

munity Corps Program” for “Civilian Community Corps Demonstration Program”. Former par. (5) redesignated (6).

Par. (6). Pub. L. 111–13, § 1516(2)(B), (E), redesignated par. (5) as (6) and inserted “National” before “Civilian Community Corps”. Former par. (6) redesignated (7).

Par. (7). Pub. L. 111–13, § 1516(2)(B), redesignated par. (6) as (7). Former par. (7) redesignated (8).

Par. (8). Pub. L. 111–13, § 1516(2)(F), which directed substitution of “The term ‘Program’ means the National Civilian Community Corps Program” for “‘The terms’ and all that follows through ‘Demonstration Program’”, was executed by making the substitution for “‘The terms ‘Civilian Community Corps Demonstration Program’ and ‘Program’ mean the Civilian Community Corps Demonstration Program” to reflect the probable intent of Congress.

Pub. L. 111–13, § 1516(2)(B), redesignated par. (7) as (8). Former par. (8) redesignated (9).

Par. (9). Pub. L. 111–13, § 1516(2)(G), substituted “Service-learning” for “Service learning” in heading and “service-learning” for “service learning” in introductory provisions.

Pub. L. 111–13, § 1516(2)(A), (B), redesignated par. (8) as (9) and struck out former par. (9). Text read as follows: “The term ‘superintendent’, with respect to a Corps camp, means the head of the camp under section 12615(d) of this title.”

1998—Par. (6). Pub. L. 105–244 substituted “section 1001” for “section 1141(a)”.

1993—Par. (1). Pub. L. 103–82, § 402(b)(2), substituted “Corporation” for “Commission on National and Community Service”.

Par. (2). Pub. L. 103–82, § 104(e)(2)(H)(i), substituted “section 12615” for “section 12653d”.

Par. (6). Pub. L. 103–82, § 403(a)(4), which directed amendment of par. (6) of this section by striking par. (6) and redesignating par. (7) of this section as (6) and striking out former par. (6) which defined “Executive Director” as Executive Director of Commission on National and Community Service, to reflect the probable intent of Congress.

Par. (7). Pub. L. 103–82, § 403(a)(4)(B), which directed amendment of par. (6) of this section by redesignating par. (8) as (7) was executed by redesignating par. (8) of this section as (7), to reflect the probable intent of Congress. Former par. (7) redesignated (6).

Par. (8). Pub. L. 103–82, § 403(a)(4)(B), which directed amendment of par. (6) of this section by redesignating par. (9) as (8) was executed by redesignating par. (9) of this section as (8), to reflect the probable intent of Congress. Former par. (8) redesignated (7).

Pub. L. 103–82, § 104(e)(2)(H)(ii), substituted “section 12612” for “section 12653a”.

Par. (9). Pub. L. 103–82, § 403(a)(4)(B), which directed amendment of par. (6) of this section by redesignating par. (10) as (9) was executed by redesignating par. (10) of this section as (9), to reflect the probable intent of Congress. Former par. (9) redesignated (8).

Par. (10). Pub. L. 103–82, § 403(a)(4)(B), which directed amendment of par. (6) of this section by redesignating par. (11) as (10) was executed by redesignating par. (11) of this section as (10), to reflect the probable intent of Congress. Former par. (10) redesignated (9).

Pub. L. 103–82, § 104(e)(2)(H)(iii), substituted “section 12615(d)” for “section 12653d(d)”.

Par. (11). Pub. L. 103–82, § 403(a)(4)(B), which directed amendment of par. (6) of this section by redesignating par. (11) as (10) was executed by redesignating par. (11) of this section as (10), to reflect the probable intent of Congress.

Pub. L. 103–82, § 104(e)(2)(H)(iv), substituted “section 12615(c)” for “section 12653d(c)”.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 104(b), (e)(2)(H) of Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

Amendment by section 402(b)(2) of Pub. L. 103–82 effective Oct. 1, 1993, see section 406(a) of Pub. L. 103–82, set out as a note under section 5061 of this title.

Division F—Administrative Provisions

§ 12631. Family and medical leave

(a) Participants in private, State, and local projects

For purposes of title I of the Family and Medical Leave Act of 1993 [29 U.S.C. 2611 et seq.], if—

(1) a participant has provided service for the period required by section 101(2)(A)(i) (29 U.S.C. 2611(2)(A)(i)), and has met the hours of service requirement of section 101(2)(A)(ii), of such Act with respect to a project authorized under the national service laws; and

(2) the service sponsor of the project is an employer described in section 101(4) of such Act (other than an employing agency within the meaning of subchapter V of chapter 63 of title 5),

the participant shall be considered to be an eligible employee of the service sponsor.

(b) Participants in Federal projects

For purposes of subchapter V of chapter 63 of title 5, if—

(1) a participant has provided service for the period required by section 6381(1)(B) of such title with respect to a project; and

(2) the service sponsor of the project is an employing agency within the meaning of such subchapter,

the participant shall be considered to be an employee of the service sponsor.

(c) Treatment of absence

The period of any absence of a participant from a service position pursuant to title I of the Family and Medical Leave Act of 1993 [29 U.S.C. 2611 et seq.] or subchapter V of chapter 63 of title 5 shall not be counted toward the completion of the term of service of the participant under section 12593 of this title.

(Pub. L. 101–610, title I, § 171, Nov. 16, 1990, 104 Stat. 3159; Pub. L. 103–82, title I, § 113(a), Sept. 21, 1993, 107 Stat. 861; Pub. L. 111–13, title I, § 1601, Apr. 21, 2009, 123 Stat. 1529.)

REFERENCES IN TEXT

The Family and Medical Leave Act of 1993, referred to in subsecs. (a) and (c), is Pub. L. 103–3, Feb. 5, 1993, 107 Stat. 6. Title I of the Act is classified generally to subchapter I (§ 2611 et seq.) of chapter 28 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 29 and Tables.

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–13 substituted “with respect to a project authorized under the national service laws” for “with respect to a project”.

1993—Pub. L. 103-82 amended section generally, substituting provisions relating to family and medical leave for provisions relating to limitation on number of grants under this subchapter.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-82 effective Oct. 1, 1993, see section 123 of Pub. L. 103-82, set out as a note under section 1701 of Title 16, Conservation.

§ 12632. Reports

(a) State reports

(1) In general

Each State receiving assistance under this subchapter shall prepare and submit, to the Corporation, an annual report concerning the use of assistance provided under this subchapter and the status of the national and community service programs that receive assistance under such subchapter in such State.

(2) Local grantees

Each State may require local grantees that receive assistance under this subchapter to supply such information to the State as is necessary to enable the State to complete the report required under paragraph (1), including a comparison of actual accomplishments with the goals established for the program, the number of participants in the program, the number of service hours generated, and the existence of any problems, delays or adverse conditions that have affected or will affect the attainment of program goals.

(3) Report demonstrating compliance

(A) In general

Each State receiving assistance under this subchapter shall include information in the report required under paragraph (1) that demonstrates the compliance of the State with the provisions of this chapter, including section 12637 of this title.

(B) Local grantees

Each State may require local grantees to supply such information to the State as is necessary to enable the State to comply with the requirement of paragraph (1).

(4) Availability of report

Reports submitted under paragraph (1) shall be made available to the public on request.

(b) Report to Congress by Corporation

(1) In general

Not later than 120 days after the end of each fiscal year, the Corporation shall prepare and submit, to the authorizing committees, the Committee on Appropriations of the House of Representatives, and the Committee on Appropriations of the Senate, a report concerning the programs that receive assistance under the national service laws.

(2) Content

Reports submitted under paragraph (1) shall contain a summary of the information con-

tained in the State reports submitted under subsection (a) of this section, and shall reflect the findings and actions taken as a result of any evaluation conducted by the Corporation.

(c) Report to Congress by Secretary of Defense

(1) Study

The Secretary of Defense shall annually conduct a study of the effect of the programs carried out under this subchapter on recruitment for the Armed Forces.

(2) Report

The Secretary of Defense shall annually submit a report to the authorizing committees, the Committee on Armed Services of the House of Representatives, and the Committee on Armed Services of the Senate containing the findings of the study described in paragraph (1) and such recommendations for legislative and administrative reform as the Secretary may determine to be appropriate.

(Pub. L. 101-610, title I, §172, Nov. 16, 1990, 104 Stat. 3159; Pub. L. 103-82, title I, §114, title IV, §402(b)(1), Sept. 21, 1993, 107 Stat. 861, 918; Pub. L. 111-13, title I, §1602, Apr. 21, 2009, 123 Stat. 1529.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(3)(A), was in the original "this Act", meaning Pub. L. 101-610, Nov. 16, 1990, 104 Stat. 3127, known as the National and Community Service Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

AMENDMENTS

2009—Subsec. (b)(1). Pub. L. 111-13, §1602(1), which directed substitution of "authorizing committees, the Committee on Appropriations of the House of Representatives, and the Committee on Appropriations of the Senate" for "appropriate authorizing and appropriations Committees of Congress", was executed by making the substitution for "appropriate authorizing and appropriation Committees of Congress" to reflect the probable intent of Congress.

Subsec. (c)(2). Pub. L. 111-13, §1602(2), substituted "the authorizing committees, the Committee on Armed Services of the House of Representatives, and the Committee on Armed Services of the Senate" for "the appropriate committees of Congress".

1993—Subsec. (a)(1). Pub. L. 103-82, §402(b)(1), substituted "Corporation" for "Commission".

Subsec. (a)(3)(A). Pub. L. 103-82, §114(1), substituted "section 12637" for "sections 12637 and 12523(9)".

Subsec. (b). Pub. L. 103-82, §114(2)(A), substituted "Report to Congress by Corporation" for "Report to Congress" in heading.

Subsec. (b)(1). Pub. L. 103-82, §402(b)(1), substituted "Corporation" for "Commission".

Pub. L. 103-82, §114(2)(B), substituted "the national service laws" for "this subchapter".

Subsec. (b)(2). Pub. L. 103-82, §402(b)(1), substituted "Corporation" for "Commission".

Subsec. (c). Pub. L. 103-82, §114(3), added subsec. (c).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 114 of Pub. L. 103-82 effective Oct. 1, 1993, see section 123 of Pub. L. 103-82, set out as a note under section 1701 of Title 16, Conservation.

Amendment by section 402(b)(1) of Pub. L. 103-82 effective Oct. 1, 1993, see section 406(a) of Pub. L. 103-82, set out as a note under section 5061 of this title.

