

COUNTY OF LOS ANGELES WORKFORCE DEVELOPMENT, AGING AND COMMUNITY SERVICES



WORKFORCE DEVELOPMENT PROGRAMS DIRECTIVE

DATE: July 3, 2018

NUMBER: WDP D18-01

Title V-Senior Community Service Employment Program (SCSEP) Participant Termination Policy

EXECUTIVE SUMMARY

This directive provides policy and establishes the procedures for the Los Angeles County America's Job Centers of California (AJCCs) contracted as Title V-SCSEP operators regarding the policy for Title V Participant terminations, the reasons for participant terminations and the required steps for participant terminations.

REFERENCES

- Title 20 CFR 641.580
- Title 20 CFR 641.910
- CDA PM 11-20 (P) Title V/Senior Community Service Employment Program, Participant Termination Policy
- CDA PM 11-06 Revised U.S. Department of Labor Regulations, Code of Federal Regulations, Title 20, Part 641 Senior Community Services Employment Program, Grievance and Termination Policy Changes
- CDA PM 10-19(P) Senior Community Service Employment Program. Durational Limits and Transition Planning Policy
- SCSEP Data Collection Handbook, Revision 7 (March 2017)

BACKGROUND

The U.S. Department of Labor (DOL) required that California Department of Aging (CDA) establish a Participant Termination Policy in compliance with DOL Employee and Training Administration regulations, 20 CFR 641.580 to be implementated for all California participants in the Senior Community Service Employment Program (SCSEP). As a result in 2011, CDA established a participant termination policy which DOL approved to be utilized for all California SCSEP participants. DOL requires that all SCSEP projects implement this participant termination policy and that all participants are educated thereon.

The purpose of this directive is to provide guidance on programmatic termination requirements



that align with California Department of Aging (CDA) Program Memo 11-20(P), and is in compliance with the Department of Labor (DOL), Employee and Training Administration regulations, 20 CFR 641.580.

PARTICIPANT TERMINATION POLICY AND PROCEDURES

Workforce Development, Aging and Community Services (WDACS) as the Area Agency on Aging (AAA), Planning Service Area 19 (PSA 19), has established a Participant Termination Policy following the policies and procedures pursuant to CDA Program Memo 11-20 that addresses participant voluntary separation, participant involuntary termination, prohibitions, notification requirement, voluntary separation procedure and involuntary termination procedure. This Participation Termination Policy shall be applied fairly and equitably to all participants. Upon enrollment, all participants must receive a copy of this Participant Termination Policy.

PARTICIPANT EXIT OR VOLUNTARY SEPARATION

A participant may exit or voluntarily separate from SCSEP for any of the following reasons:

- Unsubsidized Employment Eligible participants must be unemployed at time of enrollment and throughout participation in SCSEP. Upon enrollment, all participants must receive notice of this eligibility requirement. A participant who obtains a job while enrolled in SCSEP may voluntarily separate or must be exited for unsubsidized employment.
 - Upon notice that a participant is about to commence, or has commenced unsubsidized employment, follow the procedures to exit the participant from SPARQ in the Exit Form Guide of the SCSEP Data Collection Handbook. For SPARQ entry, the participant's exit date must be on a date prior to the start date for unsubsidized employment. The AJCC Case Manager shall complete SCSEP Unsubsidized Employment Form with Participant to provide specific details such as date of notice of unsubsidized employment, date job commences, name of employer, wages, benefits, etc.
- Relocation outside of the Planning and Service Area Upon notice that a participant has
 relocated, or is about to relocate, follow the procedures to exit the participant from SPARQ in
 the Exit Form Guide of the SCSEP Data Collection Handbook with an effective date of exit
 (last day of participation).
- Retirement Obtain last day of participation and follow the procedures to exit the participant from SPARQ in the Exit Form Guide of the SCSEP Data Collection Handbook.
- <u>Health reasons</u> Obtain last day of participation and follow the procedures to exit the participant from SPARQ in the Exit Form Guide of the SCSEP Data Collection Handbook. Participant may provide medical note but is not a requirement.
- Institutionalization The participant is residing in an institution or facility providing 24-hour support, such as a prison or hospital, and is expected to remain in that institution for at least 90 days. A disabled person residing in a facility is not considered institutionalized. Obtain last day of participation and follow the procedures to exit the participant from SPARQ in the Exit Form Guide of the SCSEP Data Collection Handbook. If available, Participant may provide



proof of institutionalization but not a requirement. Specify type of institutionalization in case notes.

