

responding to the portion of the term of service actually completed, as provided in section 12603(c) of this title; or

(B) to permit the participant to temporarily suspend performance of the term of service for a period of up to 2 years (and such additional period as the Corporation may allow for extenuating circumstances) and, upon completion of such period, to complete the remainder of the term of service and obtain the entire national service educational award.

(3) Effect of release for cause

A participant released for cause may not receive any portion of the national service educational award.

(Pub. L. 101-610, title I, § 139, as added Pub. L. 103-82, title I, § 101(b), Sept. 21, 1993, 107 Stat. 810; amended Pub. L. 111-13, title I, § 1314, Apr. 21, 2009, 123 Stat. 1510.)

AMENDMENTS

2009—Subsec. (b)(1). Pub. L. 111-13, § 1314(1)(A), struck out “not less than 9 months and” before “not more than 1 year”.

Subsec. (b)(2). Pub. L. 111-13, § 1314(1)(B), substituted “during a period of not more than 2 years.” for “during a period of—

“(A) not more than 2 years; or

“(B) not more than 3 years if the individual is enrolled in an institute of higher education while performing all or a portion of the service.”

Subsec. (b)(4). Pub. L. 111-13, § 1314(1)(C), added par. (4).

Subsec. (c)(1)(A). Pub. L. 111-13, § 1314(2)(A), substituted “as determined by the organization responsible for granting the release, if the participant has otherwise performed satisfactorily and has completed at least 15 percent of the term of service” for “as demonstrated by the participant”.

Subsec. (c)(2)(A). Pub. L. 111-13, § 1314(2)(B)(i), substituted “certify the participant’s eligibility for that portion of the national service educational award” for “provide to the participant that portion of the national service educational award”.

Subsec. (c)(2)(B). Pub. L. 111-13, § 1314(2)(B)(ii), struck out “to allow return to the program with which the individual was serving in order” before “to complete the remainder”.

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.

§ 12594. Living allowances for national service participants

(a) Provision of living allowance

(1) Living allowance required

Subject to paragraphs (2) and (3), a national service program carried out using assistance provided under section 12571 of this title shall provide to each participant who participates on a full-time basis in the program a living allowance in an amount equal to or greater than the average annual subsistence allowance provided to VISTA volunteers under section 4955 of this title.

(2) Maximum living allowance

Except as provided in subsection (c), the total amount of an annual living allowance that may be provided to a participant in a na-

tional service program shall not exceed 200 percent of the average annual subsistence allowance provided to VISTA volunteers under section 4955 of this title.

(3) Federal work-study students

The living allowance that may be provided under paragraph (1) to an individual whose term of service includes hours for which the individual receives a Federal work-study award under part C of title IV of the Higher Education Act of 1965 (42 U.S.C. 2751 et seq.)¹ shall be reduced by the amount of the individual’s Federal work study award.

(4) Proration of living allowance

The amount provided as a living allowance under this subsection shall be prorated in the case of a participant who is authorized to serve a term of service that is less than 12 months.

(5) Waiver or reduction of living allowance

The Corporation may waive or reduce the requirement of paragraph (1) with respect to such national service program if such program demonstrates that—

(A) such requirement is inconsistent with the objectives of the program; and

(B) the amount of the living allowance that will be provided to each full-time participant is sufficient to meet the necessary costs of living (including food, housing, and transportation) in the area in which the program is located.

(6) Exemption

The requirement of paragraph (1) shall not apply to any program that was in existence on September 21, 1993.

(b) Coverage of certain employment-related taxes

To the extent a national service program that receives assistance under section 12571 of this title is subject, with respect to the participants in the program, to the taxes imposed on an employer under sections 3111 and 3301 of title 26 and taxes imposed on an employer under a workmen’s compensation act, the assistance provided to the program under section 12571 of this title may be used to pay the taxes described in this subsection.

(c) Exception from maximum living allowance for certain assistance

A professional corps program described in section 12572(c)(1)(D) of this title that desires to provide a living allowance in excess of the maximum allowance authorized in subsection (a)(2) may still apply for such assistance, except that—

(1) any assistance provided to the applicant under section 12571 of this title may not be used to pay for any portion of the allowance; and

(2) the national service program shall be operated directly by the applicant and shall meet urgent, unmet human, educational, environmental, or public safety needs, as determined by the Corporation.

¹ See References in Text note below.

