

State Policy

Senior Community Service Employment Program (SCSEP)

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Termination, Exit, and Follow-up – SCSEP

Background

Eligible individuals may participate in the program for a maximum duration of 48 months in the aggregate (whether or not consecutive), from the later of July 1, 2007, or the date of the individual's enrollment in the program.¹

Policy

This Termination Policy will be followed fairly and equitably when involuntarily terminating participants. Except as noted below in the case of serious violations, participants will receive progressive discipline and an opportunity for corrective action before a formal termination notice is issued. In all cases, participants will receive a 30-day termination letter notifying them of the date of exit, the reason for the termination, and the right to appeal under Nebraska SCSEP's grievance procedure. A copy of the grievance procedure will be attached to the termination letter. Participants should be given both a copy and a verbal explanation of the Involuntary Termination Policy during orientation.

Transfer

In the event a participant is to be transferred from one SCSEP grantee or sub-grantee to another, the Transfer Policy issued by the U.S. Department of Labor shall be followed.

Prohibited Reasons for Termination

SCSEP participants may NOT be terminated because of age, nor may the project impose an upper age limit for participation in the SCSEP.

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

- Participant has reached what the sub-grantee thinks is maximum improvement under the IEP and has not been able to obtain unsubsidized employment.
- Participant is unable to carry out the duties of the community service assignment.
- Participant incompetence.
- Imposing an upper age limit for participation in SCSEP

¹ 20 CFR § 641.570(a)(1)

Involuntary Terminations

A participant can be involuntarily terminated from the SCSEP for six (6) reasons. The reasons are:

Termination Due to Knowingly Providing False information in the Eligibility Process

A participant may be terminated for fraudulent actions, such as intentionally providing inaccurate information to qualify for the SCSEP. If this occurs, the participant will be placed on Leave without Pay immediately and a 30-day notification of termination will be sent to the participant. The participant must be provided with an opportunity to clarify his or her position or to clear up any mistakes.

Termination Due to Being Incorrectly Determined Eligible

A participant may be found ineligible for participation in the SCSEP, either after enrollment or after the annual recertification, through no fault of the participant. 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 inaccurately. When this occurs, the participant will be notified regarding the error and immediately sent a 30-day notification of termination letter. The participant will be able to continue participating in the program until the date of exit as noted in the letter. Additionally, the sub-grantee could be held liable for wages paid to the participant while s/he was ineligible.

Termination Due to No Longer Being Eligible

Each participant must be recertified annually, or more frequently if there is a substantial change in circumstances, to determine if he or she continues to be eligible for participation. If a participant is determined no longer eligible due to a change in eligibility criteria such as income, family of one due to a change in disability status, employment status, and/or number of household members, the participant must be notified immediately. Notification shall consist of a 30-day written notice on the date of determination. The participant shall be allowed to continue participating in the program, with pay, and will be terminated at the end of the notice period.

Determination of ineligibility shall not be based on anticipated changes in income or family size, but only once anticipated changes occur. Such a determination shall be based on income received during the preceding 6 months, annualized, or preceding 12 months. A *Recertification form* and *Family Income Worksheet* must be completed to document this determination. Once determined ineligible, the participant shall be informed of the reason for termination in writing, using the *Program Termination Letter*, shall give the participant 30 calendar days written notice, and shall terminate the enrollment at the end of the notice period.

Termination Due to 48 Month Participation Limitation

A participant will be terminated when he or she meets the 48-month maximum participation date. No waivers shall be granted to extend the durational limit of participants. A 30-day written notice of termination before exit must be issued to the participant no later than 30 days before the 48-month maximum participation date. The participant will be able to continue participating in the program until the date of exit as noted in the exit letter.

If a participant has not attained employment before 36 months of SCSEP participation, Nebraska SCSEP and the participant will develop an exit transition IEP that will plot the participant's exit strategy. The exit strategy should include the following:

1. Identification of sources for assistance with resumes, interview skills, referrals to job openings and job fairs, job searches, and employment placement. Participants should be made familiar with the utilization of One-Stop job centers and learning centers.
2. Identification of supportive services to aid participant in their transition out of SCSEP i.e., energy assistance, food stamps, SSI etc.
3. Referrals to partners that will help them maintain connectivity to the community.
4. Referrals to appropriate One-Stop Career Centers and other WIOA partners for additional program eligibility determination.

Termination Due to Becoming Employed During Enrollment

To qualify for enrollment in the SCSEP, a participant has to be unemployed. All participants are informed that they may not be employed while participating in the program and that they must notify the program representative immediately upon becoming employed. If, at any time, Nebraska SCSEP finds a participant to be employed while enrolled in SCSEP without having notified their local office, Nebraska SCSEP will immediately give the participant written notice explaining the reason(s) for termination and will terminate the participant 30 days after the notice of termination was provided. The participant will be removed immediately from the host agency and placed on leave without pay during the 30-day notice period. Staff should concentrate on assisting these participants if they seek additional unsubsidized employment and/or referrals during this 30-day period.

