JTPA. All remaining funds received by each Job Corps Center shall be used for activities authorized under part B of title IV (section 504(a)(2)).

**Subpart C—Additional Title V Administrative Standards and Procedures**

**§ 637.300 Management systems, reporting and recordkeeping.**

(a) The Governor shall ensure that the State's financial management system and recordkeeping system comply with subpart D of part 627 of this chapter.

(b) Notwithstanding the provisions of § 629.455 of this chapter, the Governor shall report to the Secretary pursuant to instructions issued by the Secretary regarding activities funded under this part. Reports shall be required semi-annually and annually. Reports shall be provided to the Secretary within 45 calendar days after the end of the report period.

(c) The Governor shall assure that appropriate and adequate records are maintained for the required time period to support all incentive bonus payment applications. Such records shall include documentation to support individuals' eligibility under this part.

**§ 637.305 Federal monitoring and oversight.**

The Secretary shall conduct oversight of the programs and activities conducted in accordance with this part.

**§ 637.310 Audits.**

The Governor shall ensure that the State complies with the audit provisions at § 629.480 of this chapter.

**Subpart D—Data Collection  
[Reserved]**

**PART 638—JOB CORPS PROGRAM UNDER TITLE IV-B OF THE JOB TRAINING PARTNERSHIP ACT**

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## § 638.100

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AUTHORITY: 29 U.S.C. 1579(a).

SOURCE: 55 FR 12996, Apr. 6, 1990, unless otherwise noted.

### 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

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

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CCC's. (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 vo-

ational 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 operational 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 screening services, which shall be performed in accordance with § 638.402 of this part and procedures established by the Job Corps Director. (Sections 424 and 425)

(2) 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 placement services, which shall be performed in accordance with § 638.409 of this part and procedures established by the Job Corps Director.

(i) All agreements and contracts pursuant to this section shall be made pursuant to the Federal Property and Administrative Services Act of 1949, as amended; the Federal Grant and Cooperative Agreement Act of 1977; and the Federal Acquisition Regulation (48 CFR chapter 1) and the DOL Acquisition Regulation (48 CFR chapter 29).

(j) All Job Corps contractors shall be provided with an equitable and negotiated management fee of not less than 1 percent of the contract amount.

[55 FR 12996, Apr. 6, 1990, as amended at 58 FR 69100, Dec. 29, 1993]

**§ 638.302 Performance measurement.**

The Job Corps Director shall establish a national performance measurement system for centers and other program components which shall include annual performance standards.

[58 FR 69100, Dec. 29, 1993]

**§ 638.303 Site selection and facilities management.**

(a) The Job Corps Director shall approve the location and size of all centers.

(b) Contract centers shall be established, relocated or expanded in accordance with procedures established by the Job Corps Director.

(c) For federally-operated centers, either the Job Corps Director or a Federal agency may propose a site on public lands and if discussions between them establish the advisability of such, the Job Corps Director may require

that the agency submit a site survey and utilization study. If the Job Corps Director decides to establish a center, facilities engineering and real estate management will be conducted by the Job Corps Director or by the Federal agency pursuant to an interagency agreement and this part.

**§ 638.304 Historical preservation.**

The Job Corps Director shall review the “National Register of Historic Places,” issued by the National Park Service, to identify sites, buildings, structures, and objects of archeological, architectural, or historic significance which could be destroyed or adversely affected by any proposed project or site selection. Procedures for review are included in the “National Register of Historic Places” at 36 CFR part 800.

**§ 638.305 Capital improvements.**

Capital improvement projects and new construction on Job Corps Centers shall be requested and performed in accordance with procedures established by the Job Corps Director.

**§ 638.306 Protection and maintenance of contract center facilities owned or leased by Job Corps.**

The Job Corps Director shall establish procedures for the protection and maintenance of contract center facilities owned or leased by Job Corps which shall be consistent with Federal Property Management Regulations at 41 CFR chapter 101.

**§ 638.307 Facility surveys.**

The Job Corps Director shall issue procedures to conduct periodic facility surveys of centers.

**Subpart D—Enrollment, Transfers, Terminations, and Placements in the Job Corps**

**§ 638.400 Eligibility for participation.**

To participate in the Job Corps, a young man or woman must be an eligible youth who:

(a) Is at least 16 and not yet 25 years of age at the time of enrollment, with the following exceptions:

(1) In the case of an otherwise eligible individual with disabilities, there is no upper age limit;

(2) Not more than 20 percent of the individuals enrolled by Job Corps may be ages 22 through 24; and

(3) Youths 14 to 15 years of age may be eligible for enrollment upon a specific determination by the Job Corps Director to enroll them;

(b) Is a United States citizen, United States national, a lawfully admitted permanent resident alien, a lawfully admitted refugee or parolee, or other alien who has been permitted to accept permanent employment in the United States by the Attorney General or the Immigration and Naturalization Service;