§ 12633. Supplementation

(a) In general

Assistance provided under this subchapter shall be used to supplement the level of State and local public funds expended for services of the type assisted under this subchapter in the previous fiscal year.

(b) Aggregate expenditure

Subsection (a) of this section shall be satisfied, with respect to a particular program, if the aggregate expenditure for such program for the fiscal year in which services are to be provided will not be less than the aggregate expenditure for such program in the previous fiscal year, excluding the amount of Federal assistance provided and any other amounts used to pay the remainder of the costs of programs assisted under this subchapter.

(Pub. L. 101-610, title I, §173, Nov. 16, 1990, 104 Stat. 3160.)

§ 12634. Prohibition on use of funds

(a) Prohibited uses

No assistance made available under a grant under this subchapter shall be used to provide religious instruction, conduct worship services, or engage in any form of proselytization.

(b) Political activity

Assistance provided under this subchapter shall not be used by program participants and program staff to—

- (1) assist, promote, or deter union organizing; or
- (2) finance, directly or indirectly, any activity designed to influence the outcome of an election to Federal office or the outcome of an election to a State or local public office.

(c) Contracts or collective bargaining agreements

A program that receives assistance under this subchapter shall not impair existing contracts for services or collective bargaining agreements.

(d) Referrals for Federal assistance

A program may not receive assistance under the national service laws for the sole purpose of referring individuals to Federal assistance programs or State assistance programs funded in part by the Federal Government.

(Pub. L. 101-610, title I, §174, Nov. 16, 1990, 104 Stat. 3160; Pub. L. 111-13, title I, §1603, Apr. 21, 2009, 123 Stat. 1529.)

AMENDMENTS

2009—Subsec. (d). Pub. L. 111-13 added subsec. (d).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as a note under section 4950 of this title.

§ 12635. Nondiscrimination

(a) In general

(1) Basis

An individual with responsibility for the operation of a project that receives assistance

under this subchapter shall not discriminate against a participant in, or member of the staff of, such project on the basis of race, color, national origin, sex, age, or political affiliation of such participant or member, or on the basis of disability, if the participant or member is a qualified individual with a disability.

(2) “Qualified individual with a disability” defined

As used in paragraph (1), the term “qualified individual with a disability” has the meaning given the term in section 12111(8) of this title.

(b) Federal financial assistance

Any assistance provided under this subchapter shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and shall constitute Federal financial assistance to an education program or activity for purposes of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.).

(c) Religious discrimination

(1) In general

Except as provided in paragraph (2), an individual with responsibility for the operation of a project that receives assistance under this subchapter shall not discriminate on the basis of religion against a participant in such project or a member of the staff of such project who is paid with funds received under this subchapter.

(2) Exception

Paragraph (1) shall not apply to the employment, with assistance provided under this subchapter, of any member of the staff, of a project that receives assistance under this subchapter, who was employed with the organization operating the project on the date the grant under this subchapter was awarded.

(d) Rules and regulations

The Chief Executive Officer shall promulgate rules and regulations to provide for the enforcement of this section that shall include provisions for summary suspension of assistance for not more than 30 days, on an emergency basis, until notice and an opportunity to be heard can be provided.

(Pub. L. 101-610, title I, §175, Nov. 16, 1990, 104 Stat. 3161; Pub. L. 103-82, title I, §115, Sept. 21, 1993, 107 Stat. 862.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (b), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Education Amendments of 1972, referred to in subsec. (b), is Pub. L. 92-318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act,

is classified principally to chapter 38 (§1681 et seq.) of Title 20, Education. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of Title 20 and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (b), is title III of Pub. L. 94-135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

AMENDMENTS

1993—Pub. L. 103-82 amended section generally, making revisions relating to discrimination based on disability, the laws for which assistance under this subchapter constitutes Federal financial assistance, and the responsibility for promulgating regulations.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-82 effective Oct. 1, 1993, see section 123 of Pub. L. 103-82, set out as a note under section 1701 of Title 16, Conservation.

§ 12636. Notice, hearing, and grievance procedures

(a) In general

(1) Suspension of payments

The Corporation may in accordance with the provisions of this subchapter, suspend or terminate payments under a contract or grant providing assistance under this subchapter, or revoke the designation of positions, related to the grant or contract, as approved national service positions, whenever the Corporation determines there is a material failure to comply with this subchapter or the applicable terms and conditions of any such grant or contract issued pursuant to this subchapter.

(2) Procedures to ensure assistance

The Corporation shall prescribe procedures to ensure that—

(A) assistance provided under this subchapter shall not be suspended for failure to comply with the applicable terms and conditions of this subchapter except, in emergency situations, a suspension may be granted for 1 or more periods of 30 days not to exceed a total of 90 days; and

(B) assistance provided under this subchapter shall not be terminated or revoked for failure to comply with applicable terms and conditions of this subchapter unless the recipient of such assistance has been afforded reasonable notice and opportunity for a full and fair hearing.

(b) Hearings

Hearings or other meetings that may be necessary to fulfill the requirements of this section shall be held at locations convenient to the recipient of assistance under this subchapter.

(c) Transcript or recording

A transcript or recording shall be made of a hearing conducted under this section and shall be available for inspection by any individual.

(d) State legislation

Nothing in this subchapter shall be construed to preclude the enactment of State legislation providing for the implementation, consistent with this subchapter, of the programs administered under this subchapter.

(e) Construction

Nothing in this subchapter shall be construed to link performance of service with receipt of Federal student financial assistance, other than assistance provided pursuant to this chapter.

(f) Grievance procedure

(1) In general

An entity that receives assistance under this subchapter shall establish and maintain a procedure for the filing and adjudication of grievances from participants, labor organizations, and other interested individuals concerning projects that receive assistance under this subchapter, including grievances regarding proposed placements of such participants in such projects.

(2) Deadline for grievances

Except for a grievance that alleges fraud or criminal activity, a grievance shall be made not later than 1 year after the date of the alleged occurrence of the event that is the subject of the grievance.

(3) Deadline for hearing and decision

(A) Hearing

A hearing on any grievance conducted under this subsection shall be conducted not later than 30 days after the filing of such grievance.

(B) Decision

A decision on any such grievance shall be made not later than 60 days after the filing of such grievance.

(4) Arbitration

(A) In general

(i) Jointly selected arbitrator

In the event of a decision on a grievance that is adverse to the party who filed such grievance, or 60 days after the filing of such grievance if no decision has been reached, such party shall be permitted to submit such grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the interested parties.

(ii) Appointed arbitrator

If the parties cannot agree on an arbitrator, the Chief Executive Officer shall appoint an arbitrator from a list of qualified arbitrators within 15 days after receiving a request for such appointment from one of the parties to the grievance.

(B) Deadline for proceeding

An arbitration proceeding shall be held not later than 45 days after the request for such arbitration proceeding, or, if the arbitrator is appointed by the Chief Executive Officer in accordance with subparagraph (A)(ii), not later than 30 days after the appointment of such arbitrator.

(C) Deadline for decision

A decision concerning a grievance shall be made not later than 30 days after the date such arbitration proceeding begins.

(D) Cost**(i) In general**

Except as provided in clause (ii), the cost of an arbitration proceeding shall be divided evenly between the parties to the arbitration.

(ii) Exception

If a participant, labor organization, or other interested individual described in paragraph (1) prevails under a binding arbitration proceeding, the State or local applicant described in paragraph (1) that is a party to such grievance shall pay the total cost of such proceeding and the attorneys' fees of such participant, labor organization, or individual, as the case may be.

(5) Proposed placement

If a grievance is filed regarding a proposed placement of a participant in a project that receives assistance under this subchapter, such placement shall not be made unless the placement is consistent with the resolution of the grievance pursuant to this subsection.

(6) Remedies

Remedies for a grievance filed under this subsection include—

(A) suspension of payments for assistance under this subchapter;

(B) termination of such payments;

(C) prohibition of the placement described in paragraph (5);

(D) in a case in which the grievance is filed by an individual applicant or participant—

(i) the applicant's selection or the participant's reinstatement, as the case may be; and

(ii) other changes in the terms and conditions of service applicable to the individual; and

(E) in a case in which the grievance involves a violation of subsection (a) or (b) of section 12637 of this title and the employer of the displaced employee is the recipient of assistance under this subchapter—

(i) reinstatement of the displaced employee to the position held by such employee prior to displacement;

(ii) payment of lost wages and benefits of the displaced employee;

(iii) reestablishment of other relevant terms, conditions, and privileges of employment of the displaced employee; and

(iv) such equitable relief as is necessary to correct any violation of subsection (a) or (b) of section 12637 of this title or to make the displaced employee whole.

(7) Enforcement

Suits to enforce arbitration awards under this section may be brought in any district court of the United States having jurisdiction of the parties, without regard to the amount in controversy and without regard to the citizenship of the parties.

(Pub. L. 101-610, title I, §176, Nov. 16, 1990, 104 Stat. 3161; Pub. L. 103-82, title I, §116, title IV, §402(b)(1), Sept. 21, 1993, 107 Stat. 863, 918; Pub. L. 111-13, title I, §1604, Apr. 21, 2009, 123 Stat. 1529.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (e), was in the original "this Act", meaning Pub. L. 101-610, Nov. 16, 1990, 104 Stat. 3127, known as the National and Community Service Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

AMENDMENTS

2009—Subsec. (a)(2)(A). Pub. L. 111-13, §1604(1), substituted "1 or more periods of 30 days not to exceed a total of 90 days" for "30 days".

Subsec. (f)(1). Pub. L. 111-13, §1604(2)(A), substituted "An entity" for "A State or local applicant".

Subsec. (f)(6)(D), (E). Pub. L. 111-13, §1604(2)(B), added subpar. (D) and redesignated former subpar. (D) as (E).

1993—Subsec. (a)(1). Pub. L. 103-82, §402(b)(1), substituted "Corporation" for "Commission" in two places.

Pub. L. 103-82, §116(a)(1), inserted ", or revoke the designation of positions, related to the grant or contract, as approved national service positions," after "assistance under this subchapter".

Subsec. (a)(2). Pub. L. 103-82, §402(b)(1), substituted "Corporation" for "Commission" in introductory provisions.

Subsec. (a)(2)(B). Pub. L. 103-82, §116(a)(2), inserted "or revoked" after "terminated".

