

CHAPTER 43
TOURIST INDUSTRY JOB CORPS

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§ 43101. Short Title.

This Chapter may be cited as the *Tourist Industry Job Corps Act*.

SOURCE: GC § 26700; added by P.L. 18-48:2.

§ 43102. Legislative Intent.

It is the intention of the Legislature in enacting this Chapter to support the expansion of tourism on Guam by making available a local work force for the tourism industry. This Chapter may also address the rise of unemployment on Guam. It is not the Legislature's intent to duplicate any existing program, private or federal, but to coordinate, assist, augment, and improve access to those programs by Guam residents.

SOURCE: GC § 26701. Added by P.L. 18-48:2.

§ 43103. Definitions.

Unless the context otherwise requires, the definitions in this Section govern the construction of this Chapter.

(a) *Academic Credit* means a credit for education, job training, or work experience applicable toward an apprenticeship certification or an accredited certificate of completion, consistent with applicable laws and

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regulations and requirements of an accredited educational agency or institution in the United States.

(b) *On-the-job training* is training which occurs while the participant is engaged in production work which provides knowledge or skills essential to the full and adequate performance of the job. On-the-job training may be coupled with institutional training or may be designed as described in Section 43105 of this Chapter.

(c) *Work experience program* is a short term or part time work assignment with an employing agency. It is designated to enhance the employability of eligible participants through the development of good work habits and basic work skills. Work experience programs are intended for individuals who need assistance and training to become accustomed to compete successfully in the labor market. Participation in work experience programs in the private-for-profit sector shall be subject to restrictions set forth in Section 43105 of this Chapter.

(d) *Vocational Exploration Program* is a program designed to expose eligible participants to jobs through observation of such jobs, instruction, and if appropriate, limited practical experience.

SOURCE: GC § 26702. Added by P.L. 18-48:2.

§ 43104. Eligibility for Services.

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.

SOURCE: GC § 26703; added by P.L. 18-48:2.

§ 43105. Use of Funds.

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

(a) Funds available under this Chapter shall be used specifically for tourist related employment training and pre-apprenticeship and apprenticeship construction employment training through any of the following programs:

- (1) Work experience programs;
- (2) Occupational Training Preparation for work;

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(3) Cooperative education programs to coordinate educational programs with work in the private sector;

(4) Training programs operated by the private sector, or by a consortia of private sector employers utilizing private sector facilities, equipment, and personnel to train participants of the Tourist Industry Job Corps;

(5) Programs of advanced career training which provide a formal combination of on-the-job training and institutional training, and internship assignments which prepare students for career employment in the visitor industry;

(6) Programs to develop work habits and other services to eligible participants, to help them obtain and retain employment in tourist related services;

(7) On site tourist related services training programs supportive of economic development of the tourist industry;

(8) On-the-job Training;

(9) Vocational Exploration Programs; and

(10) Customized training through the establishment of a hotel school to prepare eligible participants for employment in tourist related services.

(b) Eligible participants will be paid wages which shall not be less than the minimum wage under §6(a)(1) of the Fair Labor Standards Act of 1983, as amended. Wage earnings subsidized under this Chapter shall not exceed the authorized number of work hours per week prescribed per program activity in the applicable Tourist Industry Job Corps.

(c) Funds to be utilized for administrative costs shall be specifically appropriated for such purpose.

SOURCE: GC § 26704; added by P.L. 18-48:2

§ 43106. Limitations.

Programs funded under this Chapter shall be operated on a Fiscal year basis pursuant to a Tourist Industry Job Corps Plan which is prepared in accordance with Section 43108 of this Chapter.

SOURCE: GC § 26705; added by P.L. 18-48:2.

§ 43107. Tourist Industry Job Corps Commission.

There is hereby established within the government of Guam a Tourist Industry Job Corps Commission composed of seven (7) members. Four (4) members shall be appointed by the Governor and three (3) members shall be appointed by the Speaker of the Legislature. All members shall be appointed with the advice and consent of the Legislature. The Commission shall elect a Chairperson from among its members. The Commission shall have the power and authority to carry out the following functions:

(a) Prepare a Five-year Tourist Industry Job Corps Plan in accordance with the requirements of this Chapter;

(b) Coordinate to the maximum extent possible the efforts of the Tourist Job Industry program with the Guam Department of Labor, Agency for Human Resources Development, Guam Community College, and other private and public programs designed to provide assistance and funding;

(c) Establish a network of contact among those public and private organizations which provide information, technical assistance, and financial support for employment training;

(d) Assemble, publish and disseminate information and materials on tourism opportunities to the Guam Community;

(e) Organize, host and participate in seminars and other forums designed to disseminate information and technical assistance on tourism;

(f) Provide individual firms and tourism related businesses with information and technical assistance related to employment of local resources;

(g) Apply for grants and other funding to fund the Tourist Industry Job Corps Program pursuant to regulations adopted by the Tourist Industry Job Corps Commission.

SOURCE: GC § 26706; added by P.L. 18-48:2.

§ 43108. Compensation of Commission.

Members of the Tourist Industry Job Corps Commission shall be compensated at a rate of Fifty Dollars (\$50.00) per meeting, not to exceed One Hundred Dollars (\$100) per month.

SOURCE: GC § 26707; added by P.L. 18-48:2.

§ 43109. Tourist Industry Job Plan.

