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CH. 21 SUMMER EMPLOYMENT AND TRAINING PROGRAMS FOR YOUTH

CHAPTER 21
SUMMER EMPLOYMENT AND TRAINING
PROGRAMS FOR YOUTH

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NOTE: This Chapter was enacted into law by P.L. 17-69:1 as Government Code §§ 26600-26618, and renumbered by the Compiler.

§ 21101. Short Title.

This Chapter may be cited as the *Summer Youth Employment and Training Act*.

§ 21102. Legislative Intent.

In assessing the Territory's potential for economic growth and stability, the Legislature places great importance on the island's most valued asset - its human resources. Among local constraints for economic growth, however, is the long-standing problem of an underskilled labor force, a consequence of poor manpower development systems.

Recognizing that over fifty-five percent (55%) of the island's population is under twenty-five (25) years of age, literate and highly trainable, the Legislature finds an urgency in the restructuring of summer

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youth employment and job training programs designed to meet the occupational training needs of this segment of Guam's current and future labor force.

It is therefore the declared purpose of this Chapter, to establish a comprehensive program for summer employment and training programs to assist youth to develop their maximum occupational potential and to afford job training opportunities that will lead to productive career development and employment.

§ 21103. Authorization of Appropriations.

Upon enactment into law, appropriation requests in an amount not to exceed Nine Hundred Thousand Dollars (\$900,000) to carry out Summer Youth Employment Programs shall be incorporated in the Executive Budget for the government of Guam.

§ 21104. Definitions.

(a) The term *academic credit* means credit for education, job training, or work experience applicable toward a secondary school diploma, a post-secondary degree, or an accredited certificate of completion, consistent with applicable law and regulations and requirements of an accredited educational agency or institution in the Territory.

(b) Upon enactment into law, the administrative entity for the program's first year of operation shall be the Department of Youth Affairs. Thereafter, the administrative entity shall be the entity designated to administer the Summer Youth Employment Plan under § 21109 of this Chapter. The primary consideration in selecting an entity to administer the summer youth employment plan shall be the effectiveness of the agency or organization in delivering employment and training services based on demonstrated performance, in terms of the likelihood of meeting program performance goals, cost, quality and job training needs of youth. The entity selected under § 21109 of this Chapter shall, prior to the implementation of programs under this Chapter, institute and maintain effective systems for the overall management of Summer Youth Employment Programs, including, but not limited to: eligibility verification systems, program monitoring systems, mechanisms for taking immediate corrective action where problems have been identified, financial and participant tracking systems. Such systems shall be designed to enable the effective management of programs and provide information necessary to design program activities

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and delivery systems best suited to resolve employment and training problems of eligible youth.

(c) The term *on-the-job is training* which occurs while the participant is engaged in productive work which provides knowledge or skills essential to the full and adequate performance of the job. OJT may be coupled with institutional training or may be designed as described in § 21107 of this Chapter.

Participation in on-the-job training in the private-for-profit sector shall be subject to restrictions set forth in § 21113(i) of this Chapter.

(d) The term *work experience program* is a short-term or part-time work assignment with an employing agency. It is designed to enhance the employability of eligible youth through the development of good work habits and basic work skills. Work experience is intended for individuals who need assistance and training to becoming accustomed to basic work requirements including basic work skills, in order to be able to compete successfully in the labor market. Participation in work experience in the private-for-profit sector shall be subject to restrictions set forth in § 21113(i) of this Chapter.

(e) The *vocational exploration program* is a program designed to expose eligible youth to jobs through observation of such jobs, instruction, and if appropriate, limited practical experience.

§ 21105. Establishment of a Target Population and Provision of Equitable Services Thereto.

(a) Funds appropriated under this Chapter shall be used pursuant to a Summer Youth Employment Plan which is prepared in accordance with § 21110 to provide authorized services to eligible youth.

(b) For the purposes of this Chapter, *youth* shall mean an individual who is aged 14 through 25.

(c) Eligible male and female youth shall be served on an equitable basis, taking into account their age, sex, area of residence in the Territory, and their proportion of the target population within each residential district of the Territory.

(d) The recognized standard for population statistics on youth to be used in the proportionment of services under this Chapter, shall be the Territory's 1980 Census of Population, published by the Bureau of Census, U. S. Department of Commerce, or any recognized census reports on the

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Territory issued by the Department subsequently therefrom.