Subsec. (e). Pub. L. 103-82, §116(b), inserted before period at end ", other than assistance provided pursuant to this chapter".

Subsec. (f). Pub. L. 103-82, §116(c), amended subsec. (f) generally, substituting pars. (1) to (6) for former pars. (1) to (6) relating to same subjects and adding par. (7).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 116 of Pub. L. 103-82 effective Oct. 1, 1993, see section 123 of Pub. L. 103-82, set out as a note under section 1701 of Title 16, Conservation.

Amendment by section 402(b)(1) of Pub. L. 103-82 effective Oct. 1, 1993, see section 406(a) of Pub. L. 103-82, set out as a note under section 5061 of this title.

§ 12637. Nonduplication and nondisplacement**(a) Nonduplication****(1) In general**

Assistance provided under the national service laws shall be used only for a program that does not duplicate, and is in addition to, an activity otherwise available in the locality of such program.

(2) Private nonprofit entity

Assistance made available under the national service laws shall not be provided to a private nonprofit entity to conduct activities that are the same or substantially equivalent to activities provided by a State or local government agency that such entity resides in, unless the requirements of subsection (b) of this section are met.

(b) Nondisplacement**(1) In general**

An employer shall not displace an employee, position, or volunteer (other than a participant under the national service laws), including partial displacement such as reduction in hours, wages, or employment benefits, as a re-

sult of the use by such employer of a participant in a program receiving assistance under the national service laws.

(2) Service opportunities

A service opportunity shall not be created under the national service laws that will infringe in any manner on the promotional opportunity of an employed individual.

(3) Limitation on services

(A) Duplication of services

A participant in a program receiving assistance under the national service laws shall not perform any services or duties or engage in activities that would otherwise be performed by an employee as part of the assigned duties of such employee.

(B) Supplantation of hiring

A participant in any program receiving assistance under the national service laws shall not perform any services or duties, or engage in activities, that—

(i) will supplant the hiring of employed workers; or

(ii) are services, duties, or activities with respect to which an individual has recall rights pursuant to a collective bargaining agreement or applicable personnel procedures.

(C) Duties formerly performed by another employee

A participant in any program receiving assistance under the national service laws shall not perform services or duties that have been performed by or were assigned to any—

(i) presently employed worker;

(ii) employee who recently resigned or was discharged;

(iii) employee who—

(I) is subject to a reduction in force; or

(II) has recall rights pursuant to a collective bargaining agreement or applicable personnel procedures;

(iv) employee who is on leave (terminal, temporary, vacation, emergency, or sick); or

(v) employee who is on strike or who is being locked out.

(c) Labor market information

The Secretary of Labor shall make available to the Corporation and to any program agency under this subchapter such labor market information as is appropriate for use in carrying out the purposes of this subchapter.

(d) Treatment of benefits

Allowances, earnings, and payments to individuals participating in programs that receive assistance under this subchapter shall not be considered to be income for the purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any Federal or federally assisted program based on need, other than as provided under the Social Security Act (42 U.S.C. 301 et seq.).

(e) Standards of conduct

Programs that receive assistance under this subchapter shall establish and stringently en-

force standards of conduct at the program site to promote proper moral and disciplinary conditions.

(f) Parental involvement

(1) In general

Programs that receive assistance under the national service laws shall consult with the parents or legal guardians of children in developing and operating programs that include and serve children.

(2) Parental permission

Programs that receive assistance under the national service laws shall, before transporting minor children, provide the children's parents with the reason for the transportation and obtain the parents' written permission for such transportation, consistent with State law.

(Pub. L. 101-610, title I, §177, Nov. 16, 1990, 104 Stat. 3163; Pub. L. 103-82, title I, §117, title IV, §402(b)(1), Sept. 21, 1993, 107 Stat. 864, 918; Pub. L. 105-277, div. A, §101(f) [title VIII, §405(d)(42)(A)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-427; Pub. L. 111-13, title I, §1605, Apr. 21, 2009, 123 Stat. 1530.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (d), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, which is classified generally to chapter 7 (§301 et seq.) of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

2009—Subsec. (a)(1), (2). Pub. L. 111-13, §1605(1), substituted “under the national service laws” for “under this subchapter”.

Subsec. (b)(1). Pub. L. 111-13, §1605(1), (2), substituted “employee, position, or volunteer (other than a participant under the national service laws)” for “employee or position” and “under the national service laws” for “under this subchapter”.

Subsec. (b)(2), (3). Pub. L. 111-13, §1605(1), substituted “under the national service laws” for “under this subchapter” wherever appearing.

Subsec. (f). Pub. L. 111-13, §1605(3), added subsec. (f).

1998—Subsec. (d). Pub. L. 105-277 amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: “Section 142(b) of the Job Training Partnership Act shall apply to the projects conducted under this subchapter as such projects were conducted under the Job Training Partnership Act.”

1993—Subsec. (b)(3)(B). Pub. L. 103-82, §117(1), amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: “A participant in any program receiving assistance under this subchapter shall not perform any services or duties or engage in activities that will supplant the hiring of employed workers.”

Subsec. (b)(3)(C)(iii). Pub. L. 103-82, §117(2), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: “employee who is subject to a reduction in force;”.

Subsec. (c). Pub. L. 103-82, §402(b)(1), substituted “Corporation” for “Commission”.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 117 of Pub. L. 103-82 effective Oct. 1, 1993, see section 123 of Pub. L. 103-82, set out as a note under section 1701 of Title 16, Conservation.

Amendment by section 402(b)(1) of Pub. L. 103-82 effective Oct. 1, 1993, see section 406(a) of Pub. L. 103-82, set out as a note under section 5061 of this title.

§ 12638. State Commissions on National and Community Service

(a) Existence required

(1) State Commission

Except as provided in paragraph (2), to be eligible to receive a grant or allotment under division B or C of this subchapter or to receive a distribution of approved national service positions under division C of this subchapter, a State shall maintain a State Commission on National and Community Service that satisfies the requirements of this section.

(2) Alternative administrative entity

The chief executive officer of a State may apply to the Corporation for approval to use an alternative administrative entity to carry out the duties otherwise entrusted to a State Commission under this chapter. The chief executive officer shall ensure that any alternative administrative entity used in lieu of a State Commission provides for the individuals described in paragraph (1), and some of the individuals described in paragraph (2), of subsection (c) of this section to play a significant policymaking role in carrying out the duties otherwise entrusted to a State Commission, including the submission of applications on behalf of the State under section 12582 of this title.

(b) Appointment and size

Except as provided in subsection (c)(3) of this section, the members of a State Commission for a State shall be appointed by the chief executive officer of the State. A State Commission shall consist of not fewer than 15, and not more than 25, voting members, and any ex officio nonvoting members, as described in paragraph (3) or (4) of subsection (c) of this section.

(c) Composition and membership

(1) Required members

The State Commission for a State shall include as voting members at least one of each of the following individuals:

(A) An individual with expertise in the educational, training, and development needs of youth, particularly disadvantaged youth.

(B) An individual with experience in promoting the involvement of older adults in service and voluntarism.

(C) A representative of community-based agencies or community-based organizations within the State.

(D) The head of the State educational agency.

(E) A representative of local governments in the State.

(F) A representative of local labor organizations in the State.

(G) A representative of business.

(H) An individual between the ages of 16 and 25 who is a participant or supervisor in a program.

(I) A representative of a national service program described in subsection (a), (b), or (c) of section 12572 of this title.

(J) A representative of the volunteer sector.

(2) Sources of other members

The State Commission for a State may include as voting members the following individuals:

(A) Members selected from among local educators.

(B) Members selected from among experts in the delivery of human, educational, environmental, or public safety services to communities and persons.

(C) Representatives of Indian tribes.

(D) Members selected from among out-of-school youth or other at-risk youth.

(E) Representatives of entities that receive assistance under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

(3) Corporation representative

The representative of the Corporation designated under section 12651f(c) of this title for a State shall be an ex officio nonvoting member of the State Commission or alternative administrative entity for that State.

(4) Ex officio State representatives

The chief executive officer of a State may appoint, as ex officio nonvoting members of the State Commission for the State, representatives selected from among officers and employees of State agencies operating community service, youth service, education, social service, senior service, and job training programs.

(5) Limitation on number of State employees as members

The number of voting members of a State Commission selected under paragraph (1) or (2) who are officers or employees of the State may not exceed 25 percent (reduced to the nearest whole number) of the total membership of the State Commission.

(d) Miscellaneous matters

(1) Membership balance

The chief executive officer of a State shall ensure, to the maximum extent practicable, that the membership of the State Commission for the State is diverse with respect to race, ethnicity, age, gender, and disability characteristics. Not more than 50 percent of the voting members of a State Commission, plus one additional member, may be from the same political party.

(2) Terms

Each member of the State Commission for a State shall serve for a term of 3 years, except that the chief executive officer of a State shall initially appoint a portion of the members to terms of 1 year and 2 years.

(3) Vacancies

If a vacancy occurs on a State Commission, a new member shall be appointed by the chief executive officer of the State and serve for the remainder of the term for which the predecessor of such member was appointed. The vacancy shall not affect the power of the remaining members to execute the duties of the State Commission.

(4) Compensation

A member of a State Commission or alternative administrative entity shall not receive any additional compensation by reason of service on the State Commission or alternative administrative entity, except that the State may authorize the reimbursement of travel expenses, including a per diem in lieu of subsistence, in the same manner as other employees serving intermittently in the service of the State.

(5) Chairperson

The voting members of a State Commission shall elect one of the voting members to serve as chairperson of the State Commission.

(6) Limitation on member participation**(A) General limitation**

Except as provided in subparagraph (B), a voting member of the State Commission (or of an alternative administrative entity) shall not participate in the administration of the grant program (including any discussion or decision regarding the provision of assistance or approved national service positions, or the continuation, suspension, or termination of such assistance or such positions, to any program or entity) described in subsection (e)(9) of this section if—

(i) a grant application relating to such program is pending before the Commission (or such entity); and

(ii) the application was submitted by a program or entity of which such member is, or in the 1-year period before the submission of such application was, an officer, director, trustee, full-time volunteer, or employee.

(B) Exception

If, as a result of the operation of subparagraph (A), the number of voting members of the Commission (or of such entity) is insufficient to establish a quorum for the purpose of administering such program, then voting members excluded from participation by subparagraph (A) may participate in the administration of such program, notwithstanding the limitation in subparagraph (A), to the extent permitted by regulations issued under section 12651d(b)(12) of this title by the Corporation.

