

## EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-478 effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95-478, set out as a note under section 3001 of this title.

## AGING RESOURCE SPECIALISTS FOR COORDINATION OF NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS WITH STATE AND COMMUNITY PROGRAMS ON AGING AND NUTRITION PROGRAMS FOR ELDERLY; DESIGNATION; DUTIES; DEFINITIONS

Pub. L. 94-135, title II, §205(c), Nov. 28, 1975, 89 Stat. 727, as amended by Pub. L. 103-82, title III, §341(b)(4), title IV, §405(i), Sept. 21, 1993, 107 Stat. 904, 921, provided that:

“(1) In order to provide maximum coordination between programs carried out under title III and title VII of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.; 42 U.S.C. 3045 et seq.) and National Senior Volunteer Corps [now National Senior Service Corps] programs carried out under title II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5001 et seq.) [42 U.S.C. 5000 et seq.], in order to enhance the effectiveness of the support provided to such National Senior Volunteer Corps programs by the Corporation for National and Community Service, the Chief Executive Officer of the Corporation shall designate an aging resource specialist with respect to programs carried out in each State under title II of the Domestic Volunteer Service Act of 1973 [this subchapter].

“(2)(A) Each aging resource specialist designated under paragraph (1) shall be qualified to serve in such capacity by appropriate experience and training, and shall be stationed in a State office of the Corporation.

“(B) The primary responsibility of each aging resource specialist shall be—

“(i) to support programs carried out under title II of the Domestic Volunteer Service Act of 1973 [this subchapter] in any State or other jurisdiction served by the State office involved; and

“(ii) to seek to coordinate such programs with programs carried out under title III and title VII of the Older Americans Act of 1965 [sections 3021 et seq. and 3045 et seq. of this title] in any such State or other jurisdiction.

“(3) For purposes of this subsection—

“(A) the term ‘Corporation’ means the Corporation for National and Community Service established by section 191 of the National and Community Service Act of 1990 [42 U.S.C. 12651].[:];

“(B) the term ‘primary responsibility’ means the devotion of more than one-half of regular working hours to the performance of duties described in paragraph (2)(B); and

“(C) the term ‘State’ means the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands.”

[For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.]

## PART B—FOSTER GRANDPARENT PROGRAM

## § 5011. Grants and contracts for individual service projects

## (a) Foster Grandparent projects; amount

The Director is authorized to make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of development and operation of projects (including direct payments to individuals serving under this part) designed for the purpose of providing opportunities for low-income persons age 55 or over to provide supportive person-to-person services in health, education, welfare, and related settings to children having special or exceptional needs or circum-

stances identified as limiting their academic, social, or emotional development. Such services may include services by individuals serving as foster grandparents to children who are individuals with disabilities, who have chronic health conditions, who are receiving care in hospitals, who are residing in homes for dependent and neglected children, or who are receiving services provided by day care centers, schools, early intervention programs under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.), Head Start agencies under the Head Start Act [42 U.S.C. 9831 et seq.], or other programs, establishments, and institutions providing services for children having special or exceptional needs or circumstances identified as limiting their academic, social, or emotional development. Individual foster grandparents may provide person-to-person services to one or more children, depending on the needs of the project and local site. The Director may approve assistance in excess of 90 per centum of the costs of the development and operation of such projects only if the Director determines, in accordance with regulations the Director shall prescribe establishing objective criteria, that such action is required in furtherance of the purpose of this section. Provision for such assistance shall be effective as of September 19, 1972. In the case of any project with respect to which, prior to such date, a grant or contract has been made under section 3044b(a)<sup>1</sup> of this title or with respect to any project under the Foster Grandparent program in effect prior to September 17, 1969, contributions in cash or in kind from the Bureau of Indian Affairs, Department of the Interior, toward the cost of the project may be counted as part of the cost thereof which is met from non-Federal sources.

## (b) Person-to-person services to children in an individual service project by public or private nonprofit agency; authority and criteria for determinations; mutual agreements between parties

(1) Any public or private nonprofit agency or organization responsible for providing person-to-person services to a child in a project carried out under subsection (a) of this section may determine—

(A) which children may receive supportive person-to-person services under such project;

(B) the period of time during which such services shall be continued in the case of each individual child; and

(C) whether it is in the best interest of the child receiving, and the particular foster grandparent providing, services in such a project, to continue the relationship between the child and the grandparent under this part after the child reaches the age of 21, if such child is an individual with a disability who was receiving such services prior to attaining the age of 21.