- <u>Family reasons</u> Obtain last day of participation and follow the procedures to exit the participant from SPARQ in the Exit Form Guide of the SCSEP Data Collection Handbook.
- Incapacitation or death Obtain confirmation of date of incapacitation/death and if available, a death certificate, death record, or death notices published through the Internet, in newspapers, and local funeral homes, etc. and follow the procedures to exit the participant from SPARQ in the Exit Form Guide of the SCSEP Data Collection Handbook. Specify the source of information in case notes.

Documentation required for Voluntary Separation:

- 1. Participant must sign and date the SCSEP Exit Form.
- 2. In the event Participant does not provide the signed SCSEP Exit Form, then the AJCC Case Manager shall:
 - a. Fill in the reason(s) in the Exit Comments box on page 3 of the SCSEP Exit Form, and
 - b. Sign and date under her/his comments in the Exit Comments box on page 3 of the SCSEP Exit Form.
- 3. AJCC Case Manager must complete detailed case notes.

PARTICIPANT INVOLUNTARY TERMINATION

AJCCs shall terminate/involuntarily exit a participant from SCSEP pursuant to the reasons stated below. Note that Host Agency supervisors do not have the authority to terminate participants from the program.

Participants may be involuntarily terminated from the SCSEP Program for any one of the following eligibility, behavior or Individual Employment Plan (IEP) related reasons:

Eligibility:

- Failure to maintain SCSEP eligibility criteria;
- Reached their durational limit (48 months/4 years on program);
- Discovered that participant was incorrectly determined to be eligible for the program. A
 participant may be enrolled or deemed eligible for continued enrollment based on an error
 in determining program eligibility, e.g. income may be recorded or calculated incorrectly'

- Provide false or fraudulent information to the Program including falsification of official records such as timesheets; OR
- Failure to report unsubsidized employment.

Behavioral/Conduct:

- Threats of violence or physical acts of violence, including intentional destruction of property;
- Obscene, abusive, harassing or threatening language or behavior;
- Sexual harassment, inappropriate behavior or discourteous behavior at training site;
- Substance abuse which includes prescription drugs, controlled substances and alcohol;
- Gross misconduct or intentional misconduct, including imposing imminent threat to health and endangering lives of others or themselves;
- Participant's dispensing, possession or use of controlled substance or alcohol at the training site;
- Violation of sick leave or approved break policy including failure to return from an approved break in participation by the required date. Extended absences/break in participation not to exceed 60 days;
- Participant absent for three (3) consecutive days without approval or notice to training site supervisor and there were no extenuating circumstances. Participant must provide supporting, acceptable documentation for any extenuating circumstances, including but not limited to, doctor or medical professional's statement, medical records, disability records, rehabilitation evaluation, etc.;
- Excessive unexcused tardiness or absences with no notice to supervisor (Excessive defined as tardy more than six times or absent more than three times in a six-month period without good cause or extenuating circumstances.);
- Failure to follow established policies of the training site, including confidentiality policies and any misuse of training site or program's property/equipment;
- Insubordination intentional refusal to carry out the direct instruction of a supervisor, provided there were no extenuating circumstances;
- Refusal to learn and/or perform training duties pursuant to the SCSEP Training Request Order form signed by Participant; OR
- A pattern of obstructive behavior in job interviews including missed appointments, sabotaging interviews, etc.

IEP related:

- Refusal to comply with the IEP without good cause;
- Refusal to accept training opportunities outlined in IEP:
- Refusal to accept a new community service training assignment to enhance skill development in support of IEP goals;
- Refusal to accept a transfer from one training site to another training site;
- Refusal to accept supportive services that will enhance the participant's ability to
 participate in a community service assignment consistent with IEP. Supportive services
 such as transportation, professional attire, health or eye care assistance or any other
 supportive services identified as necessary through the IEP.;
- Refusal to accept job offers or referrals to unsubsidized employment consistent with the participant's IEP without good cause. Note: Participant must provide supporting, acceptable documentation for good cause;
- Failure to cooperate with the scheduled recertification, assessment, and IEP related processes; or
- · Refusal to perform job search activities such as job recruitment or resume writing.

PROHIBITIONS

It is unacceptable to terminate/exit a participant for the following reasons:

- PSA 19 may not impose an upper age limit for participation in SCSEP as there is priority enrollment for persons age 65 or older; or
- Participant has reached what the subrecipient thinks is maximum improvement under the IEP and has not been able to obtain unsubsidized employment.

NOTIFICATION REQUIREMENTS

SCSEP Case Managers **must provide** each participant at the time of enrollment with a **written copy** of the termination policy and grievance procedures and **must verbally review** those policies with each participant

SCSEP Case Managers must give a **30-day written notice on agency letterhead** to participants prior to **involuntary termination**. The notice shall explain in detail why the participant has been terminated and if applicable, any corrective action steps.

