

DIVISION 4. DISPLACED SERVICE EMPLOYEES PROTECTION ACT.

Sec. 13A-119. Definitions.

(a) As used in this Division:

- (1) **Awarding authority** means any person that awards or enters into a service contract or subcontract with a contractor to be performed in the County. Awarding authority does not include the United States, any State or any political subdivision thereof.
- (2) **Contractor** means any person, including a subcontractor, who enters into a service contract to be performed in the County and employs more than 20 employees in the entire company.
- (3) **Displaced service employee** means an individual employed on a full or part-time basis, having concluded their probationary period, if applicable, from employment when a service contract changes awarding authorities or successor entities and performing duties related to a service contract as a:
 - (A) building service employee, including a janitor, security officer, groundskeeper, concierge, door staff, maintenance technician, handyman, superintendent, elevator operator, window cleaner, or building engineer; or people with credentials and/or license to perform a specific job.
 - (B) food service worker, including a cafeteria attendant, line attendant, cook, butcher, baker, server, cashier, catering worker, dining attendant, dishwasher, or merchandise vendor.
 - (C) non-professional employee performing health care or related service.
 - (D) *Displaced service employee* does not include:
 - (i) a managerial or confidential employee;
 - (ii) an employee who works in an executive, administrative, or professional capacity;
 - (iii) an employee who earns more than \$25 per hour;
 - (iv) an employee who is regularly scheduled to work less than 10 hours per week.
 - (v) an employee that has specifically subject matter expertise that requires certification or specialized training that is a master at their trade such as including, but not limited to, an electrician, plumber or carpenter.
- (4) **Person** means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity that may employ persons or enter into a service contract.
- (5) **Service contract** means a service contract between an awarding authority and a contractor to provide security, janitorial, building maintenance, or food preparation in a facility located in the County which is used as a:
 - (A) private elementary or secondary school, or public or private college or university;
 - (B) multi-family residential building or complex with more than 30 units;
 - (C) commercial building or office building occupying more than 75,000 square feet.
 - (D) industrial facility, such as a pharmaceutical laboratory, research and development facility, or product fabrication; or
 - (E) distribution center.

(6) **Successor entity** means an entity that:

- (A) is awarded a service contract to provide, in whole or in part, services that are substantially similar to those provided at any time during the previous 90 days;
- (B) has purchased or acquired control of a property located in the County where service employees were employed at any time during the previous 90 days; or
- (C) terminates a service contract and hires service employees as its direct employees to perform services that are substantially similar, within 90 days after a service contract is terminated or cancelled.

(b) This Article does not limit the ability of an awarding authority to terminate a service contract or replace a contractor with another contractor.

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Sec. 13A-120. Transition employment period.

(a) Awarding authority. At least 15 days before a service contract is terminated, an awarding authority must:

- (1) request the terminated contractor to give the successor entity and the awarding authority a complete list of the name, date of hire, and job classification of each displaced service employee working on the service contract;
- (2) give the successor entity a complete list of the name, date of hire, and job classification of each displaced service employee of the terminated contractor working on the service contract;
- (3) ensure that a written notice to all affected displaced service employees describing the pending termination of the service contract and the employee rights provided by this Article is conspicuously posted at any affected work site, except in the case of a service contract at a facility used as a public university, in which case the terminated contractor shall comply with subsections (a)(1) and (a)(2) of this section.

(b) Successor Entity.

- (1) Subject to subsection (b)(3) below, each successor entity must retain each affected displaced service employee at an affected site for 90 days or until the successor entity no longer provides services at the covered location, whichever is earlier.
- (2) Each successor entity must give each affected displaced service employee a written offer of employment and send a copy to the displaced service employee's collective bargaining representative, if any. Each offer must:
 - (A) state the date by which the displaced service employee must accept the offer; and
 - (B) allow the displaced service employee at least 10 days after receiving the notice to accept the offer.
- (3) Each successor entity may retain less than all of the affected displaced service employees during the 90-day transition period if the successor entity:
 - (A) finds that fewer displaced service employees are required to perform the work than the terminated contractor had employed;
 - (B) maintains a preferential hiring list of those displaced service employees not retained; and
 - (C) hires any additional displaced service employees from the list until all affected displaced service employees have been offered employment;

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- (4) The successor entity shall not discharge a displaced service employee retained under this Section without just cause during the transition period.
 - (5) The successor entity shall not engage in discrimination as defined by Section 2-186(a)(3) in the replacement or failure to retain a displaced service employee eligible to be retained under this Section.
- (c) Notice.
- (1) At least 90 days before a service contract is terminated, the terminated contractor must provide notice to the displaced service employee through a signed letter in English and in Spanish explaining that a new contractor will start work in 90 days and that they will no longer have employment with terminated service contractor.

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Sec. 13A-121. Enforcement Procedures.

- (a) Filing Complaints. If any displaced service employee believes that the awarding authority, terminated contractor or successor entity does not comply with Section 13A-120, they may file a complaint with the Office of Human Rights.
- (b) Complaint Requirement. A complaint under this Section must: (1) be filed within 1 year of the alleged violation; (2) include the particulars of the alleged violation, the name and address of the person alleged to have committed the violation; and (3) any other information required by the Office of Human Rights.
- (c) Dismissal. If after an investigation by the Office of Human Rights, the awarding authority, terminated contractor or successor entity is found to have complied with Section 13A-120, the Office of Human Rights must dismiss the complaint and transmit copies of its finding to the Respondent and Complainant.
- (d) Non-Compliance Penalty. If after an investigation, the Office of Human Rights finds that there is non-compliance, the Office of Human Rights shall attempt to conciliate the matter. If unsuccessful in the conciliation, the Office of Human Rights shall refer this matter to the Human Rights Commission. If after an affirmative adjudication by the Human Rights Commission, the awarding authority, terminated contractor or successor entity is found not to comply with Section 13A-120, the Human Rights Commission shall refer this decision to the Office of Central Services, whereby the Office of Central Services shall prohibit said awarding authority, terminated contractor or successor entity from bidding for County contracts for a period of no more than five years.

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