§ 21106. Eligibility for Services.

(a) Participation in programs and activities financially assisted in whole or in part under this Chapter, shall be open to citizens and nationals of the United States, lawfully admitted permanent resident aliens, and other individuals authorized by the U. S. Attorney General to reside and work in the United States.

(b) An individual shall be eligible to participate in programs receiving assistance under this Chapter, only if such individual meets the criteria under Subsection (a) of this Section, is aged 14 to 25 years of age at the time of enrollment, is enrolled in a middle, secondary, post-secondary school or an institution offering a certified high school equivalency program and is meeting or has met the minimum academic and attendance requirements of that school or education program during the current or most recent term.

§ 21107. Use of Funds.

Funds available under this Chapter may be used for:

- (a) Work Experience Programs;
- (b) Occupational training preparation for work;
- (c) Cooperative education programs to coordinate educational programs with work in the private sector;
- (d) Training programs operated by the private sector, or by consortia of private sector employers utilizing private sector facilities, equipment, and personnel to train summer youth;
- (e) Programs of advanced career training which provide a formal combination of on-the-job training and institutional training, and internship assignments which prepare youth for career employment;
- (f) Programs to develop work habits and other services to youth, to help them obtain and retain employment;
- (g) On-site industry-specific training programs supportive of industrial and economic development;
- (h) On-the-job training;
- (i) Vocational exploration programs; and

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(j) Customized training conducted by an employer or group of employers to prepare youth for employment following completion of educational or institutional training.

§ 21108. Limitations.

Programs funded under this Chapter shall be conducted during the summer months pursuant to a Summer Youth Employment Plan which is prepared in accordance with § 21110.

§ 21109. Guam Council on Youth Affairs.

(a) The Council on Youth Affairs established under §20105 of Chapter 20 of this Title, shall have the same authority with respect to programs administered by the Department of Youth Affairs, except that:

(1) It shall be the responsibility of the Council to determine in agreement with the Governor, procedures for the development of the Summer Youth Employment Plan;

(2) Select an entity to administer the plan; and

(3) In accordance with the Administrative Adjudication Act of the Territory, prescribe such rules and regulations as the Council deems necessary to ensure compliance of Summer Youth Employment Programs with provisions of this Chapter.

(b) The Council is further authorized to provide oversight of the programs conducted under the plan in accordance with procedures established by the Council.

(c) No Summer Youth Employment Plan prepared under § 21110 may be submitted to the Legislature unless the plan has been approved by the Council and the Governor, and the plan is submitted jointly by the Council and the Governor.

§ 21110. Summer Youth Employment Plan.

No funds shall be appropriated for any fiscal year except pursuant to an annual Summer Youth Employment Plan which is prepared in accordance with, and meets the requirements of this Section.

(a) Each annual Summer Youth Employment Plan shall contain:

(1) the identification of the entity which will administer the program;

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(2) an assessment of occupational training needs and related problems facing youth, and of labor market conditions to form the basis for program planning;

(3) a description of the services to be provided including: the labor market orientation component, the estimated duration of services, the estimated training cost per participant, and a discussion of major changes in program emphasis from last summer's program;

(4) procedures for identifying and selecting participants, target groups, and for eligibility determination and verification;

(5) quantified performance and placement goals per program activity established in accordance with standards prescribed under § 21111 of this Chapter;

(6) procedures for the selection of employment and training worksites which take into account past performance of employers in job training or related activities, fiscal accountability, monitoring and managing trainee occupational development;

(7) procedures for the coordination or joint implementation of job development, placement, and other employer outreach activities;

(8) procedures for fiscal control, accounting, audit and debt collection procedures to assure the proper disbursement of, and accounting for, funds received under this Chapter; and

(9) procedures for the preparation and submission of an annual report which shall include:

(i) a description of activities conducted during the fiscal year;

(ii) characteristics of program participants;

(iii) characteristics of the program's participating employers, the types of occupational training provided, and a description of the training program's responsiveness to the occupational training needs of youth; and

(iv) the extent to which the activities exceeded or failed to meet relevant performance standards, pursuant to § 21110

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of this Chapter.