(2) If an assignment of a foster grandparent under this part is suspended or discontinued, the replacement of that foster grandparent shall be determined in a manner consistent with paragraph (3).

<sup>1</sup> See References in Text note below.

(3) Any determination made by a public or nonprofit private agency or organization under paragraphs (1) and (2) of this subsection shall be made through mutual agreement by all parties involved with respect to the provision of services to the child involved.

**(c) “Child” and “children” defined**

For the purposes of this section, the terms “child” and “children” mean any individual or individuals who are less than 21 years of age.

**(d) Domestic Volunteer Service; allowances, stipends, and other support**

The Director, in accordance with regulations the Director shall prescribe, may provide to low-income persons serving as volunteers under this part, such allowances, stipends, and other support as the Director determines are necessary to carry out the purpose of this part. Any stipend or allowance provided under this section shall not be less than \$3.00 per hour, except that (1) such stipend or allowance shall not be increased as a result of an amendment made to this sentence unless the funds appropriated for carrying out this part are sufficient to maintain for the fiscal year in question a number of participants to serve under this part at least equal to the number of such participants serving during the preceding fiscal year, and (2) in the event that sufficient appropriations for any fiscal year are not available to increase any such stipend or allowance provided to the minimum hourly rate specified in this sentence, the Director shall increase the stipend or allowance to such amount as appropriations for such year permit consistent with clause (1) of this exception. In establishing the amount of, and the effective date for, such adjustment, the Director, in consultation with the State Commissions on National and Community Service (as established under section 12638 of this title) and the heads of the State offices established under section 12651f of this title, shall consider the effect such adjustment will have on the ability of non-federally funded volunteer programs similar to the programs under this subchapter to maintain their current level of volunteer hours.

**(e) “Low-income person” and “person of low income” defined**

For purposes of this part, the terms “low-income person” and “person of low income” mean—

(1) any person whose income is not more than 200 percent of the poverty line defined in section 9902(2) of this title and adjusted by the Director in the manner described in such section; and

(2) any person whose income is not more than 100 percent of such poverty line, as so adjusted and determined by the Director after taking into consideration existing poverty guidelines as appropriate to local situations.

Persons described in paragraph (2) shall be given special consideration for participation in projects under this part.

**(f) Persons entitled to serve as volunteers; application of regulations to volunteers; equal treatment to all volunteers by recipients of grants; conditions of grants; use of funds; payment of costs**

(1)(A) Except as provided in subparagraph (B), individuals who are not low-income persons may serve as volunteers under this part, in accordance with such regulations as the Director shall issue, if such individuals serve without receiving any allowance, stipend, or other financial support under this part except reimbursement for transportation, meals, and out-of-pocket expenses incident to serving under this part.

(B) The regulations issued by the Director to carry out this part (other than any regulations relating to allowances, stipends, and other financial support authorized by subsection (d) of this section to be paid under this part to low-income persons) shall apply to all volunteers under this part, without regard to whether such volunteers are eligible to receive a stipend under subsection (d) of this section.

(2)(A) Except as provided in subparagraph (B), each recipient of a grant or contract to carry out a project under this part shall give equal treatment to all volunteers who participate in such project, without regard to whether such volunteers are eligible to receive a stipend under subsection (d) of this section.

(B) An individual who is not a low-income person may not become a volunteer under this part if allowing such individual to become a volunteer under this part would prevent a low-income individual from becoming a volunteer under this part or would displace a low-income person from being such a volunteer.

(3) The Director may not take into consideration or require as a condition of receiving a grant or contract to carry out a project under this part, any applicant for such grant or contract—

(A) to accept or recruit individuals who are not low-income persons to serve as volunteers under this part; or

(B) to solicit locally generated contributions, in cash or in kind, to support such individuals.

The Director may not coerce any applicant for, or recipient of, such grant or contract to engage in conduct described in subparagraph (A) or (B).