Termination for Cause

A participant may be terminated for cause. For-cause terminations generally require that participants commit willful misconduct before termination is appropriate, rather than as a result of mere negligence, inadvertence, incapacity or incompetence. Termination from the program is a last resort and should be pursued only after all options have been exhausted. Reasons that may lead to termination for cause must be thoroughly documented and included in the *Participant Case Narrative*. When a participant is terminated for cause, the project shall provide a non-paid 30-day written notice for all terminations that states the basis for termination and of the right of appeal in accordance with required procedures set forth in the *Grievance Procedure*. The *Grievance Procedure* must be sent to the participant with their termination letter. If a Participant has been found to be unjustly terminated for cause, the participant will be immediately reinstated into the program. In circumstances where a participant is not permitted to continue training at their host agency and there are no other training options, a participant may be put on an approved break during the 30-day notice period.

As stated, a written non-paid, 30-day notice is required before **every** termination, and no participant may be terminated until after the 30-days' notice has expired. This time period is available in order to determine whether the participant misconduct has in fact occurred. Termination rules and procedures must be applied in a fair and consistent manner to all SCSEP Participants. The following are specific reasons; however, other similar reasons that demonstrate willful misconduct or an intentional disregard of program rules may cause involuntary termination:

IEP-related reasons:

Failure to participate in the *Individual Employment Plan (IEP)* process may be cause for corrective action and, as a last resort, termination. Repeated refusal by the participant to perform specific actions as agreed to in the *IEP*, (with no extenuating circumstances hindering the participant from moving to unsubsidized employment) may justify termination from the SCSEP. Specific actions may include refusal to accept a reasonable number of job offers (three or more), to transfer to a new community service assignment, and/or to follow through with objectives to achieve goals that are based on the *IEP*. Extenuating circumstances may include mental illness or personal circumstances, which may result in the need for further follow up and actions not previously addressed on the participant's *IEP*.

If the participant fails, without good cause, to cooperate fully with Nebraska SCSEP staff to accomplish the goals of his or her service strategy, an IEP-related termination "for-cause" may be in order. Examples of lack of cooperation with Nebraska SCSEP staff to accomplish IEP service strategies may include but are not limited to the following when provided for in the participant's *IEP*:

- Refusal to search for a job
- Refusal to accept three or more job offers to unsubsidized employment consistent with the *IEP*, when there are no extenuating circumstances that would hinder the participant from moving to unsubsidized employment;
- Sabotaging a job interview, including telling the interviewer that he or she is not interested in the job or tells the interviewer that he or she is not qualified.
- Unwillingness to perform assigned training or tasks as agreed to in the *IEP*
- Intentional refusal to carry out the direct instruction of a supervisor or project staff, provided there were no extenuating circumstances
- Refusal to accept a new community service training assignment aligned with their employment goals
- Refusal to register at the One-Stop/Job Service
- Refusal to take advantage of WIOA and other partner opportunities
- Refusal to accept or lack of follow-through in obtaining supportive services that will enhance the participant's ability to train, conduct job search activities, and/or participate in a community service assignment consistent with the *IEP*
- Refusal to cooperate with other IEP-related referrals
- Refusal to cooperate with the assessment or IEP process, e.g., refusing to participate in completing the assessment and development of the Individual Employment Plan

A participant cannot be terminated for IEP-related reasons until Nebraska SCSEP Administrative approval is received. The request will be approved only if both Nebraska SCSEP and U.S. Department of Labor criteria are met. Effort should be taken at the sub-grantee level to ensure the request meets all requirements before submitting it to the Nebraska SCSEP Administrative staff. The proper steps must be taken at the local project site before asking Nebraska SCSEP staff to approve a termination.

There are five criteria that must be adhered to before IEP-related terminations will be considered:

1. **Notification:** All participants must be informed during orientation, as well as during each quarterly meeting, that failure to work towards meeting IEP objectives could be a basis for termination from SCSEP.
2. **Consistency:** Rules and procedures must be applied in a fair and consistent manner to all participants. Staff cannot request a termination of one participant over another solely because of personality issues. “Difficult” participants cannot be terminated without being given the same consideration and support in achieving their IEP objectives as more cooperative participants.
3. **Validity:** The IEP must reflect clearly and accurately the goals of the participant. A participant’s failure to adhere to vaguely worded IEP objectives and action steps will not be considered a valid reason for an IEP- related termination by Nebraska SCSEP or DOL. Further, the IEP objectives must be consistent with the participant’s capabilities and interests.
4. **IEP Change:** An IEP may be modified to reflect a situation that was not considered in the original IEP. In such situations, a modification to the IEP would be more appropriate than requesting an IEP-related termination.
5. **Adequate Procedures:** When a participant’s actions are not consistent with the IEP, the sub-grantee must explore the cause in every case. A corrective action plan must be developed and shared with the participant whenever his/her actions are inconsistent with the IEP objectives. The notice or letter must provide time frames for the participant to respond to the SCSEP staff.