(C) Rule of construction

Subparagraph (A) shall not be construed to limit the authority of any voting member of the Commission (or of such entity) to participate in—

(i) discussion of, and hearing and forums on—

(I) the general duties, policies, and operations of the Commission (or of such entity); or

(II) the general administration of such program; or

(ii) similar general matters relating to the Commission (or such entity).

(e) Duties of a State Commission

The State Commission or alternative administrative entity for a State shall be responsible for the following duties:

(1) Preparation of a national service plan for the State that—

(A) is developed, through an open and public process (such as through regional forums, hearings, and other means) that provides for maximum participation and input from the private sector, organizations, and public agencies, using service and volunteerism as strategies to meet critical community needs, including service through programs funded under the national service laws;

(B) covers a 3-year period, the beginning of which may be set by the State;

(C) is subject to approval by the chief executive officer of the State;

(D) includes measurable goals and outcomes for the State national service programs in the State consistent with the performance levels for national service programs as described in section 12639(k) of this title;

(E) ensures outreach to diverse community-based agencies that serve underrepresented populations, through established networks and registries at the State level, or through the development of such networks and registries;

(F) provides for effective coordination of funding applications submitted by the State and other organizations within the State under the national service laws;

(G) is updated annually, reflecting changes in practices and policies that will improve the coordination and effectiveness of Federal, State, and local resources for service and volunteerism within the State;

(H) ensures outreach to, and coordination with, municipalities (including large cities) and county governments regarding the national service laws; and

(I) contains such information as the State Commission considers to be appropriate or as the Corporation may require.

(2) Preparation of the applications of the State under section 12582 of this title for financial assistance.

(3) Assistance in the preparation of the application of the State educational agency for assistance under section 12525 of this title.

(4) Preparation of the application of the State under section 12582 of this title for the approval of service positions that include the national service educational award described in division D of this subchapter.

(5) Make recommendations to the Corporation with respect to priorities for programs receiving assistance under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

(6) Make technical assistance available to enable applicants for assistance under section 12571 of this title—

(A) to plan and implement service programs; and

(B) to apply for assistance under the national service laws using, if appropriate, information and materials available through a clearinghouse established under section 12653a¹ of this title.

(7) Assistance in the provision of health care and child care benefits under section 12594 of

¹ See References in Text note below.

this title to participants in national service programs that receive assistance under section 12571 of this title.

(8) Development of a State system for the recruitment and placement of participants in programs that receive assistance under the national service laws and dissemination of information concerning national service programs that receive such assistance or approved national service positions.

(9) Administration of the grant program in support of national service programs that is conducted by the State using assistance provided to the State under section 12571 of this title, including selection, oversight, and evaluation of grant recipients.

(10) Development of projects, training methods, curriculum materials, and other materials and activities related to national service programs that receive assistance directly from the Corporation (to be made available in a case in which such a program requests such a project, method, material, or activity) or from the State using assistance provided under section 12571 of this title, for use by programs that request such projects, methods, materials, and activities.

(f) Relief from administrative requirements

Upon approval of a State plan submitted under subsection (e)(1), the Chief Executive Officer may waive for the State, or specify alternatives for the State to, administrative requirements (other than statutory provisions) otherwise applicable to grants made to States under the national service laws, including those requirements identified by the State as impeding the coordination and effectiveness of Federal, State, and local resources for service and volunteerism within the State.

(g) State service plan for adults age 55 or older

(1) In general

Notwithstanding any other provision of this section, to be eligible to receive a grant or allotment under division B or C or to receive a distribution of approved national service positions under division C, a State shall work with appropriate State agencies and private entities to develop a comprehensive State service plan for service by adults age 55 or older.

(2) Matters included

The State service plan shall include—

(A) recommendations for policies to increase service for adults age 55 or older, including how to best use such adults as sources of social capital, and how to utilize their skills and experience to address community needs;

(B) recommendations to the State agency (as defined in section 3002 of this title) on—

(i) a marketing outreach plan to businesses; and

(ii) outreach to—

(I) nonprofit organizations;

(II) the State educational agency;

(III) institutions of higher education; and

(IV) other State agencies;

(C) recommendations for civic engagement and multigenerational activities, such as—

(i) early childhood education and care, family literacy, and after school programs;

(ii) respite services for adults age 55 or older and caregivers; and

(iii) transitions for older adults age 55 or older to purposeful work in their post-career lives; and

(D) recommendations for encouraging the development of Encore service programs in the State.

(3) Knowledge base

The State service plan shall incorporate the current knowledge base (as of the time of the plan) regarding—

(A) the economic impact of the roles of workers age 55 or older in the economy;

(B) the social impact of the roles of such workers in the community; and

(C) the health and social benefits of active engagement for adults age 55 or older.

(4) Publication

The State service plan shall be made available to the public and be transmitted to the Chief Executive Officer.

(h) Activity ineligible for assistance

A State Commission or alternative administrative entity may not directly carry out any national service program that receives assistance under section 12571 of this title.

(i) Delegation

Subject to such requirements as the Corporation may prescribe, a State Commission may delegate nonpolicymaking duties to a State agency or public or private nonprofit organization.

(j) Approval of State Commission or alternative

(1) Submission to Corporation

The chief executive officer for a State shall notify the Corporation of the establishment or designation of the State Commission or use of an alternative administrative entity for the State. The notification shall include a description of—

(A) the composition and membership of the State Commission or alternative administrative entity; and

(B) the authority of the State Commission or alternative administrative entity regarding national service activities carried out by the State.

(2) Approval of alternative administrative entity

Any designation of a State Commission or use of an alternative administrative entity to carry out the duties of a State Commission shall be subject to the approval of the Corporation, which shall not be unreasonably withheld. The Corporation shall approve an alternative administrative entity if such entity provides for individuals described in paragraph (1), and some of the individuals described in paragraph (2), of subsection (c) of this section to play a significant policymaking role in carrying out the duties otherwise entrusted to a State Commission, including the duties described in paragraphs (1) through (4) of subsection (e) of this section.

(3) Rejection

The Corporation may reject a State Commission if the Corporation determines that the composition, membership, or duties of the State Commission do not comply with the requirements of this section. The Corporation may reject a request to use an alternative administrative entity in lieu of a State Commission if the Corporation determines that the entity does not provide for the individuals described in paragraph (1), and some of the individuals described in paragraph (2), of subsection (c) of this section to play a significant policymaking role as described in paragraph (2). If the Corporation rejects a State Commission or alternative administrative entity under this paragraph, the Corporation shall promptly notify the State of the reasons for the rejection.

(4) Resubmission and reconsideration

The Corporation shall provide a State notified under paragraph (3) with a reasonable opportunity to revise the rejected State Commission or alternative administrative entity. At the request of the State, the Corporation shall provide technical assistance to the State as part of the revision process. The Corporation shall promptly reconsider any resubmission of a notification under paragraph (1) or application to use an alternative administrative entity under paragraph (2).

(5) Subsequent changes

This subsection shall also apply to any change in the composition or duties of a State Commission or an alternative administrative entity made after approval of the State Commission or the alternative administrative entity.

(6) Rights

An alternative administrative entity approved by the Corporation under this subsection shall have the same rights as a State Commission.

(k) Coordination**(1) Coordination with other State agencies**

The State Commission or alternative administrative entity for a State shall coordinate the activities of the Commission or entity under this chapter with the activities of other State agencies that administer Federal financial assistance programs under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.) or other appropriate Federal financial assistance programs.

(2) Coordination with volunteer service programs**(A) In general**

The State Commission or alternative administrative entity for a State shall coordinate functions of the Commission or entity (including recruitment, public awareness, and training activities) with such functions of any division of the Corporation that carries out volunteer service programs in the State.

(B) Agreement

In coordinating functions under this paragraph, such Commission or entity, and such division, may enter into an agreement to—

- (i) carry out such a function jointly;
- (ii) to² assign responsibility for such a function to the Commission or entity; or
- (iii) to² assign responsibility for such a function to the division.

(C) Information

The State Commission or alternative entity for a State, and the head of any such division, shall exchange information about—

- (i) the programs carried out in the State by the Commission, entity, or division, as appropriate; and
- (ii) opportunities to coordinate activities.

(l) Liability**(1) Liability of State**

Except as provided in paragraph (2)(B), a State shall agree to assume liability with respect to any claim arising out of or resulting from any act or omission by a member of the State Commission or alternative administrative entity of the State, within the scope of the service of the member on the State Commission or alternative administrative entity.

(2) Other claims**(A) In general**

A member of the State Commission or alternative administrative entity shall have no personal liability with respect to any claim arising out of or resulting from any act or omission by such person, within the scope of the service of the member on the State Commission or alternative administrative entity.

(B) Limitation

This paragraph shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of such member on the State Commission or alternative administrative entity.

(3) Effect on other law

This subsection shall not be construed—

- (A) to affect any other immunities and protections that may be available to such member under applicable law with respect to such service;
- (B) to affect any other right or remedy against the State under applicable law, or against any person other than a member of the State Commission or alternative administrative entity; or
- (C) to limit or alter in any way the immunities that are available under applicable law for State officials and employees not described in this subsection.

(Pub. L. 101-610, title I, §178, as added and amended Pub. L. 103-82, title II, §201(a), title IV,

²So in original. The word "to" probably should not appear.

§ 405(p)(1), Sept. 21, 1993, 107 Stat. 867, 922; Pub. L. 111-13, title I, § 1606, Apr. 21, 2009, 123 Stat. 1530.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(2) and (k)(1), was in the original “this Act”, meaning Pub. L. 101-610, Nov. 16, 1990, 104 Stat. 3127, known as the National and Community Service Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsecs. (c)(2)(E) and (e)(5), is Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 394, which is classified principally to chapter 66 (§ 4950 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

Section 12653a of this title, referred to in subsec. (e)(6)(B), was in the original “section 198A”, meaning section 198A of Pub. L. 101-610, as added by section 104(c) of Pub. L. 103-82, which was repealed, and section 198B was redesignated section 198A, by Pub. L. 111-13, title I, § 1803(a)(1), (b), Apr. 21, 2009, 123 Stat. 1554. Provisions similar to section 12653a are now contained in section 12653o of this title.