(4) Funds appropriated to carry out this part may not be used to pay any cost, including any administrative cost, incurred in connection with volunteers under this part who do not receive a stipend under subsection (d) of this section. Such cost incurred with respect to a volunteer may be paid with—

(A) funds received by the Director as unrestricted gifts;

(B) funds received by the Director as gifts to pay such cost;

(C) funds contributed by such volunteer; or

(D) locally generated contributions in excess of the amount required to be contributed under subsection (a) of this section, in the discretion of the recipient of a grant or contract under such subsection.

(Pub. L. 93-113, title II, §211, Oct. 1, 1973, 87 Stat. 402; Pub. L. 94-135, title II, §205(b)(1), (2), Nov. 28,

1975, 89 Stat. 727; Pub. L. 94-293, §7, May 27, 1976, 90 Stat. 526; Pub. L. 95-478, title IV, §402(b), Oct. 18, 1978, 92 Stat. 1557; Pub. L. 97-35, title VI, §608(b), Aug. 13, 1981, 95 Stat. 487; Pub. L. 98-288, §14(c), May 21, 1984, 98 Stat. 192; Pub. L. 99-551, §7(a)(1), Oct. 27, 1986, 100 Stat. 3074; Pub. L. 101-204, title V, §§503, 504, Dec. 7, 1989, 103 Stat. 1817; Pub. L. 103-82, title III, §§344, 345, Sept. 21, 1993, 107 Stat. 904, 905; Pub. L. 108-446, title III, §305(k), Dec. 3, 2004, 118 Stat. 2806; Pub. L. 111-13, title II, §2144, Apr. 21, 2009, 123 Stat. 1588.)

## REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (a), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175. Part C of the Act is classified generally to subchapter III (§1431 et seq.) of chapter 33 of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

The Head Start Act, referred to in subsec. (a), is subchapter B (§§635-657) of chapter 8 of subtitle A of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 499, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of this title and Tables.

Section 3044b of this title, referred to in subsec. (a), related to grants and contracts for Foster Grandparent projects and for services as senior health aides and senior companions, amount of award, method of payment, and exclusion as income of compensation to individual volunteers, was repealed by Pub. L. 93-113, title VI, §604(a), Oct. 1, 1973, 87 Stat. 417, and is covered by this section and sections 5022 and 5058 of this title.

## AMENDMENTS

2009—Subsec. (a). Pub. L. 111-13, §2144(1), in first sentence, substituted “age 55” for “aged sixty” and “children having special or exceptional needs or circumstances identified as limiting their academic, social, or emotional development” for “children having exceptional needs”, and, in second sentence, struck out “any of a variety of” before “other programs” and substituted “children having special or exceptional needs or circumstances identified as limiting their academic, social, or emotional development” for “children with special or exceptional needs”.

Subsec. (b)(1). Pub. L. 111-13, §2144(2)(A)(i), which directed substitution of “may determine” for “shall have” and all that follows through “(2) of the subsection” in introductory provisions, was executed by making the substitution for “shall have the exclusive authority to determine, pursuant to the provisions of paragraph (2) of this subsection” to reflect the probable intent of Congress.

Subsec. (b)(1)(C). Pub. L. 111-13, §2144(2)(A)(ii)-(iv), added subpar. (C).

Subsec. (b)(2). Pub. L. 111-13, §2144(2)(B), added par. (2) and struck out former par. (2) which read as follows: “In the event that such an agency or organization determines that it is in the best interests of a mentally retarded child receiving, and of a particular foster grandparent providing, services in such a project, such relationship may be continued after the child reaches the chronological age of 21: *Provided*, That such child was receiving such services prior to attaining the chronological age of 21. If the particular foster grandparent subject to the determination under this paragraph becomes unavailable to serve after such determination is made, the agency or organization may select another foster grandparent.”

Subsec. (d). Pub. L. 111-13, §2144(3), substituted “\$3.00 per hour, except” for “\$2.45 per hour on and after October 1, 1993, and shall be adjusted once prior to December 31, 1997, to account for inflation, as determined by the Director and rounded to the nearest five cents, except”.

Subsec. (e)(1). Pub. L. 111-13, §2144(4)(A), substituted “200 percent” for “125 per centum”.

Subsec. (e)(2). Pub. L. 111-13, §2144(4)(B), substituted “percent” for “per centum”.

Subsec. (f)(1)(A). Pub. L. 111-13, §2144(5)(A), substituted “subparagraph (B)” for “subparagraphs (B) and (C)”.