(b) Review and Approval of the Plan.

(1) Not less than one hundred twenty (120) days before the beginning of the Summer Youth Program covered by the Summer Youth Employment Plan -

(i) the proposed plan or summary thereof shall be published; and

(ii) such plan shall be made available for review and comment to

(a) appropriate local educational and other public agencies in the Territory;

(b) appropriate local groups representative of youth, or groups which provide training and related services to youth;

(c) organizations and group representative of business and industry employers and organized labor within the Territory;

(2) The final plan summary thereof shall be published not later than eighty (80) days before the summer youth employment program covered by the Summer Youth Employment Plan, and shall be submitted to the Legislature for concurrence.

(3) The Legislature may approve the Summer Youth Employment Plan, unless it finds that:

(i) corrective measures for past deficiencies found in audits or in meeting performance standards from previous years have not been taken or are not acceptably underway;

(ii) the entity proposed to administer the program does not have the capacity to administer the funds;

(iii) there are inadequate safeguards for the protection of funds received;

(iv) the plan does not comply with a particular provision or provisions of this Chapter, or of regulations duly promulgated by the Guam Council on Youth Affairs.

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(4) The Legislature shall approve, modify or disapprove a plan by resolution within sixty (60) days after the date that the plan is filed with the Legislative Secretary.

SOURCE: GC §26609 enacted by P.L. 17-69. Subsection (b)(4) as amended by P.L. 18-6:2.

§ 21111. Performance Standards.

(a) The Legislature recognizes that the Summer Youth Employment Program is an investment in human capital and not an expense. In order to determine whether that investment has been productive, the Legislature finds that it is essential that criteria for measuring the return on this investment be developed.

(b) In order to determine whether these basic measures are achieved, the Governor shall prescribe standards on the basis of appropriate factors which may include:

(1) the attainment of recognized employment competencies prescribed by the local educational and employer community;

(2) middle, secondary, and post-secondary school completion, or the equivalent thereof;

(3) enrollment in other training programs or apprenticeships, or enlistment in the Armed Forces; and

(4) where appropriate, placement in unsubsidized employment following the completion of training activities provided under this Chapter.

(c) The standards shall include provisions governing a representative period after program termination that is a reasonable indicator of post-program status.

(d) The Governor shall prescribe performance standards relating gross program expenditures to various performance measures.

(e) The Governor shall, not later than January 31, 1985, prescribe performance standards for the first program year under this Chapter to measure the results of participation in the program to achieve the goals set forth in subsection (b) of this Section.

(f) The Governor may modify the performance standards under this Section not more often than once every two fiscal years, and such modification shall not be retroactive.

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(g) The Governor shall provide technical assistance to programs which do not meet performance criteria. If the failure to meet performance standards persists for a second year, the Governor shall impose a reorganization plan. Such plan may restructure the program delivery system, prohibit the use of designated employers, worksites or service providers, or make such other changes as the Governor deems necessary to improve program performance. The Governor, in agreement with the Guam Council on Youth Affairs, may designate an alternate entity to administer the program in the Territory.

(h) The alternate administrative entity may be a newly formed private nonprofit organization, or any agency jointly selected by the Governor and the Guam Council on Youth Affairs.

§ 21112. Limitation on Certain Costs.

(a) Ninety percent (90%) of the funds available for any fiscal year for programs under this Chapter shall be expended for direct services and program activities for eligible youth.

(b) Not more than ten percent (10%) of the funds available for any fiscal year for programs under this Chapter shall be expended for the cost of administration.

§ 21113. Basic Program Design Requirements.

(a) The administrative entity for programs under this Chapter shall, at the time of intake assess every individual to determine the person's eligibility and to decide whether the Summer Youth Employment Program can offer services or activities that will contribute to the occupational development and upward mobility of the applicant.

(b) Based on this assessment, the administrative entity, in conjunction with each trainee shall develop an employment development plan identifying the available services and activities for the trainee.

(1) In establishing such a plan, consideration shall be given to the trainee's skills, interest and career objectives and problems in occupational development.

(2) The employment development plan shall include, but not limited to:

(i) assessment date showing the participant's employment readiness;

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- (ii) problems, if any, in occupational development;
- (iii) specific employment and training needs;
- (iv) specific services and activities to be developed and provided to meet those needs; and
- (v) an individualized plan for activities or services following the trainee's successful completion of the summer youth employment program.