The Community Services Block Grant Act, referred to in subsec. (k)(1), is subtitle B (§ 671 et seq.) of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 511, which is classified generally to chapter 106 (§ 9901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9901 of this title and Tables.

PRIOR PROVISIONS

A prior section 12638, Pub. L. 101-610, title I, § 178, Nov. 16, 1990, 104 Stat. 3164; Pub. L. 102-10, § 8(1), Mar. 12, 1991, 105 Stat. 31, provided that States applying for assistance under this subchapter be encouraged to establish a State Advisory Board for National and Community Service and set out additional provisions for membership and duties of such boards, prior to repeal by Pub. L. 103-82, § 201(a).

AMENDMENTS

2009—Subsec. (a)(2). Pub. L. 111-13, § 1606(1), substituted “section 12582” for “sections 12543 and 12582”.

Subsec. (c)(1)(I). Pub. L. 111-13, § 1606(2)(A), substituted “subsection (a), (b), or (c) of section 12572 of this title.” for “section 12572(a) of this title, such as a youth corps program described in section 12572(a)(2) of this title.”

Subsec. (c)(1)(J). Pub. L. 111-13, § 1606(2)(B), added subpar. (J).

Subsec. (c)(3). Pub. L. 111-13, § 1606(3), struck out “, unless the State permits the representative to serve as a voting member of the State Commission or alternative administrative entity” before period at end.

Subsec. (d)(6)(B). Pub. L. 111-13, § 1606(4), substituted “section 12651d(b)(12)” for “section 12651d(b)(11)”.

Subsec. (e)(1). Pub. L. 111-13, § 1606(5)(A), added par. (1) and struck out former par. (1) which related to preparation of a national service plan for the State.

Subsec. (e)(2). Pub. L. 111-13, § 1606(5)(B), substituted “section 12582” for “sections 12543 and 12582”.

Subsecs. (f) to (l). Pub. L. 111-13, § 1606(6), (7), added subsecs. (f) and (g) and redesignated former subsecs. (f) to (j) as (h) to (l), respectively.

1993—Subsec. (i)(2)(A). Pub. L. 103-82, § 405(p)(1), substituted “the Corporation” for “ACTION, or of the Corporation,” before “that carries out”.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 405(p)(1) of Pub. L. 103-82 effective Apr. 4, 1994, see section 406(b) of Pub. L. 103-82,

set out as a note under section 8332 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section 201(c) of Pub. L. 103-82 provided that: “The amendments made by this section [enacting this section and repealing former section 12638 of this title] shall take effect on October 1, 1993.”

TRANSITIONAL PROVISIONS

Section 201(d) of Pub. L. 103-82 provided that:

“(1) USE OF ALTERNATIVES TO STATE COMMISSION.—If a State does not have a State Commission on National and Community Service that satisfies the requirements specified in section 178 of the National and Community Service Act of 1990 [42 U.S.C. 12638], as amended by subsection (a), the Corporation for National and Community Service may authorize the chief executive officer of the State to use an existing agency of the State to perform the duties otherwise reserved to a State Commission under subsection (e) of such section.

“(2) APPLICATION OF SUBSECTION.—This subsection shall apply only during the 27-month period beginning on the date of the enactment of this Act [Sept. 21, 1993].”

§ 12639. Evaluation**(a) In general**

The Corporation shall provide, directly or through grants or contracts, for the continuing evaluation of programs that receive assistance under the national service laws, including evaluations that measure the impact of such programs, to determine—

(1) the effectiveness of programs receiving assistance under the national service laws in achieving stated goals and the costs associated with such programs, including an evaluation of each such program’s performance based on the performance levels established under subsection (k); and

(2) the effectiveness of the structure and mechanisms for delivery of services, such as the effective utilization of the participants’ time, the management of the participants, and the ease with which recipients were able to receive services, to maximize the cost effectiveness and the impact of such programs.

(b) Comparisons

The Corporation shall provide for inclusion in the evaluations required under subsection (a) of this section, where appropriate, comparisons of participants in such programs with individuals who have not participated in such programs.

(c) Conducting evaluations

Evaluations of programs under subsection (a) of this section shall be conducted by individuals who are not directly involved in the administration of such program.

(d) Standards

The Corporation shall develop and publish general standards for the evaluation of program effectiveness in achieving the objectives of the national service laws.

(e) Community participation

In evaluating a program receiving assistance under the national service laws, the Corporation shall consider the opinions of participants and members of the communities where services are delivered concerning the strengths and weaknesses of such program.

(f) Comparison of program models

The Corporation shall evaluate and compare the effectiveness of different program models in meeting the program objectives described in subsection (g) of this section including full- and part-time programs, programs involving different types of national service, programs using different recruitment methods, programs offering alternative voucher or post-service benefit options, and programs utilizing individual placements and teams.

(g) Program objectives

The Corporation shall ensure that programs that receive assistance under division C of this subchapter are evaluated to determine their effectiveness in—

(1) recruiting and enrolling diverse participants in such programs, consistent with the requirements of section 12575¹ of this title, based on economic background, race, ethnicity, age, marital status, education levels, and disability;

(2) promoting the educational achievement of each participant in such programs, based on earning a high school diploma or the equivalent of such diploma and the future enrollment and completion of increasingly higher levels of education;

(3) encouraging each participant to engage in public and community service after completion of the program based on career choices and service in other service programs such as the Volunteers in Service to America Program and National Senior Service Corps programs established under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.), the Peace Corps (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)), the military, and part-time volunteer service;

(4) promoting of positive attitudes among each participant regarding the role of such participant in solving community problems based on the view of such participant regarding the personal capacity of such participant to improve the lives of others, the responsibilities of such participant as a citizen and community member, and other factors;

(5) enabling each participant to finance a lesser portion of the higher education of such participant through student loans;

(6) providing services and projects that benefit the community;

(7) supplying additional volunteer assistance to community agencies without overloading such agencies with more volunteers than can effectively be utilized;

(8) providing services and activities that could not otherwise be performed by employed workers and that will not supplant the hiring of, or result in the displacement of, employed workers or impair the existing contracts of such workers; and

(9) attracting a greater number of citizens to engage in service that benefits the community.

(h) Obtaining information**(1) In general**

In conducting the evaluations required under this section, the Corporation may re-

quire each program participant and State or local applicant to provide such information as may be necessary to carry out the requirements of this section.

(2) Confidentiality**(A) In general**

The Corporation shall maintain the confidentiality of information acquired under this subsection regarding individual participants.

(B) Disclosure**(i) Consent**

The content of any information described in subparagraph (A) may be disclosed with the prior written consent of the individual participant with respect to whom the information is maintained.

(ii) Aggregate information

The Corporation may disclose information about the aggregate characteristics of such participants.

(i) Independent evaluation and report of demographics of national service participants and communities**(1) Independent evaluation****(A) In general**

The Corporation shall, on an annual basis, arrange for an independent evaluation of the programs assisted under division C of this subchapter.

(B) Participants**(i) In general**

The entity conducting such evaluation shall determine the demographic characteristics of the participants in such programs.

(ii) Characteristics

The entity shall determine, for the year covered by the evaluation, the total number of participants in the programs, and the number of participants within the programs in each State, by sex, age, economic background, education level, ethnic group, disability classification, and geographic region.

(iii) Categories

The Corporation shall determine appropriate categories for analysis of each of the characteristics referred to in clause (ii) for purposes of such an evaluation.

(C) Communities

In conducting the evaluation, the entity shall determine the amount of assistance provided under section 12571 of this title during the year that has been expended for projects conducted under the programs in areas described in section 12585(c)(6) of this title.

(2) Report

The entity conducting the evaluation shall submit a report to the President, the authorizing committees, the Corporation, and each State Commission containing the results of the evaluation—

¹ See References in Text note below.

(A) with respect to the evaluation covering the year beginning on September 21, 1993, not later than 18 months after September 21, 1993; and

(B) with respect to the evaluation covering each subsequent year, not later than 18 months after the first day of each such year.

(j) Reserved program funds for accountability

Notwithstanding any other provision of law, in addition to amounts appropriated to carry out this section, the Corporation may reserve not more than 1 percent of the total funds appropriated for a fiscal year under section 12681 of this title and sections 501 and 502 of the Domestic Volunteer Service Act of 1973 [42 U.S.C. 5081, 5082] to support program accountability activities under this section.

(k) Performance levels

The Corporation shall, in consultation with each recipient of assistance under the national service laws, establish performance levels for such recipient to meet during the term of the assistance. The performance levels may include, for each national service program carried out by the recipient, performance levels based on the following performance measures:

(1) Number of participants enrolled in the program and completing terms of service, as compared to the stated participation and retention goals of the program.

(2) Number of volunteers recruited from the community in which the program was implemented.

(3) If applicable based on the program design, the number of individuals receiving or benefitting from the service conducted.

(4) Number of disadvantaged and underrepresented youth participants.

(5) Measures of the sustainability of the program and the projects supported by the program, including measures to ascertain the level of community support for the program or projects.

(6) Measures to ascertain the change in attitude toward civic engagement among the participants and the beneficiaries of the service.

(7) Other quantitative and qualitative measures as determined to be appropriate by the recipient of assistance and the Corporation.

(l) Corrective action plans

(1) In general

A recipient of assistance under the national service laws that fails, as determined by the Corporation, to meet or exceed the performance levels agreed upon under subsection (k) for a national service program, shall reach an agreement with the Corporation on a corrective action plan to meet such performance levels.

(2) Assistance

(A) New program

For a program that has received assistance under the national service laws for less than 3 years and for which the recipient is failing to meet or exceed the performance levels agreed upon under subsection (k), the Corporation shall—

(i) provide technical assistance to the recipient to address targeted performance

problems relating to the performance levels for the program; and

(ii) require the recipient to submit quarterly reports on the program's progress toward meeting the performance levels for the program to the—

(I) appropriate State, territory, or Indian tribe; and

(II) the Corporation.

(B) Established programs

For a program that has received assistance under the national service laws for 3 years or more and for which the recipient is failing to meet or exceed the performance levels agreed upon under subsection (k), the Corporation shall require the recipient to submit quarterly reports on the program's progress toward the performance levels for the program to—

(i) the appropriate State, territory, or Indian tribe; and

(ii) the Corporation.