(d) Health insurance**(1) In general**

A State or other recipient of assistance under section 12571 of this title shall provide or make available a basic health care policy for each full-time participant in a national service program carried out or supported using the assistance, if the participant is not otherwise covered by a health care policy. The Corporation shall establish minimum standards that all plans must meet in order to qualify for payment under this part, any circumstances in which an alternative health care policy may be substituted for the basic health care policy, and mechanisms to prohibit participants from dropping existing coverage.

(2) Option

A State or other recipient of assistance under section 12571 of this title may elect to provide from its own funds or make available a health care policy for participants that does not meet all of the standards established by the Corporation if the fair market value of such policy is equal to or greater than the fair market value of a plan that meets the minimum standards established by the Corporation, and is consistent with other applicable laws.

(e) Child care**(1) Availability**

A State or other recipient of assistance under section 12571 of this title shall—

(A) make child care available for children of each full-time participant who needs child care in order to participate in a national service program carried out or supported by the recipient using the assistance; or

(B) provide a child care allowance to each full-time participant in a national service program who needs such assistance in order to participate in the program.

(2) Guidelines

The Corporation shall establish guidelines regarding the circumstances under which child care shall be made available under this subsection and the value of any allowance to be provided.

(f) Individualized support services

A State or other recipient of assistance under section 12571 of this title shall provide reasonable accommodation, including auxiliary aids and services (as defined in section 12102(1)¹ of this title), based on the individualized need of a participant who is a qualified individual with a disability (as defined in section 12111(8) of this title).

(Pub. L. 101-610, title I, §140, as added Pub. L. 103-82, title I, §101(b), Sept. 21, 1993, 107 Stat. 811; amended Pub. L. 111-13, title I, §1315, Apr. 21, 2009, 123 Stat. 1511.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (a)(3), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219. Part C of title IV of the Act was formerly classified generally to part C (§2751 et seq.) of subchapter I of chapter 34 of this title prior to transfer to part C

(§1087-51 et seq.) of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

Section 12102 of this title, referred to in subsec. (f), was amended generally by Pub. L. 110-325, §4(a), Sept. 25, 2008, 122 Stat. 3555, and, as so amended, no longer defines “auxiliary aids and services”. However, such term is defined in section 12103(1) of this title.

PRIOR PROVISIONS

A prior section 140 of Pub. L. 101-610 was set out as a note under section 12501 of this title, prior to 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, §102(a).

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111-13, §1315(1)(A), substituted “paragraphs (2) and (3)” for “paragraph (3)”.

Subsec. (a)(2), (3). Pub. L. 111-13, §1315(1)(B)-(D), added par. (3), redesignated former par. (3) as (2), and struck out former par. (2). Text of former par. (2) read as follows: “The amount of the annual living allowance provided under paragraph (1) that may be paid using assistance provided under section 12571 of this title and using any other Federal funds shall not exceed 85 percent of the total average annual provided to VISTA volunteers under section 4955 of this title.”

Subsec. (a)(4). Pub. L. 111-13, §1315(1)(E), substituted “a term of service that is less than 12 months” for “a reduced term of service under section 12593(b)(3) of this title”.

Subsec. (b). Pub. L. 111-13, §1315(2), substituted “may be used to pay the taxes described in this subsection.” for “shall include an amount sufficient to cover 85 percent of such taxes based upon the lesser of—

“(1) the total average annual subsistence allowance provided to VISTA volunteers under section 4955 of this title; and

“(2) the annual living allowance established by the program.”

Subsec. (c). Pub. L. 111-13, §1315(3), substituted “section 12572(c)(1)(D)” for “section 12572(a)(8)” and “subsection (a)(2)” for “subsection (a)(3) of this section” in introductory provisions, redesignated par. (3) as (2), and struck out former par. (2) which read as follows: “the applicant shall apply for such assistance only by submitting an application to the Corporation for assistance on a competitive basis; and”.

Subsec. (d)(1). Pub. L. 111-13, §1315(4)(A), substituted “shall provide or make available” for “shall provide” and struck out second sentence which read as follows: “Not more than 85 percent of the cost of a premium shall be provided by the Corporation, with the remaining cost paid by the entity receiving assistance under section 12571 of this title.”

Subsec. (d)(2). Pub. L. 111-13, §1315(4)(B), substituted “provide from its own funds or make available” for “provide from its own funds”.

Subsecs. (g), (h). Pub. L. 111-13, §1315(5), struck out subsecs. (g) and (h) which allowed waiver in whole or in part of limitation on Federal share and limited number of terms of service for federally subsidized living allowance, 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.

§ 12595. National service educational awards**(a) Eligibility generally**

A participant in a national service program carried out using assistance provided to an applicant under section 12571 of this title shall be eligible for the national service educational