The 30-day written notice should include the following elements:

Sufficient information explaining why the participant is being terminated;



- Provide the participant with an opportunity to conform their behavior to the rule, policy or procedure, if applicable;
- · Effective date of termination if the violation, issue, behavior has not been resolved; and
- Involuntary termination and for cause termination notices must inform the participant of the grievance procedure by attaching the SCSEP Grievance Policy to the 30-day written notice.

Participant Corrective Action Steps:

Where applicable, Participants may be given an opportunity to correct his or her behavior or conduct to coincide with SCSEP policies, excepting for threats of violence, acts of violence, behavior that may cause imminent harm to participant or anyone else (SCSEP Workplace Violence Policy). The corrective action steps are as follows:

Step 1: First Formal Warning:

The AJCC Case Manager provides participant with a verbal warning and means to correct his or her actions. The verbal warning shall be documented in detailed case notes.

Step 2: Second Formal Warning:

The AJCC Case Manager provides participant with a <u>written</u> 30-day notice with specific notification of the violation and warning that failure to confirm behavior to the SCSEP policies and guidelines will result in termination 30 days from the date of the letter. A copy of the SCSEP Grievance Policy is included with the written notice.

Step 3: Termination:

Participant is terminated from the SCSEP and SPARQ is updated. Participant termination to be documented in detailed case notes including cause and reason for termination as well as the corrective action steps taken.

INVOLUNTARY TERMINATION PROCEDURE OVERVIEW CHART

If Participant:	Then procedures are:	Other requirements:
Terminated for Eligibility Reasons	 Participant must receive a 30-day notice explaining the reason for the termination. Participant is exited from program at the end of the 30-day notice. 	 Participant is provided a copy of SCSEP Grievance Policy along with 30-day notice. Referred to other potential sources of assistance, such as American's Job Centers of California (AJCC)
Terminated for Behavioral/Conduct Reasons	 Participant must receive a 30-day notice explaining the reason for the termination. 	Participant is provided a copy of SCSEP Grievance Policy along with 30-day notice

	 Participant is exited from program at the end of the 30-day notice. 	
Terminated for IEP Related Reasons	 Participant must receive a 30-day notice explaining the reason for the termination. Participant is exited from program at the end of the 30-day notice. 	 Participant is provided a copy of SCSEP Grievance Policy along with 30-day notice Referred to other potential sources of assistance, such as American's Job Centers of California (AJCC)
Terminated for violation of the SCSEP Workplace Violence Policy or imminent harm behavior.	 Participant must receive a 30-day notice explaining the reason for the termination. Participant is exited from program at the end of the 30 days' notice. 	 Participant placed on administrative break until termination date. Participant is provided a copy of SCSEP Grievance Policy along with 30-day notice.

INQUIRIES

Inquiries regarding this directive and the policies and procedures described herein should be directed to $\underline{\text{SCSEP@wdacs.lacounty.gov}}$

Írene Pelayo, Program Manager

Workforce and Community Services Branch

Attachment 1: CDA PM 11-20 (P)

CALIFORNIA DEPARTMENT OF AGING

1300 NATIONAL DRIVE, SUITE 200 SACRAMENTO, CA 95834-1992 Internet Home Page: www.aqing.ca.qov TDD Only 1-800-735-2929 FAX Only (916) 928-2267 Phone Number (916) 419-7500



PROGRAM MEMO

CDA 1014 (R8V. 04/1		
TO: Area Age	ency on Aging Directors	NO.: PM 11-20(P)
SUBJECT: Tit	ile V/Senior Community Service	DATE ISSUED: December 2, 2011
	Program, Participant	,
Termination P	Policy	
REVISED		EXPIRES: Until Superseded
	S: Code of Federal Regulations,	SUPERSEDES:
	341 Senior Community Service	
	Program; Final Rule (September	
1, 2010)		
PROGRAMS A		
[] All [] ⁻	Title III-B [] Title III-C1/C2 [] Title III-D [] Title III-E [x] Title V
	111000 - 1	
[] CBSP [] MSSP [] Title VII [] ADHO	C [] Other:
DEASON FOR	PROGRAM MEMO:	
1	· · · · · · · · · · · · · · · · · · ·	Possesses to Inquiry 1 1 Other
[X] Change ii	Taw of Regulation	Response to Inquiry [] Other
	· · · · · · · · · · · · · · · · · · ·	
Background	The U.S. Department of Labor (DC	L) recently approved the Participant Termination
	Policy that the California Departme	ent of Aging (CDA) wrote for participants in the
	Senior Community Service Employ	ment Program (SCSEP). DOL requires
		(AAAs) with SCSEP projects to implement this
		own to all existing and incoming program
	participants.	with to the oxioting tind intolling program
	2	
D	This December 14 CD	
Purpose	I nis Program Memo transmits CD/	A's new SCSEP Participant Termination Policy to
	AAAs and explains AAAs' responsi	bilities under this policy.
	5	
Regulatory The Code of Federal Regulations, Title 20, Part 641.580(d), SCSEP Final Rule, dated		
Requirement	September 1, 2010, requires CDA	to develop a statewide participant termination
•	policy as follows:	t
		their policies concerning for-cause
	terminations in the grant applic	cation and obtain the Department's [U.S.
	Department of Labor Employn	nent and Training Administration] approval.