(m) Failure to meet performance levels

If, after a period for correction as approved by the Corporation in accordance with subsection (l), a recipient of assistance under the national service laws fails to meet or exceed the performance levels for a national service program, the Corporation shall—

(1) reduce the annual amount of the assistance received by the underperforming recipient by at least 25 percent, for each remaining year of the grant period for that program; or

(2) terminate assistance to the underperforming recipient for that program, in accordance with section 12636(a) of this title.

(n) Reports

The Corporation shall submit to the authorizing committees not later than 2 years after April 21, 2009, and annually thereafter, a report containing information on the number of—

(1) recipients of assistance under the national service laws implementing corrective action plans under subsection (l)(1);

(2) recipients for which the Corporation provides technical assistance for a program under subsection (l)(2)(A)(i);

(3) recipients for which the Corporation terminates assistance for a program under subsection (m);

(4) entities whose application for assistance under a national service law was rejected; and

(5) recipients meeting or exceeding their performance levels under subsection (k).

(Pub. L. 101-610, title I, §179, Nov. 16, 1990, 104 Stat. 3164; Pub. L. 102-384, §§4, 9, Oct. 5, 1992, 106 Stat. 1455, 1456; Pub. L. 103-82, title I, §118, title II, §203(a)(1)(A), title IV, §402(b)(1), Sept. 21, 1993, 107 Stat. 865, 891, 918; Pub. L. 103-160, div. A, title XI, §1182(d)(4), Nov. 30, 1993, 107 Stat. 1773; Pub. L. 104-106, div. A, title XV, §1501(e)(5), Feb. 10, 1996, 110 Stat. 501; Pub. L. 111-13, title I, §1607, Apr. 21, 2009, 123 Stat. 1532.)

REFERENCES IN TEXT

Section 12575 of this title, referred to in subsec. (g)(1), was in the original a reference to section 145 of Pub. L. 101-610. Section 145 of Pub. L. 101-610 was omitted in the general amendment of subtitle D of title I of Pub.

L. 101-610 [former part D of this subchapter] by Pub. L. 103-82, title I, §102(a), Sept. 21, 1993, 107 Stat. 816. Pub. L. 103-82 enacted a new section 125 of Pub. L. 101-610, relating to training and technical assistance, and a new section 145, relating to establishment of the National Service Trust, which are classified to sections 12575 and sections 12601, respectively, of this title. Provisions relating to the eligibility of individuals for participation in national service programs are now contained in section 12591 et seq. of this title.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (g)(3), is Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 394, which is classified principally to chapter 66 (§4950 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

The Peace Corps Act, referred to in subsec. (g)(3), is Pub. L. 87-293, Sept. 22, 1961, 75 Stat. 612, which is classified principally to chapter 34 (§2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of that Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111-13, §1607(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) directed the Corporation to provide, through grants or contracts, for continuing evaluation of programs receiving assistance under the national service laws to determine the effectiveness and costs of various program models and, with respect to programs authorized under division C, to determine the impact of those programs on the recruitment ability of VISTA and National Senior Volunteer Corps programs, each regular component of the Armed Forces, each of the reserve components of the Armed Forces, and the Peace Corps.

Subsec. (g)(3). Pub. L. 111-13, §1607(2)(A), substituted “National Senior Service Corps” for “National Senior Volunteer Corps”.

Subsec. (g)(9). Pub. L. 111-13, §1607(2)(B), substituted “to engage in service that benefits the community.” for “to public service, including service in the active and reserve components of the Armed Forces, the National Guard, the Peace Corps (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)), and the VISTA and National Senior Volunteer Corps programs established under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).”

Subsec. (i)(2). Pub. L. 111-13, §1607(3), substituted “the authorizing committees” for “Congress” in introductory provisions.

Subsecs. (j) to (n). Pub. L. 111-13, §1607(4), added subsecs. (j) to (n).

1996—Subsec. (a)(2)(C). Pub. L. 104-106 substituted “section 10101 of title 10” for “section 216(a) of title 5”.

1993—Subsec. (a). Pub. L. 103-82, §402(b)(1), substituted “Corporation” for “Commission” in introductory provisions.

Pub. L. 103-82, §203(a)(1)(A), substituted “the national service laws” for “this subchapter” in introductory provisions.

Subsec. (a)(2). Pub. L. 103-82, §118(1)(A), substituted “with respect to the programs authorized under division C of this subchapter” for “for purposes of the reports required by subsection (j) of this section” in introductory provisions.

Subsec. (a)(2)(A). Pub. L. 103-82, §118(1)(B), substituted “National Senior Volunteer Corps programs” for “older American volunteer programs”.

Subsec. (a)(2)(B). Pub. L. 103-160 substituted “section 101(a)(4) of title 10” for “section 101(4) of title 10”.

Subsec. (b). Pub. L. 103-82, §402(b)(1), substituted “Corporation” for “Commission”.

Subsec. (d). Pub. L. 103-82, §402(b)(1), substituted “Corporation” for “Commission”.

Pub. L. 103-82, §203(a)(1)(A), substituted “the national service laws” for “this subchapter”.

Subsec. (e). Pub. L. 103-82, §402(b)(1), substituted “Corporation” for “Commission”.

Pub. L. 103-82, §203(a)(1)(A), substituted “the national service laws” for “this subchapter”.

Subsec. (f). Pub. L. 103-82, §402(b)(1), substituted “Corporation” for “Commission”.

Subsec. (g). Pub. L. 103-82, §402(b)(1), substituted “Corporation” for “Commission” in introductory provisions.

Pub. L. 103-82, §118(2)(A), substituted “division C of this subchapter” for “part D of this subchapter” in introductory provisions.

Subsec. (g)(3), (9). Pub. L. 103-82, §118(2)(B), substituted “National Senior Volunteer Corps programs” for “older American volunteer programs”.

Subsec. (h)(1), (2)(A), (B)(ii). Pub. L. 103-82, §402(b)(1), substituted “Corporation” for “Commission”.

Subsecs. (i), (j). Pub. L. 103-82, §118(3), (4), added subsec. (i) and struck out former subsecs. (i) and (j) which related to deadline and report, respectively.

1992—Subsec. (a)(2). Pub. L. 102-384, §9(1), substituted “subsection (j)” for “subsection (h)”.

Subsec. (d). Pub. L. 102-384, §4, substituted “Commission” for “Secretary”.

Subsec. (f). Pub. L. 102-384, §9(2), inserted “or post-service benefit” after “voucher”.

Subsec. (h)(1). Pub. L. 102-384, §9(3)(A), substituted “this section” for “subsection (g) of this section”.

Subsec. (h)(2). Pub. L. 102-384, §9(3)(B), added par. (2) and struck out former par. (2) which read as follows: “The Commission shall keep information acquired under this section confidential.”

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104-106, set out as a note under section 113 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 118 of Pub. L. 103-82 effective Oct. 1, 1993, see section 123 of Pub. L. 103-82, set out as a note under section 1701 of Title 16, Conservation.

Amendment by section 203(a)(1)(A) of Pub. L. 103-82 effective Apr. 4, 1994, see section 203(d) of Pub. L. 103-82, set out as a note under section 12651 of this title.

Amendment by section 402(b)(1) of Pub. L. 103-82 effective Oct. 1, 1993, see section 406(a) of Pub. L. 103-82, set out as a note under section 5061 of this title.

§ 12639a. Civic Health Assessment and volunteer research and evaluation

(a) Definition of partnership

In this section, the term “partnership” means the Corporation, acting in conjunction with (consistent with the terms of an agreement entered into between the Corporation and the National Conference) the National Conference on Citizenship referred to in section 150701 of title 36 to carry out this section.

(b) In general

The partnership shall facilitate the establishment of a Civic Health Assessment by—

(1) after identifying public and private sources of civic health data, selecting a set of civic health indicators, in accordance with subsection (c), that shall comprise the Civic Health Assessment;

(2) obtaining civic health data relating to the Civic Health Assessment, in accordance with subsection (d); and

(3) conducting related analyses, and reporting the data and analyses, as described in

paragraphs (4) and (5) of subsection (d) and subsections (e) and (f).

(c) Selection of indicators for Civic Health Assessment

(1) Identifying sources

The partnership shall select a set of civic health indicators that shall comprise the Civic Health Assessment. In making such selection, the partnership—

(A) shall identify public and private sources of civic health data;

(B) shall explore collaborating with other similar efforts to develop national indicators in the civic health domain; and

(C) may sponsor a panel of experts, such as one convened by the National Academy of Sciences, to recommend civic health indicators and data sources for the Civic Health Assessment.

(2) Technical advice

At the request of the partnership, the Director of the Bureau of the Census and the Commissioner of Labor Statistics shall provide technical advice to the partnership on the selection of the indicators for the Civic Health Assessment.

(3) Updates

The partnership shall periodically evaluate and update the Civic Health Assessment, and may expand or modify the indicators described in subsection (d)(1) as necessary to carry out the purposes of this section.

(d) Data on the indicators

(1) Sponsored data collection

In identifying the civic health indicators for the Civic Health Assessment, and obtaining data for the Assessment, the partnership may sponsor the collection of data for the Assessment or for the various civic health indicators being considered for inclusion in the Assessment, including indicators related to—

(A) volunteering and community service;

(B) voting and other forms of political and civic engagement;

(C) charitable giving;

(D) connecting to civic groups and faith-based organizations;

(E) interest in employment, and careers, in public service in the nonprofit sector or government;

(F) understanding and obtaining knowledge of United States history and government; and

(G) social enterprise and innovation.

(2) Data from statistical agencies

The Director of the Bureau of the Census and the Commissioner of Labor Statistics shall collect annually, to the extent practicable, data to inform the Civic Health Assessment, and shall report data from such collection to the partnership. In determining the data to be collected, the Director and the Commissioner shall examine privacy issues, response rates, and other relevant issues.

(3) Sources of data

To obtain data for the Civic Health Assessment, the partnership shall consider—

(A) data collected through public and private sources; and

(B) data collected by the Bureau of the Census, through the Current Population Survey, or by the Bureau of Labor Statistics, in accordance with paragraph (2).

(4) Demographic characteristics

The partnership shall seek to obtain data for the Civic Health Assessment that will permit the partnership to analyze the data by age group, race and ethnicity, education level, and other demographic characteristics of the individuals involved.

(5) Other issues

In obtaining data for the Civic Health Assessment, the partnership may also obtain such information as may be necessary to analyze—

(A) the role of Internet technology in strengthening and inhibiting civic activities;

(B) the role of specific programs in strengthening civic activities;

(C) the civic attitudes and activities of new citizens and immigrants; and

(D) other areas related to civic activities.