(c) Requires additional education, training, or intensive counseling and related assistance in order to secure and hold meaningful employment, participate successfully in regular school work, qualify for other suitable training programs, satisfy Armed Forces entry requirements, or qualify for a job where prior skill or training is a prerequisite;

(d) Is economically disadvantaged;

(e) Has sufficient ability to benefit from the program;

(f) Demonstrates an interest in obtaining the maximum benefit from the program, as evidenced by a voluntary desire to enroll and the youth’s signature on the application form;

(g) Has a signed consent for enrollment from a responsible parent or guardian if the applicant is unemancipated and under the age of majority (unless the parent or guardian cannot be located), pursuant to applicable laws on age of majority and emancipation of minors;

(h) Has established suitable arrangements for the care of any dependent children for the proposed period of enrollment;

(i) Is not on probation, parole, or under a suspended sentence, or under the supervision of any agency as a result of court action or institutionalization, unless the court or other appropriate agency certifies in writing that release from the supervision of the agency is satisfactory to the agency and does not violate applicable laws and regulations;

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(j) To qualify for residential training, is currently living in an environment so characterized by cultural deprivations, a disruptive homelife, or other disorienting conditions as to substantially impair prospects for successful participation in a nonresidential program providing appropriate training, education, or assistance;

(k) Is physically and emotionally able to participate in normal Job Corps duties without costly or extensive medical treatment;

(l) Is free of any behavioral problem that would potentially prevent other enrollees from receiving the benefit of the program, or impede satisfactory relationships between the center to which the enrollee is assigned and surrounding communities; and

(m) Has a background, characteristics, and physical and mental capabilities which provide reasonable expectations of employment after training.

[55 FR 12996, Apr. 6, 1990, as amended at 58 FR 69100, Dec. 29, 1993]

### § 638.401 Outreach and screening of participants.

In accordance with procedures issued by the Job Corps Director:

(a) The Regional Director, as contracting officer, shall contract with screening agencies, which shall perform Job Corps outreach and screening functions.

(b) Screening agencies shall develop outreach and referral sources, actively seek out potential applicants, conduct personal interviews with all applicants, and determine who are interested and likely Job Corps participants. See also § 638.541 of this part.

(c) Screening agencies shall complete all Job Corps application forms.

(1) Except as provided in paragraph (c)(2) of this section, screening agencies shall determine whether applicants meet the eligibility criteria in § 638.400 of this part for participation in the Job Corps.

(2) The Job Corps Director may provide that determinations with respect to one or more of the eligibility criteria set forth in § 638.400 of this part shall be made by the Regional Director on the basis of information and recommendations supplied by the screening agency.

(3) An applicant for participation in the Job Corps who has been determined ineligible may appeal that determination pursuant to § 638.539 of this part. (Sections 423, 424, 425, and 144(a))

(d) In enrolling individuals who are to be nonresidential participants, priority shall be given to those eligible individuals who are single parents with dependent children.

[55 FR 12996, Apr. 6, 1990, as amended at 58 FR 69100, Dec. 29, 1993]

### § 638.402 Enrollment by readmission.

Procedures for screening and selection of applicants for readmission shall be issued by the Job Corps Director.

### § 638.403 Selective Service.

The Job Corps Director shall develop procedures to ensure that as a condition of enrollment and continued enrollment:

(a) Each male applicant 18 years of age or older has evidence that he has complied with section 3 of the Military Selective Service Act (50 U.S.C. App. 453), by presenting and submitting to registration if required pursuant to such section; and

(b) When a male student turns 18 years of age after enrollment, he submits to the center operator evidence that he has complied with section 3 of the Military Selective Service Act (50 U.S.C. App. 453), by presenting and submitting to registration if required pursuant to such section. (Section 504)

### § 638.404 Transfers.

Transfer of a student from one center of assignment to another center shall be made only in accordance with procedures issued by the Job Corps Director.

### § 638.405 Extensions of enrollment.

The center operator shall see that the total length of enrollment of a student does not exceed two years (section 426(a)) except that an extension of enrollment may be authorized in accordance with procedures issued by the Job Corps Director. Students enrolled in advanced career training programs may be enrolled up to one additional year. (Section 428(d)(1))

**§ 638.406 Federal status of students.**

Students shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of employment, leave, unemployment compensation, and Federal employee benefits, except as provided by 5 U.S.C. 8143(a) (Federal employees' compensation) and by §§ 638.526 and 638.527 of this part. (Section 436(a))

**§ 638.407 Terminations.**

The Job Corps Director shall issue procedures for the termination of students.

**§ 638.408 Transportation.**

The transportation of students to and from centers shall occur in accordance with procedures issued by the Job Corps Director.

**§ 638.409 Placement and job development.**

The overall objective of all Job Corps activities shall be to enhance each student's employability and to effect the successful placement of each student. Placement efforts shall concentrate on jobs related to a student's vocational training, on military service when this is the student's choice, or on acceptance and placement in other educational and/or training programs. The placement of students shall be performed in accordance with procedures issued by the Job Corps Director.