Subsec. (f)(1)(C). Pub. L. 111-13, §2144(5)(B), struck out subpar. (C) which read as follows: “Individuals who are not low-income persons may not serve as volunteers under this part in any community in which there are volunteers serving under part A of this subchapter unless such individuals have been referred previously for possible placement as volunteers under part A of this subchapter and such placement did not occur.”

2004—Subsec. (a). Pub. L. 108-446 substituted “part C” for “part H” and “1431 et seq.” for “1471 et seq.”.

1993—Subsec. (a). Pub. L. 103-82, §344, struck out “, including services by individuals serving as ‘foster grandparents’ to children receiving care in hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs” after “having exceptional needs” in first sentence and inserted after first sentence “Such services may include services by individuals serving as foster grandparents to children who are individuals with disabilities, who have chronic health conditions, who are receiving care in hospitals, who are residing in homes for dependent and neglected children, or who are receiving services provided by day care centers, schools, early intervention programs under part H of the Individuals with Disabilities Education Act (20 U.S.C. 1471 et seq.), Head Start agencies under the Head Start Act, or any of a variety of other programs, establishments, and institutions providing services for children with special or exceptional needs. Individual foster grandparents may provide person-to-person services to one or more children, depending on the needs of the project and local site.”

Subsec. (d). Pub. L. 103-82, §345, in second sentence substituted “Any stipend or allowance provided under this section shall not be less than \$2.45 per hour on and after October 1, 1993, and shall be adjusted once prior to December 31, 1997, to account for inflation, as determined by the Director and rounded to the nearest five cents,” for “Any stipend or allowance provided under this subsection shall not be less than \$2.20 per hour until October 1, 1990, \$2.35 per hour during fiscal year 1991, and \$2.50 per hour on and after October 1, 1992,” and inserted sentence at end relating to consideration of effect of adjustment on non-federally funded volunteer programs.

1989—Subsec. (d). Pub. L. 101-204, §503, inserted “until October 1, 1990, \$2.35 per hour during fiscal year 1991, and \$2.50 per hour on and after October 1, 1992” after “\$2.20 per hour” in introductory provisions, substituted “such stipend or allowance shall not be increased as a result of an amendment made” for “no increase in the stipend of allowance shall be made pursuant” in cl. (1), and substituted “the minimum hourly rate specified in this sentence” for “\$2.20 per hour” in cl. (2).

Subsec. (f)(1)(C). Pub. L. 101-204, §504(1), inserted before period at end “unless such individuals have been referred previously for possible placement as volunteers under part A of this subchapter and such placement did not occur”.

Subsec. (f)(3). Pub. L. 101-204, §504(2), inserted “take into consideration or” after “may not”, inserted “or recruit” after “accept” in subpar. (A), and inserted at end “The Director may not coerce any applicant for, or recipient of, such grant or contract to engage in conduct described in subparagraph (A) or (B).”

1986—Subsec. (d). Pub. L. 99-551, §7(a)(1)(A), inserted “low-income” after “may provide to”.

Subsec. (f). Pub. L. 99-551, §7(a)(1)(B), added subsec. (f).

1984—Subsec. (a). Pub. L. 98-288, §14(c)(1), substituted “the Director” for “he” in two places.

Subsec. (b)(2). Pub. L. 98-288, §14(c)(2), inserted at end “If the particular foster grandparent subject to the determination under this paragraph becomes unavailable to serve after such determination is made, the agency

or organization may select another foster grandparent.”

Subsec. (d). Pub. L. 98-288, §14(c)(3), substituted “the Director” for “he” in two places and “\$2.20” for “\$2” in two places.

Subsec. (e). Pub. L. 98-288, §14(c)(4), in amending subsec. (e) generally, substituted “poverty line defined in section 9902(2) of this title and adjusted by the Director in the manner described in such section” for “poverty line set forth in section 2971d of this title” and “any person whose income is not more than 100 per centum of such poverty line, as so adjusted and determined by the Director after taking into consideration existing poverty guidelines as appropriate to local situations” for “any person considered a poor or low-income person under section 5061(4) of this title”.

1981—Subsecs. (b) to (f). Pub. L. 97-35, §608(b), struck out subsec. (b) which related to service as senior health aides and senior companions, and redesignated subsecs. (c) to (f) as (b) to (e), respectively.