(3) A copy of the plan shall be recorded in the permanent record, and a copy given to the trainee.

(c) All trainees enrolled in programs under this Chapter shall be provided with labor market orientation either on a group or individual basis.

(d) The administrative entity for programs under this Chapter shall make appropriate efforts to encourage local educational agencies and post-secondary institutions to award academic credit for the competencies trainees gain from their participation in the summer program.

(e) All summer youth employment programs shall provide eligible youth with useful work and sufficient basic education and institutional or on-the-job training to assist trainees to develop their maximum occupational potential. The programs shall be designed to meet diverse individual needs of trainees. Among these are:

- (1) Structured and well supervised work;
- (2) Opportunities to explore vocational interest;
- (3) Job rotations to expose youth to different work settings;
- (4) Vocational counseling and occupational information;
- (5) Meeting special employability needs;

(6) Services to induce high school graduates to pursue post-secondary training, or training in institutions of higher education.

(f) Each summer youth employment program shall provide employment and training opportunities to those who can benefit from such opportunities, and shall make efforts to provide equitable services among substantial segments of the eligible population.

(g) Employment and training provided with funds under this Chapter shall only be for occupations for which there is a demand in the Territory

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with consideration given to training in occupations determined to be in sectors of the economy which have a high potential for sustained demand or growth.

(h) Efforts shall be made to develop programs which contribute to the occupational development, upward mobility, development of new careers, and overcoming sex stereotyping in occupations traditional for the other sex.

(i) The maximum amount authorized for reimbursement to private-for-profit employers for training provided under this Chapter shall not, during the period of such training, exceed more than fifty percent (50%) of the wages paid by the employer to such participants during the summer months.

(j) The ratio of participants in program funded under this Chapter within the public sector, to participants in such programs within the private sector, shall not exceed the ratio between civilian governmental employment and non-governmental employment in the Territory.

§ 21114. Benefits.

The following provisions shall apply to all activities financed under this Chapter.

(a) A summer trainee shall receive no payments for training or employment activities in which the trainee fails to participate without good cause.

(b) Eligible youth, who, at the time of application to participate in programs under this Chapter, are between the ages of seventeen (17) through twenty-five (25), shall be paid wages which shall not be less than the minimum wage under §6(a)(1) of the Fair Labor Standards Act of 1938. Wage earnings subsidized under this Chapter shall not exceed the authorized number of work hours per work week prescribed per program activity in the applicable Summer Youth Employment Plan.

(c) Eligible youth, who, at the time of application to participate in programs under this Chapter, are between the ages of fourteen (14) through sixteen (16), shall be paid wages which shall not be less than eighty-five percent (85%) of the minimum wage under §6(a)(1) of the Fair Labor Standards Act of 1938. Wage earnings subsidized under this Chapter shall not exceed the authorized number of work hours per work week prescribed per program activity in the applicable Summer Youth Employment Plan.

§ 21115. Labor Standards.

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(a) Conditions of employment and training shall be appropriate and reasonable in light of such factors as the type of work, geographic location, and proficiency of the trainee.

(b) Health and safety standards established under Territorial and Federal Law, otherwise applicable to working conditions of employees, shall be equally applicable to working conditions of participants under this Chapter. With respect to any participant engaged in a program conducted under this Chapter who is engaged in activities which are not covered by health and safety standards under the Occupational and Safety and Health Act of 1970, the Guam Council on Youth Affairs shall prescribe, by regulation, such standards as may be necessary to protect the health and safety of such participants. No participants under eighteen (18) years of age shall be employed in any occupation which the Guam Council on Youth Affairs has found to be particularly hazardous for persons between fourteen (14) and eighteen (18) years of age.

(c) To the extent that the Territory's Worker's Compensation Law is applicable, worker's compensation benefits in accordance with such law shall be applicable with respect to injuries suffered by participants.

(d) All individuals employed in subsidized jobs shall be provided benefits and working conditions at the same level, and to the same extent as other employees working a similar length of time and doing the same type of work.

(e) No funds under this Chapter shall be used for contributions on behalf of any participant to retirement systems or plans. Payroll deductions in wages on behalf of program participants in compliance with the Federal Insurance Compensation Act (FICA), however, shall be allowable.