(a) The Regional Director, as contracting officer, shall contract with placement agencies, which shall perform placement functions.

(b) Placement agencies shall complete all Job Corps placement forms.

**Subpart E—Center Operations****§ 638.500 Orientation program.**

The center operator shall design and implement a reception and orientation program in accordance with procedures issued by the Job Corps Director.

**§ 638.501 Student handbook.**

Each center operator shall develop a student handbook which provides essential information to students for dis-

tribution to all students in accordance with procedures issued by the Job Corps Director.

**§ 638.502 Job Corps basic education program.**

The Job Corps Director shall prescribe or provide for basic education curricula to be used at centers. Students are considered to be in-school youths. The Job Corps Director, in coordination with regional offices, shall review and approve the basic education program at each center. Center operators shall provide the following educational programs at a minimum:

(a) Reading and language skills;

(b) Mathematics;

(c) A program to prepare eligible students for the American Council on Education Tests of General Educational Development (GED);

(d) World of work;

(e) Health education;

(f) Driver education; and

(g) English as a second language (ESL) programs for selected center operators (regional offices shall arrange for the assignment of selected applicants needing ESL programs to the centers where such programs are available).

**§ 638.503 Vocational training.**

(a) Each center shall provide enrollees with competency-based or individualized training in an area which will best contribute to the student's opportunities for permanent long-term employment. Specific vocational training programs offered at individual centers will be subject to the approval of the Job Corps Director in accordance with policies issued by the Job Corps Director.

(b) The Job Corps Director may determine that it is appropriate to contract for vocational training programs at specific centers with national business, union, or union-affiliated organizations in order to facilitate entry of students into the workforce. All agreements with these national training contractors will be contracted at the national level in accordance with policies issued by the Job Corps Director; the Federal Acquisition Regulation (48 CFR chapter 1); the DOL Acquisition

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Regulation (48 CFR chapter 29); and, if CCCs, interagency agreements.

### § 638.504 Occupational exploration program.

An occupational exploration program shall be provided by all centers in accordance with procedures issued by the Job Corps Director.

### § 638.505 Scheduling of training.

The amount of time for each student's education and vocational training shall be apportioned to the individual needs of each student pursuant to procedures developed by the Job Corps Director.

### § 638.506 Purchase of vocational supplies and equipment.

The Job Corps Director shall develop procedures for the low-cost sale to students of vocational tools, clothing, and other equipment that are prerequisites to employment.

### § 638.507 Work experience.

(a) The center operator shall emphasize and implement programs of work experience for students through center program activities or through arrangement with employers. Work experience shall be under actual working conditions and should enhance the employability, responsibility, and confidence of the students.

(b) The following limitations shall be observed in establishing work experience programs:

(1) Students shall only be assigned to work meeting the safety standards of § 638.803 of this part.

(2) Any work experience arranged for employment not covered by a Federal, State, or local minimum wage law shall have prior regional office approval.

(3) When work experience with pay is arranged, the student, for applicable wage provisions of the Davis-Bacon Act, the Fair Labor Standards Act, the Service Contract Act, and other applicable minimum wage laws, shall be considered a joint employee of the Job Corps and the work experience employer.

(i) The wages paid by Job Corps (including the reasonable cost to Job Corps of room, board, and other facili-

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ties, as well as clothing and living allowances) shall be no less than the federal minimum wage rate set forth in section 6(a)(1) of the Fair Labor Standards Act (FLSA) for up to 25 hours a week. The work experience employer shall pay the student, in cash, any wages above the FLSA minimum whenever such additional amounts are required by the Davis-Bacon Act, the Service Contract Act, the State or local minimum wage law, or other applicable minimum wage law. For any time in excess of 25 hours per week, the work experience employer shall pay the student, in cash, no less than the entire wage at the wage rate required by applicable law.

(ii) In addition to the cash wages required to be paid by work experience employers by paragraph (b)(3)(i) of this section, work experience employers, after the first six weeks of work by a student, shall also pay additional cash wages to the student at an hourly rate of 25 percent of the wage set forth in section 6(a)(1) of the Fair Labor Standards Act.

### § 638.508 Sale of services or objects.

The services rendered or objects produced at the center may be sold at cost to students or center employees, but shall not be sold in the community unless such services or products do not displace workers in the local community or result in the sale of products which compete with local merchants.

### § 638.509 Leisure-time employment.

A center operator may authorize gainful leisure time employment of students as long as such employment does not interfere with required scheduled activities.

### § 638.510 Health care and services.

The center operator shall provide a health program, including basic medical, dental, and mental health services, for all students from admission until termination from the Job Corps. The program shall be developed in accordance with procedures issued by the Job Corps Director.