1978—Subsecs. (e), (f). Pub. L. 95-478 added subsecs. (e) and (f).

1976—Subsecs. (c), (d). Pub. L. 94-293 added subsecs. (c) and (d).

1975—Subsec. (a). Pub. L. 94-135, §205(b)(1), substituted “individuals” for “volunteers” where appearing first and third places and struck out “serve as volunteers to” before “provide supportive person-to-person services”.

Subsec. (b). Pub. L. 94-135, §205(b)(2), substituted “individuals” for “volunteers”.

#### 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 392 of Pub. L. 103-82, set out as a note under section 4951 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-551 effective Oct. 1, 1986, except as otherwise provided, see section 11 of Pub. L. 99-551, set out as an Effective Date note under section 4950 of this title.

Pub. L. 99-551, §7(a)(2), Oct. 27, 1986, 100 Stat. 3075, provided that: “Section 211(f)(3) of the Domestic Volunteer Service Act of 1973 [subsec. (f)(3) of this section], as added by paragraph (1), shall apply with respect to grants and contracts made under section 211(a) of such Act before the date of the enactment of this Act [Oct. 27, 1986].”

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-478 effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95-478, set out as a note under section 3001 of this title.

### § 5012. Repealed. Pub. L. 103-82, title III, § 346, Sept. 21, 1993, 107 Stat. 905

Section, Pub. L. 93-113, title II, §212, Oct. 1, 1973, 87 Stat. 402; Pub. L. 94-135, title II, §205(b)(3), Nov. 28, 1975, 89 Stat. 727; Pub. L. 95-478, title IV, §402(c), Oct. 18, 1978, 92 Stat. 1557; Pub. L. 101-204, title IX, §902(4), Dec. 7, 1989, 103 Stat. 1826, set forth conditions of grants and contracts and defined “community action agency”.

#### EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1993, see section 392 of Pub. L. 103-82, set out as an Effective Date of 1993 Amendment note under section 4951 of this title.

#### PART C—SENIOR COMPANION PROGRAM

### § 5013. Grants and contracts for volunteer service projects

#### (a) Costs of project development and operation

The Director is authorized to make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of development and operation of projects (including direct payments to individuals serving under this part in the same manner as provided in section 5011(a) of this title) designed for the purpose of providing opportunities for low-income persons age 55 or older to serve as “senior companions” to persons with exceptional needs. Senior companions may provide services designed to help older persons requiring long-term care, including services to persons receiving home health care, nursing care, home-delivered meals or other nutrition services; services designed to help persons deinstitutionalized from mental hospitals, nursing homes, and other institutions; and services designed to assist persons having developmental disabilities and other special needs for companionship.

#### (b) Application of other laws

Subsections (d), (e), and (f) of section 5011 of this title, and such other provisions of part B as the Director determines to be necessary, shall apply to this part, except that for purposes of this part any reference in such subsections and such provisions to part B shall be deemed to be a reference to this part.

#### (c) Senior companion projects to assist homebound elderly

(1) The Director is authorized to make grants or contracts after<sup>1</sup> subsection (a) of this section for senior companion projects to assist homebound elderly individuals to remain in their own homes and to enable institutionalized elderly individuals to return to home care settings.

(2)(A) The Director is authorized to recruit, subject to subparagraph (B), senior companion volunteer trainers who on the basis of experience (such as, doctors, nurses, home economists, social workers) will be used to train senior companion volunteers to participate in and monitor initial and continuing needs assessments and appropriate in-home services for senior companion volunteer recipients. The needs assessments and in-home services shall be coordinated with and supplement existing community based home health and long-term care systems. The Director may also use senior companion volunteer leaders, who on the basis of experience as volunteers, special skills, and demonstrated leadership abilities may spend time in the program (in addition to their regular assignment) to assist newer senior companion volunteers in performing their assignments and in coordinating activities of such volunteers.

(B) Senior companion volunteer trainers recruited under subparagraph (A) of this paragraph shall not be paid stipends.

(Pub. L. 93-113, title II, §213, as added Pub. L. 97-35, title VI, §608(c)(2), Aug. 13, 1981, 95 Stat.

<sup>1</sup> So in original. Probably should be “under”.