Action Required

Effective immediately, AAA and SCSEP staff must:

- Provide current SCSEP participants with a copy of the Participant Termination Policy.
- Amend SCSEP participant orientation materials to include the Participant Termination Policy.
- Document participants' receipt of the Participant Termination Policy in participant files.
- Revise all documents containing information about participant terminations to be consistent with the new policy.

Questions

Please address questions to your assigned SCSEP Analyst.

Analyst	PSA	Contact Information
Phil Carr	PSA 09, PSA 15, PSA 18, PSA 20, PSA 21, PSA 23, PSA 25, and PSA 30	pcarr@aging.ca.gov or 915-928-2294
Peggy Stadler	PSA 05, PSA 08, PSA 10, PSA 11, PSA 14, PSA 19, and PSA 22	pstadler@aging.ca.gov or 916-928-2292

Attachment

California Department of Aging, Senior Community Service Employment Program Participant Termination Policy

Lora Connolly Acting Director

low connelly

Participant Termination Policy

Purpose

To establish a Participant Termination Policy in compliance with U.S. Department of Labor (DOL), Employee and Training Administration regulations, 20 CFR 641.580.

Scope

This Participant Termination Policy covers the following:

- · Participant voluntary separation
- Participant involuntary termination
- Prohibitions
- Notification requirements
- Voluntary Separation Procedure
- Involuntary Termination Procedure

Participant Voluntary Separation

A participant may voluntarily separate/exit from SCSEP for any of the following reasons:

- Unsubsidized employment
- Relocation outside of the Planning and Service Area
- Retirement
- Health reasons
- Institutionalization
- Family reasons
- Incapacitation or death

Participant Involuntary Termination

A participant may be involuntarily terminated/exited from SCSEP either for reasons specified in regulation (20 CFR 641.580) or "For Cause" as determined by CDA. This policy must be applied fairly and consistently.

Participants may be involuntarily terminated from the local SCSEP Project (Project) for the following reasons specified in the regulations:

The Participant:

- Provided false information to the Project [20 CFR 641.580(a)].
- Exceeded their durational limit (48 months on program)
- [20 CFR 641.570(a)].
- Refused to accept three job offers or referrals to unsubsidized employment consistent with the participant's Individual Employment Plan (IEP) and there are no extenuating circumstances that would hinder the participant from moving to unsubsidized employment [20 CFR 641.580(e)].
- Failed to report unsubsidized employment (20 CFR 641.110 and 20 CFR 641.500).

OR

The Project:

- Found the participant ineligible for enrollment during recertification [20 CFR 641.505 and 20 CFR 641.580(b)].
- Incorrectly determined the participant to be eligible for the program [20 CFR 641.5809(c)].

Participants may be terminated involuntarily from the Project for the following "for cause" reasons:

- · Falsification of official records such as timesheets
- Physical violence or intentional destruction of property
- Obscene, abusive, harassing or threatening language or behavior
- Sexual harassment
- Imminent threat to health or safety posed by participant

Participant Involuntary Termination (continued)

- Non-compliance with substance abuse policy
- Gross misconduct such as violating the Drug and Alcohol Policy or intentionally endangering the lives of themselves or others
- Violence, including but not limited to physical or extreme verbal violence at the training site
- Violation of vacation, sick leave, or approved break policy, including failure to return from an approved break by the required date without due notice or good cause
- Frequent unexcused tardiness or absences (Tardy more than six times or absent more than three times in a six month period)
- Unauthorized possession of property belonging to the project or host agency work site
- Unauthorized release of confidential information obtained from project office or host agency
- Insubordination intentional refusal to carry out the direct instruction of a supervisor, provided there were no extenuating circumstances
- Refusal to comply with the IEP without good cause (except for violations of work referral).