### § 638.511 Drug use and abuse.

The Job Corps Director shall develop procedures to ensure that each center

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operator offers students counseling and education programs related to drug and alcohol use and abuse.

### § 638.512 Sexual behavior and harassment.

The Job Corps Director shall develop procedures to ensure that center operators establish rules concerning sexual behavior and harassment. See also §§ 638.539(g) and 638.813(a) of this part.

### § 638.513 Death.

In each case of student death, the center operator shall follow procedures established by the Job Corps Director, including notification of next of kin and for disposition of remains. See also § 638.524(d) of this part.

### § 638.514 Residential support services.

The center operator shall provide for residential support services structured as an integral part of the overall training program. This service shall include a secure, attractive physical and social environment, seven days a week, 24 hours a day, designed to enhance learning and personal development. All students, including nonresidents while they are on-center, shall be provided with the full program of applicable services in accordance with procedures issued by the Job Corps Director.

### § 638.515 Recreation/avocational program.

The center operator shall develop a recreation/avocational program in accordance with procedures issued by the Job Corps Director.

### § 638.516 Laundry, mail, and telephone service.

(a) The center operator shall provide adequate laundry services and supplies at no cost to students. Students shall be encouraged to launder, iron, and repair their personal clothing.

(b) The center operator shall establish a system for prompt delivery of mail received by students in a manner that protects the confidentiality of such mail, and shall arrange for a sufficient number of conveniently located pay telephones for student use.

### § 638.517 Counseling.

The center operator shall establish and conduct an ongoing structured counseling program in accordance with procedures issued by the Job Corps Director.

### § 638.518 Intergroup relations program.

The center operator shall conduct a structured intergroup relations program designed to reduce prejudice, prevent discriminatory behavior by staff and students, and increase understanding among racial/ethnic groups and between men and women. The program shall be developed in accordance with procedures issued by the Job Corps Director.

### § 638.519 Incentives system.

The center operator shall establish and maintain its own incentives system for students in accordance with procedures established by the Job Corps Director.

### § 638.520 Student government and leadership programs.

The center operator shall establish an elected student government and student leadership program in accordance with procedures established by the Job Corps Director.

### § 638.521 Student welfare association.

The center operator shall develop a plan for the organization and operation of a student welfare association, to be run by an elected student government for the benefit of all students and with the help of a center staff advisor. This plan shall be developed in accordance with procedures issued by the Job Corps Director.

(a) Student welfare association revenues may be derived from such sources as snack bars, vending machines, disciplinary fines, etc.

(b) Student welfare association activities shall be funded from student welfare association revenues.

### § 638.522 Evaluation of student progress.

The center operator shall implement a system to evaluate the progress of each student in receiving the maximum benefit from the program. The

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system shall be developed in accordance with procedures issued by the Job Corps Director.

**§ 638.523 Food service.**

(a) The center operator shall ensure that meals for students are nutritionally well-balanced, of good quality, and sufficient in quantity, in accordance with procedures issued by the Job Corps Director. Food shall be prepared and served in a sanitary manner.

(b) Non-students shall be charged for food provided for them unless prior regional office approval has been obtained. Such charges shall be sufficient to cover the cost of the food and its preparation.

**§ 638.524 Allowances and allotments.**

(a) The Secretary shall periodically establish rates of allowances and allotments to be paid students pursuant to section 429 (a), (c), and (d) of the Act, and the Job Corps Director shall publish these rates as a notice in the FEDERAL REGISTER.

(b) The Job Corps Director shall ensure that each student receives a readjustment allowance for each paid day of satisfactory participation in Job Corps after termination from the program if he/she terminates after 210 days in pay status or after 180 days if he/she is a maximum benefits or vocational completer. In the event that a student receives a medical termination, he/she shall be eligible for the accrued readjustment allowance, regardless of length of stay or other considerations. See also paragraph (d) of this section. (Section 429(c)).

(c) The Job Corps Director shall establish procedures to allow students to authorize deductions from their readjustment allowance, which shall be matched by an equal amount from Job Corps funds and sent biweekly as an allotment by the SPAMIS Data Center to the student's spouse, child(ren) or other dependent, if such spouse, child(ren) or other dependent resides in any State in the United States.

(d) In the event of a student's death, any amount due, including the amount of any unpaid readjustment allowance, shall be paid in accordance with provisions of 5 U.S.C. 5582 (designation of

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beneficiary; order of precedence). (Section 429(c))

[55 FR 12996, Apr. 6, 1990, as amended at 60 FR 18993, Apr. 14, 1995]

**§ 638.525 Clothing.**

The Job Corps Director shall establish procedures to provide clothing for 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

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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.

(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

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who volunteer to be used in emergency situations.

**§ 638.532 Annual leave.**

The Job Corps Director shall issue procedures to administer the accrual 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 representa-

tion 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 cases shall not be paid by Job Corps except in accordance with paragraph (b) of this section), in accordance with guidelines issued by the Job Corps Director.