(e) Reporting of data

(1) In general

The partnership shall, not less often than once each year, prepare a report containing—

(A) detailed data obtained under subsection (d), including data on the indicators comprising the Civic Health Assessment; and

(B) the analyses described in paragraphs (4) and (5) of subsection (d), to the extent practicable based on the data the partnership is able to obtain.

(2) Aggregation and presentation

The partnership shall, to the extent practicable, aggregate the data on the civic health indicators comprising the Civic Health Assessment by community, by State, and nationally. The report described in paragraph (1) shall present the aggregated data in a form that enables communities and States to assess their civic health, as measured on each of the indicators comprising the Civic Health Assessment, and compare those measures with comparable measures of other communities and States.

(3) Submission

The partnership shall submit the report to the authorizing committees, and make the report available to the general public on the Corporation's website.

(f) Public input

The partnership shall—

(1) identify opportunities for public dialogue and input on the Civic Health Assessment; and

(2) hold conferences and forums to discuss the implications of the data and analyses reported under subsection (e).

(g) Volunteering research and evaluation

(1) Research

The partnership shall provide for baseline research and tracking of domestic and inter-

national volunteering, and baseline research and tracking related to relevant data on the indicators described in subsection (d). In providing for the research and tracking under this subsection, the partnership shall consider data from the Supplements to the Current Populations Surveys conducted by the Bureau of the Census for the Bureau of Labor Statistics, and data from other public and private sources, including other data collected by the Bureau of the Census and the Bureau of Labor Statistics.

(2) Impact research and evaluation

The partnership shall sponsor an independent evaluation of the impact of domestic and international volunteering, including an assessment of best practices for such volunteering, and methods of improving such volunteering through enhanced collaboration among—

- (A) entities that recruit, manage, support, and utilize volunteers;
- (B) institutions of higher education; and
- (C) research institutions.

(h) Database prohibition

Nothing in this chapter shall be construed to authorize the development, implementation, or maintenance of a Federal database of personally identifiable information on individuals participating in data collection for sources of information under this section.

(Pub. L. 101-610, title I, §179A, as added Pub. L. 111-13, title I, §1608(a), Apr. 21, 2009, 123 Stat. 1534.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (h), was in the original “this Act”, meaning Pub. L. 101-610, Nov. 16, 1990, 104 Stat. 3127, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§ 12640. Engagement of participants

A State shall not engage a participant to serve in any program that receives assistance under this subchapter unless and until amounts have been appropriated under section 12681 of this title for the provision of national service educational awards and for the payment of other necessary expenses and costs associated with such participant.

(Pub. L. 101-610, title I, §180, Nov. 16, 1990, 104 Stat. 3166; Pub. L. 103-82, title I, §119, Sept. 21, 1993, 107 Stat. 866.)

AMENDMENTS

1993—Pub. L. 103-82 substituted “national service educational awards” for “post-service benefits”.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-82 effective Oct. 1, 1993, see section 123 of Pub. L. 103-82, set out as a note under section 1701 of Title 16, Conservation.

§ 12641. Contingent extension

Section 1226a of title 20 shall apply to this chapter.

(Pub. L. 101-610, title I, §181, Nov. 16, 1990, 104 Stat. 3166; Pub. L. 103-82, title I, §120(a), Sept. 21, 1993, 107 Stat. 866; Pub. L. 111-13, title I, §1609, Apr. 21, 2009, 123 Stat. 1537.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 101-610, Nov. 16, 1990, 104 Stat. 3127, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

AMENDMENTS

2009—Pub. L. 111-13 made technical amendment to reference in original act which appears in text as reference to section 1226a of title 20.

1993—Pub. L. 103-82 amended section generally, re-enacting subsec. (c) as entire section and striking out former subsecs. (a) and (b) which related to treatment of education and housing benefits and treatment of stipend for living expenses, respectively.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-82 effective Oct. 1, 1993, see section 123 of Pub. L. 103-82, set out as a note under section 1701 of Title 16, Conservation.

§ 12642. Partnerships with schools

(a) Design of programs

The head of each Federal agency and department shall design and implement a comprehensive strategy to involve employees of such agencies and departments in partnership programs with elementary schools and secondary schools. Such strategy shall include—

- (1) a review of existing programs to identify and expand the opportunities for such employees to be adult volunteers in schools and for students and out-of-school youth;
- (2) the designation of a senior official in each such agency and department who will be responsible for establishing partnership and youth service programs in each such agency and department and for developing partnership and youth service programs;
- (3) the encouragement of employees of such agencies and departments to participate in partnership programs and other service projects;
- (4) the annual recognition of outstanding service programs operated by Federal agencies; and
- (5) the encouragement of businesses and professional firms to include community service among the factors considered in making hiring, compensation, and promotion decisions.

(b) Report

(1) Federal agency submission

The head of each Federal agency and department shall prepare and submit to the Corporation a report concerning the implementation of this section, including an evaluation of the agency or department's performance on performance goals and benchmarks for each partnership program of the agency or department.

(2) Report to Congress

The Corporation shall prepare and submit to the authorizing committees a compilation of the information received under paragraph (1).

(Pub. L. 101-610, title I, §182, Nov. 16, 1990, 104 Stat. 3167; Pub. L. 103-82, title I, §111(b)(1), (2), Sept. 21, 1993, 107 Stat. 860; Pub. L. 111-13, title I, §1610, Apr. 21, 2009, 123 Stat. 1537.)

AMENDMENTS

2009—Subsec. (b). Pub. L. 111-13 amended subsec. (b) generally. Prior to amendment, text read as follows: “Not later than 180 days after November 16, 1990, and on a regular basis thereafter, the head of each Federal agency and department shall prepare and submit, to the appropriate Committees of Congress, a report concerning the implementation of this section.”

1993—Subsec. (a)(2), (3). Pub. L. 103-82 substituted “partnership” for “adult volunteer and partnership” wherever appearing.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-82 effective Oct. 1, 1993, see section 123 of Pub. L. 103-82, set out as a note under section 1701 of Title 16, Conservation.

§ 12643. Rights of access, examination, and copying**(a) Comptroller General**

Consistent with otherwise applicable law, the Comptroller General, or any of the duly authorized representatives of the Comptroller General, shall have access to, and the right to examine and copy, any books, documents, papers, records, and other recorded information in any form—

(1) within the possession or control of the Corporation or any State or local government, territory, Indian tribe, or public or private nonprofit organization receiving assistance directly or indirectly under this chapter; and

(2) that the Comptroller General, or his representative, considers necessary to the performance of an evaluation, audit, or review.

(b) Chief Financial Officer

Consistent with otherwise applicable law, the Chief Financial Officer of the Corporation shall have access to, and the right to examine and copy, any books, documents, papers, records, and other recorded information in any form—

(1) within the possession or control of the Corporation or any State or local government, territory¹ Indian tribe, or public or private nonprofit organization receiving assistance directly or indirectly under this chapter; and

(2) that relates to the duties of the Chief Financial Officer.

(c) Inspector General

Consistent with otherwise applicable law, the Inspector General of the Corporation shall have access to, and the right to examine and copy, any books, documents, papers, records, and other recorded information in any form—

(1) within the possession or control of the Corporation or any State or local government, territory, Indian tribe, or public or private nonprofit organization receiving assistance directly or indirectly under the national service laws; and

(2) that relates to—

(A) such assistance; and

(B) the duties of the Inspector General under the Inspector General Act of 1978 (5 U.S.C. App.).

(Pub. L. 101-610, title I, §183, Nov. 16, 1990, 104 Stat. 3167; Pub. L. 103-82, title I, §121(a), Sept. 21, 1993, 107 Stat. 866; Pub. L. 111-13, title I, §1611, Apr. 21, 2009, 123 Stat. 1537.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (b)(1), was in the original “this Act”, meaning Pub. L. 101-610, Nov. 16, 1990, 104 Stat. 3127, known as the National and Community Service Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

The Inspector General Act of 1978, referred to in subsec. (c)(2)(B), is Pub. L. 95-452, Oct. 12, 1978, 92 Stat. 1101, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111-13, §1611(1), substituted “Consistent with otherwise applicable law, the” for “The” in introductory provisions and inserted “territory,” after “local government,” in par. (1).

Subsec. (b). Pub. L. 111-13, §1611(2), substituted “Consistent with otherwise applicable law, the” for “The” in introductory provisions and inserted “territory” after “local government,” in par. (1).

Subsec. (c). Pub. L. 111-13, §1611(3), added subsec. (c).

1993—Pub. L. 103-82 amended section generally, substituting provision relating to rights of access, examination, and copying for provision relating to service as tutors.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-82 effective Oct. 1, 1993, see section 123 of Pub. L. 103-82, set out as a note under section 1701 of Title 16, Conservation.

§ 12644. Drug-free workplace requirements

All programs receiving grants under this subchapter shall be subject to the Drug-Free Workplace Requirements for Federal Grant Recipients under sections 8101 and 8103 to 8106 of title 41.

(Pub. L. 101-610, title I, §184, Nov. 16, 1990, 104 Stat. 3167.)

CODIFICATION

In text, “sections 8101 and 8103 to 8106 of title 41” substituted for “sections 5153 through 5158 of the Anti-Drug Abuse Act of 1988 (41 U.S.C. 702-707)” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

§ 12644a. Availability of assistance

A reference in division C, D, E, or H of this subchapter regarding an entity eligible to re-

¹ So in original. Probably should be followed by a comma.

ceive direct or indirect assistance to carry out a national service program shall include a non-profit organization promoting competitive and non-competitive sporting events involving individuals with disabilities (including the Special Olympics), which enhance the quality of life for individuals with disabilities.

(Pub. L. 101-610, title I, §184A, as added Pub. L. 111-13, title I, §1613(a), Apr. 21, 2009, 123 Stat. 1541.)

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§ 12644b. Consolidated application and reporting requirements

(a) In general

To promote efficiency and eliminate duplicative requirements, the Corporation shall consolidate or modify application procedures and reporting requirements for programs, projects, and activities funded under the national service laws.

(b) Report to Congress

Not later than 18 months after the effective date of the Serve America Act, the Corporation shall submit to the authorizing committees a report containing information on the actions taken to consolidate or modify the application procedures and reporting requirements for programs, projects, and activities funded under the national service laws, including a description of the procedures for consultation with recipients of the funding.

