§ 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 result 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 enforce 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.
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

Effective Date of 1993 Amendment
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.