(b) Job Corps shall not pay the expenses of legal counsel or representation in any criminal case or proceeding for a student, unless the Center Director has certified to the Regional Director, and the Regional Director has approved, that a public defender is not available. With such approval of the Regional Director, Job Corps may compensate attorneys obtained pursuant to paragraph (a) of this section in criminal cases for reasonable expenses. Compensation shall be at the rates no higher than those set forth in the Criminal Justice Act of 1964, as amended (18 U.S.C. 3006A(d)).

**§ 638.535 Voting rights.**

The Job Corps Director shall develop procedures to enable eligible students and staff to vote either locally or by absentee ballot. See also § 638.814 (a) through (c) of this part.

**§ 638.536 Religious rights.**

The right to worship or not worship as he/she chooses shall not be denied to any student. Religious services may not be held on-center unless the center is so isolated as to make transportation to and from community religious facilities impractical. If religious services are held on-center, no federal funds shall be paid to those who conduct such services. Services shall not be confined to one religious denomination. The center operator shall instruct students that students are not obligated by Job Corps to attend such services. See also §§ 638.539(g) and 638.813 of this part.

**§ 638.537 Disclosure of information.**

(a) *Requests for information.* The Job Corps Director shall develop administrative procedures to respond to requests for information or records pertaining to students and such other disclosures as may be necessary.

(b) *Freedom of Information Act*—(1) *Disclosure.* Disclosure of Job Corps information shall be in accordance with the Freedom of Information Act and shall be handled according to DOL regulations at 29 CFR part 70.

(2) *Contractors.* Job Corps contractors are not “agencies” for Freedom of Information Act purposes. Therefore, their records are not subject to disclosure under the Freedom of Information Act or 29 CFR part 70.

(c) *Privacy Act of 1974.* When DOL maintains a system of records covered by the Privacy Act of 1974, or provides by contract for a contractor, such as a screening agency or a contract center operator, to operate by or on behalf of the Job Corps such a system of records to accomplish a Job Corps function, the requirements of the DOL regulations at 29 CFR part 70a apply to such system or records.

**§ 638.538 Disciplinary procedures and appeals.**

(a) The center operator shall establish reasonable rules and regulations for student behavior, in accordance with procedures developed by the Job Corps Director. Such rules shall be established to ensure high standards of behavior and conduct.

(b) The center operator shall develop reasonable sanctions for breaking established rules, in accordance with procedures developed by the Job Corps Director.

(c) The center operator shall ensure that all students have the opportunity for due process in disciplinary proceedings, in accordance with procedures developed by the Job Corps Director. Such center procedures, at a minimum, shall include center review boards where the penalty of termination might be imposed, and procedures for appealing, to a regional appeal board designated by the Regional Director, center decisions to terminate a student. See § 638.407 of this part. The

decision of the regional appeal board shall be final agency action.

[55 FR 12996, Apr. 6, 1990; 55 FR 23634, June 11, 1990]

**§ 638.539 Complaints and disputes.**

(a) *Center and other deliverer grievance procedures.* Each center operator or other Job Corps deliverer shall establish and maintain a grievance procedure for complaints about its programs and activities from students and other interested parties. A hearing on each complaint shall be conducted, using the established grievance procedure, within 30 days of filing of the complaint and a decision on the complaint shall be made by the Center Director or with the knowledge of the Center Director not later than 60 days after the filing of the complaint. Except for a complaint alleging fraud or criminal activity, complaints shall be made within one year of the alleged occurrence. (Section 144(a))

(b) *Federal review of student grievances.* Where a student or a person denied enrollment has exhausted the center or other deliverer grievance procedure established pursuant to paragraph (a) of this section, the student may appeal the decision to the regional appeal board. The regional appeal board shall review the appeal and determine within 120 days after receiving the appeal whether to reverse, affirm, or remand the decision. The decision of the regional appeal board shall be final agency action. (Section 144(c))

(c) *Federal review of non-student grievances.* (1) Where the grievance or complaint is made by an interested party other than a student, should the deliverer fail to provide a decision as required in paragraph (a) of this section, the complainant may then request from the Regional Director a determination whether reasonable cause exists to believe that the Act or this part has been violated. The request shall be filed no later than 10 days from the date on which the complainant should have received a decision pursuant to paragraph (a) of this section, and shall describe with specificity the facts and the proceedings (if any) below.

(2) The Regional Director shall act within 90 days of receipt of the request and where there is reasonable cause to

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believe the Act or this part has been violated shall direct the deliverer to issue a decision adjudicating the dispute pursuant to the deliverer's grievance procedures. The Regional Director's action is not final agency action on the merits of the dispute and therefore is not appealable under the Act. See sections 144(c) and 166(a) of the Act. If the deliverer does not comply with the Regional Director's order within 60 days, the Regional Director may impose a sanction on the deliverer for failing to issue a decision.