Step One – Participant is given a verbal warning that his/her progress on IEP steps is not sufficient; Warning should be document in the *Participant Case Narrative*. Participant should be given a new copy of the *IEP (or IEP Update)* with clear guidelines/action steps that must be completed within 30 days.

Step Two – If non-compliance is continued during that 30-day period, project staff should notify the participant (in writing) and should thoroughly document the following findings in the *Participant Case Narrative*:

1. The participant has not completed the agreed upon action steps;
2. What guidelines/action steps must be accomplished to continue enrollment (with a period no less than 14 days); and
3. If these guidelines/action steps are not met by the end of the 14-day period, the participant will be given a 30-day termination letter. Participant may be removed from their host agency and be placed on a leave without pay, if applicable.

Step Three – Provide the participant with a 30-day termination letter and a copy of the Grievance Policy. The termination letter must cite the specific reason(s) the participant did not fulfill his or her *IEP* responsibility. The termination letter must comply with all Nebraska SCSEP termination letter guidelines. This information should be thoroughly document in the *Participant Case Narrative*.

Nebraska SCSEP Approval Process for IEP Terminations

During the 14-day period in step two, the sub-grantee must contact Nebraska SCSEP staff with evidence of the following steps, for approval:

1. The sub-grantee must have developed a valid IEP for the participant with the participant's input. Furthermore, the participant must have agreed to the requirements of the IEP, as indicated by their signature;
2. The sub-grantee must submit copies of any documents which describe or enumerate the participant's inability to meet the IEP objectives. Copies of any letters which were given to the participant should be included as attachments, as well as copies of any case notes or other supporting documentation related to discussions with the participant. The documents should describe clearly what has happened and the steps the sub-grantee took to help the participant to resolve the relevant IEP issues. All IEP progress reviews should be sent with the request.
3. The participant must have been given sufficient time to follow through with the actions and activities on the IEP. Nebraska SCSEP Administrative staff will review the information received to determine if DOL and Nebraska SCSEP criteria were met and notify the sub-grantee accordingly.

Non-IEP related reasons:

- Refusal to cooperate in recertifying eligibility, such as failure to provide required document to determine continued eligibility or refusing to attend or be available for the recertification appointment by the recertification deadline
- Failure or refusal to perform assigned duties, e.g., refusing without good cause to do assignments that are part of the training description and required to increase skills and knowledge
- Falsification of official records, such as timesheets, and other documents. For example, intentionally signing the signature of the host agency supervisor on a timesheet or other official document, or including hours on a time sheet that are not accurate.
- Intentional disclosure of confidential or private information obtained from the host agency, grantee, or local project. For example, informing others of information that is supposed to be kept private or confidential.
- Frequent tardiness or unauthorized absences, including reporting to the assignment late or not reporting to the assignment and not informing the supervisor. Generally, three instances of absence without good cause or without proper notice may warrant termination.
- Insubordination, defined as intentionally refusing to carry out the direction or instructions of a host agency supervisor or sub-grantee staff member, provided there were no extenuating circumstances and the directions or instructions were reasonable
- Workplace harassment or discrimination on the basis of sex, race, color, religion, national origin, age, marital status, or disability
- Obscene, abusive, harassing, or threatening language or behavior
- Physical violence or intentional destruction of property, for example, being violent and threatening to or carrying out threats that physically harm individuals or property.
- Theft, meaning illegal taking or withholding the property of another without permission

- Conviction of a felony or any criminal drug statute for a violation occurring in the workplace while on or off duty, or while on duty away from the workplace
- Causing an imminent threat to health or safety of self or others
- Non-compliance with drug and alcohol free policy, which prohibits participants from consuming, selling, purchasing, manufacturing, distributing, possessing or using any illegal or non-prescribed drug or from being under the influence of alcohol and or drugs while performing their host agency assignment or while carrying out objectives required by the IEP. Legally prescribed medications are excluded if they do not affect the participant's ability to perform his or her duties or protect the safety of the participant or others.
- Exceeding approved Leave without Pay by failing to return from an approved break by the required date without due notice or good cause.