No funds shall be appropriated for any fiscal year except pursuant to a five-year Tourist Industry Job Corps Plan prepared in accordance with and meeting the requirements of this Section:

(a) The Five-Year Tourist Industry Job Corps Plan shall contain:

(1) Assessment of tourist related occupational training needs and labor market conditions;

(2) Description of services to be provided including the labor market orientation component, the estimated training cost per participant, and a discussion of major changes in program emphasis;

(3) Procedures for identifying and selecting participants, target groups, and for determining eligibility and verification;

(4) Quantified performance and placement goals per program activity, established in accordance with standards prescribed under § 43109 of this Chapter;

(5) 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 trained occupational development;

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

(7) Procedures for fiscal control, accounting, audit and debt collection to assure the proper disbursement of, and accounting for, funds received under this Chapter.

(b) Review and Approval of the Plan:

(1) The proposed plan or summary thereof shall be published;

(2) Such plan shall be made available for review and comment in accordance with the Administrative Adjudication Law;

(3) The Legislature shall approve, modify or disapprove the plan by statute within One Hundred Twenty (120) days after the

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plan is filed with the Legislative Secretary. The plan shall be submitted to the Legislature by February 15, 1987.

SOURCE: GC § 26708; added by P.L. 18-48:2.

§ 43110. Performance Standards.

(a) The Legislature recognizes that the Tourist Industry Job Corps Program is an essential investment in human capital in a vital industry. 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. In order to determine whether these basic measures are achieved, the Commission, prior to implementation of the program, shall prescribe standards on the basis of appropriate factors which may include:

- (1) Attainment of recognized employment competencies prescribed by local educational and employer community;
- (2) Post secondary school completion, or the equivalent thereof;
- (3) Placement in unsubsidized employment following the completion of training activities provided under this Chapter.

(b) The Commission may modify the performance standards under this Section not more than once every two (2) fiscal years, and such modification shall not be retroactive.

(c) The Commission shall provide technical assistance to programs which do not meet performance criteria. If failure to meet performance standards persists for a second year, the Commission 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 Commission deems necessary to improve program performance.

(d) The Governor shall, not later than ninety (90) days after the enactment of the acceptance of the plan by the Legislature in accordance with Subsection (b)(3) of § 43108 of this Chapter, implement 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 this Section.

SOURCE: GC § 26709; added by P.L. 18-48:2.

§ 43111. 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 an activity which is not covered by health and safety standards under the Occupational Safety and Health Act of 1970, the Department of Labor shall prescribe by regulation such standards as may be necessary to protect the health and safety of such participant. No participant shall be employed in any occupation which the Department of Labor has found to be particularly hazardous.

(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 appropriated for use under this Chapter shall be used for contributions on behalf of any participant to a retirement system or plan. Payroll deductions from 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 or partially displaced by such actions as reduction in the hours of non-overtime work, wages, or employment benefits by a Tourist Industry Job Corps participant.

(g) No Tourist Industry Job Corps employment program shall impair existing contracts or collective bargaining agreements, except that a program under this Chapter which would be inconsistent with the terms of a collective bargaining agreement may be undertaken with the written concurrence of the labor organization and employer concerned.

SOURCE: GC § 26710; added by P.L. 18-48:2.

§ 43112. Worksite Standards.

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(a) Guam Community College 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 a participant's time and attendance; and
- (3) adherence to the provisions of this Chapter and the 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 number of participants assigned to each worksite and any operational conditions to which the worksite is expected to adhere.

(c) Guam Community College shall establish procedures for the monitoring and evaluation of each worksite to insure compliance with the terms and conditions of worksite agreements.

SOURCE: GC § 26711; added by P.L. 18-48:2.

§ 43113. 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 Tourist Industry Job Corps Plan that alternative services or facilities would be more effective or more likely to achieve performance goals.

SOURCE: GC § 26712. Added by P.L. 18-48:2.

§ 43114. Prevention of Fraud and Program Abuse.

(a) To ensure the integrity of Tourist Industry Job Corps programs, special efforts are necessary to prevent fraud and other program abuses. Fraud includes deceitful practices and international misconduct, such as willful misrepresentation in accounting for use of program funds. 'Abuse' is a general term which encompasses improper conduct which may or may not constitute fraud. While any violation of this Chapter may constitute fraud or

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program abuse, Subsections (b), (c), (d) and (e) of this Section identify and address specific program problems of most concern.

(b) Conflict of Interest. Guam Community College shall avoid organizational conflicts of interest, and their personnel shall avoid personal conflicts of interest and the appearance of conflicts of interest or any impropriety in awarding financial assistance and in the conduct of procurement activities involving funds under this Chapter.

(c) Acceptance of Favors. 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 sub-recipient 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 Tourist Industry Job Corps Funds.

(3) No participant or trainee under this Chapter may, at any time, engage in partisan or non-partisan political activities in which such participant or trainee represents that he is a spokesperson of the Tourist Industry Job Corps.

(e) Theft or Embezzlement from Employment and Training Funds. Any officer, director, agent, employee or person connected in any capacity with any agency receiving financial assistance under this Chapter, who knowingly hires an ineligible individual, embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property which are the subject of an appropriation or contract under this Chapter, shall be subject to the appropriate penalties as provided in Titles 8 and 9 of the Guam Code Annotated.

SOURCE: GC § 26713; added by P.L. 18-48:2.

§ 43115. Cooperation of Educational Institutions.

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

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SOURCE: GC § 26714. Added by P.L. 18-48:2.