(d) *Failures to comply with the Act.* Where DOL has reason to believe that the center operator or other deliverer is failing to comply with the requirements of the Act, the Regional Director shall investigate the allegation or belief and determine within 120 days after receiving the complaint whether such allegation or complaint is true. As the result of such a determination, the Regional Director may:

(1) Direct the deliverer to handle a complaint through the grievance procedures established under paragraph (a) of this section; or

(2) Investigate and determine whether the deliverer is in compliance with the Act and this part. If the Regional Director determines that the deliverer is not in compliance with the Act or this part, the appropriate sanctions set forth in section 164 of the Act shall be applied, subject to paragraph (e) or (f) of this section, as appropriate. (Section 163 (b) and (c))

(e) *Contract disputes.* A dispute between DOL and a Job Corps contractor shall be handled only pursuant to the Contract Disputes Act and 41 CFR part 29-60.

(f) *Inter-agency disputes.* A dispute between DOL and a federal agency operating a center shall be handled only pursuant to the interagency agreement with that agency for the operation of the center.

(g) *Nondiscrimination.* Nondiscrimination requirements, procedures, complaint processing, and compliance reviews are governed by, as applicable, provisions of the following Department of Labor regulations:

(1) 29 CFR part 34 and subparts B and C and Appendix A of 29 CFR part 32 for

programs receiving financial assistance under JTPA.

(2) 29 CFR part 33 for programs conducted by the Department of Labor; and

(3) 41 CFR chapter 60 for entities that have a federal "government contract" as that term is defined in the applicable regulations.

See also §638.813(a) of this part, regarding discrimination.

[55 FR 12996, Apr. 6, 1990, as amended at 58 FR 69100, Dec. 29, 1993]

**§ 638.540 Cooperation with agencies and institutions.**

The Job Corps Director shall develop guidelines for the national office's, the regional offices', and for deliverers' maintenance of cooperative relationships with other agencies and institutions, including law enforcement, educational institutions, communities, and other employment and training agencies.

**§ 638.541 Job Corps training opportunities.**

The Job Corps Director shall develop policies and requirements which will ensure linkages, where feasible, with other Federal, State and local programs to enhance the provision of services to disadvantaged youth. These shall include, where appropriate: Referrals of enrollees; participant assessment; services accompanying pre-employment and work maturity skills training, work experience, job search skills training, basic skills training, and occupational skills training authorized under the Job Training Partnership Act for youth programs; and services supporting participants in the Job Opportunities and Basic Skills Training Program (JOBS) (section 427(b)). Such services may be provided sequentially or concurrently. Nothing in this part shall be construed to prohibit an individual who has been a participant in Job Corps from concurrently or subsequently participating in programs under title II of JTPA, or to prohibit an individual who has been a participant in programs under title II of JTPA from concurrently or subsequently participating in Job Corps.

[55 FR 12996, Apr. 6, 1990, as amended at 58 FR 69100, Dec. 29, 1993]

**§ 638.542 Child care services.**

(a) Job Corps centers shall, where practicable, arrange for the provision of child care for students with dependent children.

(b) Center operators may propose and, with the approval of the Job Corps Director, establish child care facilities.

[55 FR 12996, Apr. 6, 1990, as amended at 58 FR 69100, Dec. 29, 1993]

**§ 638.543 Community relations program.**

Each center operator shall establish a community relations program, which shall include establishment of a community relations council which includes student representation. (Section 431)

**Subpart F—Applied Vocational Skills Training (VST)**

**§ 638.600 Applied vocational skills training (VST) through work projects.**

(a)(1) The Job Corps Director shall establish procedures for administering applied vocational skills training (VST) projects; such procedures shall include funding and reporting requirements, criteria to be used for granting approvals, and reviewing requirements.

(2) Each applied VST project shall be submitted to the Regional Director for approval. The annual applied VST plan described in paragraph (c) of this section shall be submitted to the Regional Director for approval.

(b) Applied VST may be provided in an actual working setting for training students in the construction and related trades. This shall involve authorized construction or other projects that result in finished facilities or products. This shall include conservation projects on Federal, State, and public lands, and projects performed for other organizations in accordance with policies established by the Job Corps Director. Centers may also perform applied VST public service projects for nearby communities and capital improvements for other Job Corps centers.

(c) Applied VST shall be the major vehicle for the training of students in the construction and related trades. In

each year, each center operator shall develop an annual applied VST plan for the coming year. In order to ensure that maximum training opportunities are available to students, the center vocational instructor (and/or the national training contractor, when applicable) shall participate in the planning and shall approve each project which involves his/her particular trade. Applied VST projects shall be planned in such a manner as to give priority to on-center rehabilitation and construction needs. The Job Corps Director shall establish annual funding levels to support applied VST programs and shall establish specific policies on limitation, documentation, and reporting requirements relating to applied VST programs.