(Pub. L. 101-610, title I, §185, as added Pub. L. 111-13, title I, §1612, Apr. 21, 2009, 123 Stat. 1538.)

REFERENCES IN TEXT

For the effective date of the Serve America Act, referred to in subsec. (b), as Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

PRIOR PROVISIONS

A prior section 185 of Pub. L. 101-610 amended sections 1070a-6 and 1087vv of title 20 prior to repeal by section 122(a) of Pub. L. 103-82.

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§ 12645. Sustainability

The Corporation, after consultation with State Commissions and recipients of assistance, may set sustainability goals for projects or programs under the national service laws, so that recipients of assistance under the national service laws are carrying out sustainable projects or programs. Such sustainability goals shall be in writing and shall be used—

- (1) to build the capacity of the projects or programs that receive assistance under the national service laws to meet community needs;
- (2) in providing technical assistance to recipients of assistance under the national service laws regarding acquiring and leveraging

non-Federal funds for support of the projects or programs that receive such assistance; and

(3) to determine whether the projects or programs, receiving such assistance, are generating sufficient community support.

(Pub. L. 101-610, title I, §186, as added Pub. L. 111-13, title I, §1612, Apr. 21, 2009, 123 Stat. 1538.)

PRIOR PROVISIONS

A prior section 12645, Pub. L. 101-610, title I, §186, as added Pub. L. 102-10, §8(2), Mar. 12, 1991, 105 Stat. 31, directed Commission to issue final rules or regulations necessary to implement this subchapter, prior to repeal by Pub. L. 103-82, title I, §§122(a), 123, Sept. 21, 1993, 107 Stat. 867, effective Oct. 1, 1993.

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§ 12645a. Grant periods

Unless otherwise specifically provided, the Corporation has authority to award a grant or contract, or enter into a cooperative agreement, under the national service laws for a period of 3 years.

(Pub. L. 101-610, title I, §187, as added Pub. L. 111-13, title I, §1612, Apr. 21, 2009, 123 Stat. 1538.)

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§ 12645b. Generation of volunteers

In making decisions on applications for assistance or approved national service positions under the national service laws, the Corporation shall take into consideration the extent to which the applicant's proposal will increase the involvement of volunteers in meeting community needs. In reviewing the application for this purpose, the Corporation may take into account the mission of the applicant.

(Pub. L. 101-610, title I, §188, as added Pub. L. 111-13, title I, §1612, Apr. 21, 2009, 123 Stat. 1538.)

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§ 12645c. Limitation on program grant costs

(a) Limitation on grant amounts

Except as otherwise provided by this section, the amount of funds approved by the Corporation for a grant to operate a program authorized under the national service laws, for supporting individuals serving in approved national service positions, may not exceed \$18,000 per full-time equivalent position.

(b) Costs subject to limitation

The limitation under subsection (a), and the increased limitation under subsection (e)(1), shall apply to the Corporation's share of the member support costs, staff costs, and other costs to operate a program authorized under the national service laws incurred,¹ by the recipient of the grant.

¹ So in original. The comma probably should not appear.

(c) Costs not subject to limitation

The limitation under subsection (a), and the increased limitation under subsection (e)(1), shall not apply to expenses under a grant authorized under the national service laws to operate a program that are not included in the grant award for operating the program.

(d) Adjustments for inflation

The amounts specified in subsections (a) and (e)(1) shall be adjusted each year after 2008 for inflation as measured by the Consumer Price Index for All Urban Consumers published by the Secretary of Labor.

(e) Waiver authority and reporting requirement**(1) Waiver**

The Chief Executive Officer may increase the limitation under subsection (a) to not more than \$19,500 per full-time equivalent position if necessary to meet the compelling needs of a particular program, such as—

(A) exceptional training needs for a program serving disadvantaged youth;

(B) the need to pay for increased costs relating to the participation of individuals with disabilities;

(C) the needs of tribal programs or programs located in the territories; and

(D) the need to pay for start-up costs associated with a first-time recipient of assistance under a program of the national service laws.

(2) Reports

The Chief Executive Officer shall report to the authorizing committees annually on all limitations increased under this subsection, with an explanation of the compelling needs justifying such increases.

(Pub. L. 101-610, title I, § 189, as added Pub. L. 111-13, title I, § 1612, Apr. 21, 2009, 123 Stat. 1539.)

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§ 12645d. Matching funds for severely economically distressed communities**(a) In general**

Notwithstanding any other provision of law, a severely economically distressed community that receives assistance from the Corporation for any program under the national service laws shall not be subject to any requirements to provide matching funds for any such program, and the Federal share of such assistance for such a community may be 100 percent.

(b) Severely economically distressed community

For the purposes of this section, the term “severely economically distressed community” means—

(1) an area that has a mortgage foreclosure rate, home price decline, and unemployment rate all of which are above the national average for such rates or level, for the most recent 12 months for which satisfactory data are available; or

(2) a residential area that lacks basic living necessities, such as water and sewer systems,

electricity, paved roads, and safe, sanitary housing.

(Pub. L. 101-610, title I, § 189A, as added Pub. L. 111-13, title I, § 1612, Apr. 21, 2009, 123 Stat. 1539.)

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§ 12645e. Audits and reports

The Corporation shall comply with applicable audit and reporting requirements as provided in the Chief Financial Officers Act of 1990 (31 U.S.C. 901 note; Public Law 101-576) and chapter 91 of title 31 (commonly known as the “Government Corporation Control Act”). The Corporation shall report to the authorizing committees any failure to comply with such requirements.

(Pub. L. 101-610, title I, § 189B, as added Pub. L. 111-13, title I, § 1612, Apr. 21, 2009, 123 Stat. 1540.)

REFERENCES IN TEXT

The Chief Financial Officers Act of 1990, referred to in text, is Pub. L. 101-576, Nov. 15, 1990, 104 Stat. 2838. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 501 of Title 31, Money and Finance, and Tables.

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§ 12645f. Restrictions on Federal Government and use of Federal funds**(a) General prohibition**

Nothing in the national service laws shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school’s curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this chapter.

(b) Prohibition on endorsement of curriculum

Notwithstanding any other prohibition of Federal law, no funds provided to the Corporation under this chapter may be used by the Corporation to endorse, approve, or sanction any curriculum designed to be used in an elementary school or secondary school.

(c) Prohibition on requiring Federal approval or certification standards

Notwithstanding any other provision of Federal law, not¹ State shall be required to have academic content or student academic achievement standards approved or certified by the Federal Government, in order to receive assistance under this chapter.

(Pub. L. 101-610, title I, § 189C, as added Pub. L. 111-13, title I, § 1612, Apr. 21, 2009, 123 Stat. 1540.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 101-610, Nov. 16, 1990, 104

¹ So in original. Probably should be “no”.

Stat. 3127, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§ 12645g. Criminal history checks**(a) In general**

Each entity selecting individuals to serve in a position in which the individuals receive a living allowance, stipend, national service educational award, or salary through a program receiving assistance under the national service laws, shall, subject to regulations and requirements established by the Corporation, conduct criminal history checks for such individuals.

(b) Requirements

A criminal history check under subsection (a) shall, except in cases approved for good cause by the Corporation, include—

(1) a name-based search of the National Sex Offender Registry established under the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16901 et seq.); and

(2)(A) a search of the State criminal registry or repository in the State in which the program is operating and the State in which the individual resides at the time of application; or

(B) submitting fingerprints to the Federal Bureau of Investigation for a national criminal history background check.

(c) Eligibility prohibition

An individual shall be ineligible to serve in a position described under subsection (a) if such individual—

(1) refuses to consent to the criminal history check described in subsection (b);

(2) makes a false statement in connection with such criminal history check;

(3) is registered, or is required to be registered, on a State sex offender registry or the National Sex Offender Registry established under the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16901 et seq.); or

(4) has been convicted of murder, as described in section 1111 of title 18.

(d) Special rule for individuals working with vulnerable populations**(1) In general**

Notwithstanding subsection (b), on and after the date that is 2 years after April 21, 2009, a criminal history check under subsection (a) for each individual described in paragraph (2) shall, except for an entity described in paragraph (3), include—

(A) a name-based search of the National Sex Offender Registry established under the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16901 et seq.);

(B) a search of the State criminal registry or repository in the State in which the program is operating and the State in which the individual resides at the time of application; and

(C) submitting fingerprints to the Federal Bureau of Investigation for a national criminal history background check.

(2) Individuals with access to vulnerable populations

An individual described in this paragraph is an individual age 18 or older who—

(A) serves in a position in which the individual receives a living allowance, stipend, national service educational award, or salary through a program receiving assistance under the national service laws; and

(B) as a result of such individual's service in such position, has or will have access, on a recurring basis, to—

(i) children age 17 years or younger;

(ii) individuals age 60 years or older; or

(iii) individuals with disabilities.

(3) Exceptions

The provisions of this subsection shall not apply to an entity—

(A) where the service provided by individuals serving with the entity to a vulnerable population described in paragraph (2)(B) is episodic in nature or for a 1-day period;

(B) where the cost to the entity of complying with this subsection is prohibitive;

(C) where the entity is not authorized, or is otherwise unable, under State law, to access the national criminal history background check system of the Federal Bureau of Investigation;

(D) where the entity is not authorized, or is otherwise unable, under Federal law, to access the national criminal history background check system of the Federal Bureau of Investigation; or

(E) to which the Corporation otherwise provides an exemption from this subsection for good cause.

(Pub. L. 101-610, title I, §189D, as added and amended Pub. L. 111-13, title I, §§1612, 1614(a), Apr. 21, 2009, 123 Stat. 1540, 1541.)

REFERENCES IN TEXT

The Adam Walsh Child Protection and Safety Act of 2006, referred to in subsecs. (b)(1), (c)(3), and (d)(1)(A), is Pub. L. 109-248, July 27, 2006, 120 Stat. 587, which enacted chapter 151 (§16901 et seq.) of this title and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 16901 of this title and Tables.

AMENDMENTS

2009—Pub. L. 111-13, §1614(a), added subsec. (d).

EFFECTIVE DATE

Enactment and amendment by Pub. L. 111-13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

Division G—Corporation for National and Community Service

§ 12651. Corporation for National and Community Service

There is established a Corporation for National and Community Service that shall administer the programs established under the na-