(f) No currently employed worker shall be displaced by any participant (including partial displacement such as reduction in the hours of non-overtime work, wages, or employment benefits).

(g) No summer youth employment program shall impair existing contracts or collective bargaining agreements, except that no program under this Chapter which would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

§ 21116. Worksite Standards.

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(a) The administrative entity for programs under this Chapter shall develop a written financial or non-financial agreement with each worksite employer which assures:

- (1) adequate supervision of each participant;
 - (2) adequate accountability for participant time and attendance;
- and
- (3) adherence to the provisions of this Chapter, rules and regulations promulgated hereunder.

(b) Such written agreements may be memoranda of understanding, simple work statements or other documents which, at a minimum, indicate an estimate of the number of participants assigned to each worksite and any operational conditions to which the worksite is expected to adhere.

(c) The administrative entity for programs under this Chapter shall establish procedures for the monitoring and evaluation of each worksite to insure compliance with the terms and conditions of worksite agreements.

§ 21117. Selection of Service Providers.

(a) The primary consideration in selecting agencies, organizations or worksite employers to deliver services under this Chapter shall be the effectiveness of the agency, organization, or worksite employer in delivering comparable or related services based on demonstrated performance, in terms of the likelihood of meeting performance goals, cost, quality of training, and characteristics of participants.

(b) Funds provided under this Chapter shall not be used to duplicate facilities or services available in the Territory from other sources, unless it is demonstrated in the appropriate annual summer youth employment plan, that alternative services or facilities would be more effective or more likely to achieve performance goals.

§ 21118. Prevention of Fraud and Program Abuse.

(a) To ensure the integrity of Summer Youth Employment Programs, special efforts are necessary to prevent fraud and other program abuses. *Fraud* includes deceitful practices and intentional misconduct, such as willful misrepresentation in accounting for the use of program funds. *Abuse* is a general term which encompasses improper conduct which may or may not be fraudulent in nature. While any violation of this Chapter may constitute fraud or program abuse, this Section identifies and addresses

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those specific program problems which were of most concern to the Legislature during the authorization of programs herein.

(b) Conflict of Interest.

(1) No member of the Guam Council on Youth Affairs shall cast a vote on any matter which has a direct bearing on the services to be provided by that member or any organization which such member directly represents or on any matter which would financially benefit such member or any organization which such member represents.

(2) The administrative entity for programs under this Chapter shall avoid organizational conflict of interest, and their personnel shall avoid personal conflict of interest and the appearance of conflict of interest in awarding financial assistance, and in the conduct of procurement activities involving funds under this Chapter.

(c) Kickbacks. No officer, employee or agent of programs funded under this Chapter shall solicit or accept gratuities, favors or anything of monetary value from any actual or potential subrecipient or contractor.

(d) Political Activities.

(1) No program under this Chapter may involve political activities.

(2) No participant or trainee under this Chapter may engage in partisan or non-partisan political activities during hours for which the participant is paid with summer youth employment program funds.

(3) No participant or trainee under this Chapter may, at any time, engage in partisan or nonpartisan political activities in which such participant or trainee represents himself/herself as a spokesperson of the Summer Youth Employment Program.

(4) A participant or trainee under this Chapter may be employed or outstationed in the immediate office of any local elected official within the government of Guam.

(e) Theft or Embezzlement from Employment and Training Funds. Whoever, being an officer, director, agent or employee of, or connected in any capacity with, any agency receiving financial assistance under this Chapter knowingly hires an ineligible individual or individuals; embezzles, wilfully misapplies, steals, or obtains by fraud any of the moneys, funds, assets, or property which are the subject of an appropriation or contract

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under this Chapter, shall be fined not more than Ten Thousand Dollars (\$10,000) or imprisoned for not more than five (5) years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed One Hundred Dollars (\$100), such person shall be fined not more than One Thousand Dollars (\$1,000) or imprisoned not more than one (1) year, or both.

§ 21119. Cooperation of Educational Institutions.

The Board of Trustees of Guam Community College and the Territorial Board of Education shall cooperate in setting criteria for offering school credits and for offering curricula in conjunction with work experience obtained by persons participating in this program.