**§ 638.601 Applied VST budgeting.**

The Job Corps Director shall establish procedures to ensure that center operators maintain applied VST project funds as a separate center budget line item and maintain strict accountability for the use or nonuse of such funds. The approval of the Job Corps national office is necessary to transfer applied VST project funds to any other center budget category or program activity. In the case of civilian conservation centers, the use of VST project funds shall be governed by the interagency agreements.

**Subpart G—Experimental, Research, and Demonstration Projects**

**§ 638.700 Experimental, research, and demonstration projects.**

(a) The Job Corps Director, at his or her discretion, may undertake experimental, research, or demonstration projects for the purpose of promoting greater efficiency and effectiveness in the Job Corps program in accordance with section 433 of the Act.

(b) The Job Corps Director may arrange for projects under this section to be undertaken jointly with other Federal or federally assisted programs.

(c) The Secretary may waive any provision of this part that the Secretary finds would prevent the implementation of experimental, research, or demonstration project elements essential

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to a determination of their feasibility and usefulness.

**Subpart H—Administrative Provisions**

**§ 638.800 Program management.**

(a) The Job Corps Director shall establish and use internal program management procedures sufficient to prevent fraud or program abuse. The Job Corps Director shall ensure that sufficient auditable and otherwise adequate records are maintained to support the expenditure of all funds under the Act.

(b) The Job Corps Director shall provide guidelines for center staffing levels and qualifications. The guidelines shall adhere to standard levels of professional education and experience which are accepted generally within the fields of education and counseling.

**§ 638.801 Staff training.**

The Job Corps Director shall establish guidelines for necessary training for national office, regional office, and deliverer staff.

**§ 638.802 Student records management.**

The Job Corps Director shall develop guidelines for a system of maintaining records for each student during enrollment and for the disposition of such records after termination.

**§ 638.803 Safety.**

(a) The Job Corps Director shall establish procedures to ensure that students are not required or permitted to work, to be trained, to reside, or to receive services in buildings or surroundings or under conditions that are unsanitary, hazardous, or lack proper ventilation. Whenever students are employed or trained for jobs, they shall be assigned to such jobs or training in accordance with appropriate health and safety practices.

(b) The Job Corps Director shall develop a procedure to provide appropriate protective clothing for students in work or training.

(c) The Job Corps Director shall develop procedures to ensure compliance with applicable DOL Occupational Safety and Health Administration regulations.

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**§ 638.804 Environmental health.**

The Job Corps Director shall provide guidelines for proper environmental health conditions.

**§ 638.805 Security and law enforcement.**

(a) The Job Corps Director shall provide guidelines to protect the security of students, staff, and property on-center on a 24-hours-a-day, 7-days-a-week basis.

(b)(1) All property which would otherwise be under exclusive federal legislative jurisdiction shall be considered under concurrent jurisdiction with the appropriate State and locality with respect to criminal law enforcement as long as a center is operated on such property. This extends to portions of the property (e.g., housing and recreational facilities) in addition to the portions of the property used as the center or training facility.

(2) The Job Corps Director shall ensure that centers on property under concurrent federal-State jurisdiction establish agreements with federal, State and local law enforcement agencies to enforce criminal laws on such property. (Section 435(d))

(c) The Job Corps Director shall develop procedures to ensure that any searches of a student's personal area or belongings for unauthorized goods follow applicable right-to-privacy laws.

**§ 638.806 Property management and procurement.**

The Job Corps Director shall develop procedures to establish and maintain a system for acquisition, protection, preservation, maintenance, and disposition of Job Corps real and personal property, and services so as to maximize its usefulness and to minimize operating, repair, and replacement costs.

**§ 638.807 Imprest and petty cash funds.**

Federally operated centers shall establish auditable imprest funds. Contract centers shall establish auditable petty cash funds. The Job Corps Director shall develop procedures to ensure the security of and accountability for imprest and petty cash funds.

**§ 638.808 Center financial management and reporting.**

The Job Corps Director shall establish procedures to ensure that each center operator and each subcontractor maintain a financial management system that will provide accurate, complete, and current disclosures of the financial results of Job Corps operations, and will provide sufficient data for effective evaluation of program activities. Fiscal accounts shall be maintained in a manner that ensures timely and accurate reporting as required by the Job Corps Director.

**§ 638.809 Audit.**

(a) The Secretary of Labor, the DOL Office of Inspector General, the Comptroller General of the United States, and any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Job Corps deliverers and their subcontractors that are pertinent to the Job Corps program for the purpose of making surveys, audits, examinations, excerpts, and transcripts.

(b) The Secretary shall, with reasonable frequency, survey, audit, or examine, or arrange for the survey, audit, or examination of Job Corps deliverers, or their subcontractors using Federal auditors or independent public accountants. Such surveys, audits, or examinations normally shall be conducted annually but not less than once every two years.

**§ 638.810 Reporting requirements.**

The Job Corps Director shall establish procedures to ensure timely and complete reporting of such program information as is necessary to maintain accountability for the Job Corps program and funding.