IEP for cause terminations include refusal to:

- Accept training opportunities outlined in IEP.
- Accept a new community service assignment to enhance skill development in support of IEP goals.
- Accept supportive services that will enhance the participant's ability to participate in a community service assignment consistent with IEP.
- Participate in project-offered services such as job search or resume writing.
- Cooperate with the recertification, assessment, and IEP processes.

Prohibitions

Projects may not terminate participants from the program solely on the basis of their age. Also, Projects may not impose an upper age limit for participation in SCSEP [20 CFR 641.580(i)].

Notification Requirement

Projects **must provide** each participant at the time of enrollment with a **written copy** of the termination policy and grievance procedures and **must verbally review** those policies with each participant [20 CFR 641.580(g)].

Projects must give a 30-day notice to participants prior to **involuntary termination.** The notice shall explain in detail why the participant has been terminated.

For cause terminations require 30-day notice which should:

- Include sufficient information explaining why the participant is being terminated
- Provide the participant with an opportunity to conform their behavior to the rule
- Allow for progressive discipline steps and corrective action steps

Involuntary termination and for cause termination notices must inform the participant of the grievance procedure (CDA PM 11-06), and the termination must be subject to the applicable grievance procedures described in 20 CFR 641.910.

The regulations do not permit any other reasons for involuntary termination.

Voluntary Separation Procedure

Participant notification requirement:

 A 30-day notice is <u>not</u> required to be given to a participant who voluntarily separates/exits from SCSEP

Participant documentation requirement:

Participant signs and dates the SCSEP Exit Form

If it is not possible for the participant to sign the SCSEP Exit Form, then note the reason in the Exit Comments box or in a case note (caseworker must sign and date).

Involuntary Termination Procedures Chart

If Participant:	Then procedures are:	Other requirements:
Knowingly provided false information [20 CFR 641.580(a)]	 Participant must receive a 30-day notice explaining the reason for the termination. Participant is exited from program at the end of the 30 day notice. 	Participant is provided a copy of CDA's grievance policy along with 30-day notice.
Is no longer eligible for enrollment [20 CFR 641.505 and 20 CFR 641.580(b)]	 Participant must receive a 30-day notice explaining the reason for the termination. Participant is exited from program at the end of the 30 day notice. 	 Participant is provided a copy of CDA's grievance policy along with 30-day notice. Project should refer participant to other potential sources of assistance, such as the One-Stop delivery system.
Is found to be ineligible because project incorrectly determined eligibility [20 CFR 641.580(c)]	 Participant must receive a 30-day notice explaining the reason for the termination. Participant is exited from program at the end of the 30 day notice. 	 Participant is provided a copy of CDA's grievance policy along with 30-day notice. Project should refer participant to other potential sources of assistance, such as the One-Stop delivery system.
Has reached the durational limit (20 CFR 641.570)	 Participant must receive a 30-day notice explaining the reason for the termination. Participant is exited from program at the end of the 30 day notice. 	 Projects are required to follow CDA PM 10-19, Durational Limits and Transition Planning Policy. Participant is provided a copy of CDA's grievance policy along with 30-day notice. Project may refer participant to other potential sources of assistance, such as the One-Stop delivery system.

Involuntary Termination Procedures Chart (continued)

If Participant:	Then procedures are:	Other requirements:
Has reached the durational limit (20 CFR 641.570)	 Participant must receive a 30-day notice explaining the reason for the termination. Participant is exited from program at the end of the 30 days notice. 	 Projects are required to follow CDA PM 10-19, Durational Limits and Transition Planning Policy. Participant is provided a copy of CDA's grievance policy along with 30-day notice. Project may refer participant to other potential sources of assistance, such as the One-Stop delivery system.
Refused to accept three job offers or referrals consistent with the participant's IEP [20 CFR 641.580(e)]	 Participant must receive a 30-day notice explaining the reason for the termination. Participant is exited from program at the end of the 30 days notice. 	 Participant is provided a copy of CDA's grievance policy along with 30-day notice. Project may refer participant to other potential sources of assistance, such as the One-Stop delivery system.
Did not report starting unsubsidized employment to the program (20 CFR 641.110 and 20 CFR 641.500)	 Participant must receive a 30-day notice explaining the reason for the termination. Participant is exited from program at the end of the 30 days notice. 	Participant is provided a copy of CDA's grievance policy along with 30-day notice.
Was terminated for cause or for an IEP for cause action [20 CFR 641.580(d)]	 Participant must receive a 30-day notice explaining the reason for the termination. Participant is exited from program at the end of the 30 days notice. 	Participant is provided a copy of CDA's grievance policy along with 30-day notice.