**§ 638.811 Review and evaluation.**

The Job Corps Director shall establish adequate program management to provide continuous examination of the performance of the components of the program.

**§ 638.812 State and local taxation of Job Corps deliverers.**

The Act provides that transactions conducted by a private for-profit deliverer or a nonprofit deliverer in connec-

tion with the deliverer's operation of a center or other Job Corps program or activity shall not be considered as generating gross receipts. Such deliverer shall not be liable, directly or indirectly, to any State or subdivision thereof (nor to any person acting on behalf thereof) for any gross receipts taxes, business privilege taxes measured by gross receipts, or any similar taxes imposed on, or measured by, gross receipts in connection with any payments made to or by such deliverer for operating a center or other Job Corps program, or activity. Such deliverer shall not be liable to any State or subdivision thereof to collect or pay any sales, excise, use, or similar tax imposed upon the sale to or use by such deliverer of any property, service, or other item in connection with the operation of a center or other Job Corps program or activity. (Section 437(c))

**§ 638.813 Nondiscrimination; nonsectarian activities.**

(a) *Nondiscrimination.* Center operators and other deliverers, and subcontractors and/or subrecipients of center operators and other deliverers shall comply with the nondiscrimination provisions of section 167 of the Act and its implementing regulations, and with, as applicable, 29 CFR parts 31 and 32, part 33, and 41 CFR chapter 60. For the purposes of section 167 of the Act, students shall be considered as the ultimate beneficiaries of Federal financial assistance. (Section 167)

(b) *Nonsectarian activities.* Students shall not be employed or trained on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship. (Section 167(a)(3))

**§ 638.814 Lobbying; political activities; unionization.**

No funds provided under the Act may be used in any way:

(a) To attempt to influence in any manner a member of Congress to favor or oppose any legislation or appropriation by Congress;

(b) To attempt to influence in any manner a member of a State or local

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legislature to favor or oppose any legislation or appropriation by such legislature;

(c) For any activity which involves political activities; or

(d) For any activity which will assist, promote, or deter union organizing. (Sections 141(1) and 143(c)(1))

### § 638.815 Charging fees.

No person or organization shall charge an individual a fee for the placement or referral of such individual in or to a training program under the Act. (Section 141(j))

## PART 639—WORKER ADJUSTMENT AND RETRAINING NOTIFICATION

Sec.

639.1 Purpose and scope.

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AUTHORITY: 29 U.S.C. 2107(a).

SOURCE: 54 FR 16064, Apr. 20, 1989, unless otherwise noted.

### § 639.1 Purpose and scope.

(a) *Purpose of WARN.* The Worker Adjustment and Retraining Notification Act (WARN or the Act) provides protection to workers, their families and communities by requiring employers to provide notification 60 calendar days in advance of plant closings and mass layoffs. Advance notice provides workers and their families some transition time to adjust to the prospective loss of employment, to seek and obtain alternative jobs and, if necessary, to enter skill training or retraining that will allow these workers to successfully compete in the job market. WARN also provides for notice to State dislocated worker units so that dislocated worker assistance can be promptly provided.

(b) *Scope of these regulations.* These regulations establish basic definitions and rules for giving notice, implementing the provisions of WARN. The Department's objective is to establish

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clear principles and broad guidelines which can be applied in specific circumstances. However, the Department recognizes that Federal rulemaking cannot address the multitude of industry and company-specific situations in which advance notice will be given.

(c) *Notice encouraged where not required.* Section 7 of the Act states:

It is the sense of Congress that an employer who is not required to comply with the notice requirements of section 3 should, to the extent possible, provide notice to its employees about a proposal to close a plant or permanently reduce its workforce.

(d) *WARN enforcement.* Enforcement of WARN will be through the courts, as provided in section 5 of the statute. Employees, their representatives and units of local government may initiate civil actions against employers believed to be in violation of §3 of the Act. The Department of Labor has no legal standing in any enforcement action and, therefore, will not be in a position to issue advisory opinions of specific cases. The Department will provide assistance in understanding these regulations and may revise them from time to time as may be necessary.

(e) *Notice in ambiguous situations.* It is civically desirable and it would appear to be good business practice for an employer to provide advance notice to its workers or unions, local government and the State when terminating a significant number of employees. In practical terms, there are some questions and ambiguities of interpretation inherent in the application of WARN to business practices in the market economy that cannot be addressed in these regulations. It is therefore prudent for employers to weigh the desirability of advance notice against the possibility of expensive and time-consuming litigation to resolve disputes where notice has not been given. The Department encourages employers to give notice in all circumstances.

(f) *Coordination with job placement and retraining programs.* The Department, through these regulations and through the Trade Adjustment Assistance Program (TAA) and Economic Dislocation and Worker Adjustment Assistance Act (EDWAA) regulations, encourages maximum coordination of the actions and activities of these programs to assure