Participant Corrective Action and Warning

A participant will be given an opportunity to correct his or her behavior or conduct, except in cases involving serious harm or imminent threat to health, safety, property, etc. At any point, if a participant makes positive efforts or the participant's lack of action is justified, corrective action will be discontinued. The following steps for corrective action will be taken:

First Formal Warning

If a participant displays behavior or conduct outlined in the reasons for "for-cause" terminations, the participant will be given a verbal warning and counseled to correct his or her actions. Absent extenuating circumstances, the participant will be informed in writing by the sub-grantee management of the requirement to correct his or her behavior or conduct.

Second Formal Warning

When a participant for a second time displays behaviors or conduct outlined in the reasons for "for-cause" terminations, the participant will be verbally warned and counseled to correct his or her actions. Absent extenuating circumstances, the sub-grantee will send the participant a written warning that he or she has 30 days from the date of the letter to correct his or her behavior or conduct.

When a participant does not make improvement in his or her actions or for a third time displays behavior or conduct outlined in the reasons for "for-cause" terminations, a letter will be sent notifying the participant that he or she will be exited 30 days from the date of the letter.

For-Cause Terminations that Require Immediate Removal from Host Agency and Leave without Pay Pending Termination

When a participant's violation of the Nebraska SCSEP policy is of a serious nature, immediate action to remove the participant from the host agency may be required. In this case, the participant will be placed on leave without pay and a written 30-day notice of termination sent. Examples of circumstances warranting immediate removal from the host agency and leave without pay include, but are not limited to:

- Gross misconduct such as violating sub-grantee's 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

No Fault Termination

If the participant is terminated through no fault of their own, the participant shall receive a 30-day written notice of termination immediately. A participant does not have to be removed from their host agency during the 30-day notice period and will continue to receive training stipends during this 30-day period, as long as they continue to train at their host agency or are involved in documented job search activities. No fault termination includes termination for income-ineligible participants (at recertification) or if the participant was enrolled by mistake or income miscalculation of the sub-grantee staff. The terminated participant should be referred to other potential sources of assistance, such as the America's Job Center's delivery system.

Termination of Missing Participants

Participants have an obligation to keep in touch, thus their failure to do so justifies termination. In circumstances where missing participants have not received training dollars for significant periods of time, it may be appropriate to put them on a leave of absence from the last day of paid training until the exit date on the 30th day specified on their termination letter. In the event a participant does not contact SCSEP staff on or before the expected end date for their leave of absence, they may be terminated for cause. Program staff must attempt to connect with the participant no less than three times using at least two forms of communication.

Termination Letter

Participants terminated for any reason must be given a *Program Termination Letter*. The *Program Termination Letter* must state that the participant is being terminated within 30 days of the date of the letter. The letter must cite the reason for termination, the participant's right of appeal, appropriate time frames, and the name of the SCSEP representative to whom an appeal may be made. It must also include details about why the participant was terminated, citing the incidents or causes and must state whether it is a paid or non-paid 30-day termination notice. A copy of the grievance procedure must be mailed out with the termination letter. All participants must be informed of their rights and process to appeal any termination action. A copy of the termination letter shall be attached to the Exit Form and filed in the case record of the participant.

Documentation of Termination

Administrative or IEP-related terminations should be listed on the *Exit Form* as "For Cause" and filed in the participant's case record. The Termination Letter, which includes the detailed description of why the participant was terminated, should be attached to the *Exit Form*.

Additionally, the reason and documentation of the justification for termination should be recorded in the *Participant Case Narrative*, along with documentation of all steps taken and eventual outcome plans for bringing the participant into compliance. While the *Exit Form* and *Termination Letter* are considered "formal write-ups" and explain the reason for termination, the *Participant Case Narrative* should justify the termination.

Neither Participant nor Host Agency Shall Terminate

No participant shall terminate another participant or sign the Termination Letter. No representative of a host agency shall terminate a participant or sign the Termination Letter, except when the host agency is the Nebraska SCSEP project.

Notification of Termination Policies

During orientation, each participant is informed in the *Participant Handbook* of program termination policies and of any other policies of the project that pertain to them. The project must verbally review the requirements with each participant at the time of enrollment and again at recertification, noting that terminations are subject to the applicable grievance procedures.

A copy of the grievance procedures must be included with the 30-day notice of termination. All terminations are subject to the Nebraska SCSEP grievance procedure.

Voluntary Exits

Voluntary Exits may include, but are not limited to:

Unsubsidized Employment

The goal of SCSEP is to assist program participants to exit the program into unsubsidized employment. Efforts to place the participant into unsubsidized placement should begin once the participant has been determined by documented assessment and the attainment of the skills identified in the IEP, to be job ready. Placement shall be documented on the Unsubsidized Employment Form and entered into the approved DOL/ETA grant management software. Documented efforts entered into case notes are to include, but not be limited to:

1. Coordination with local Nebraska One-Stop to register the participant in NEworks, to identify suitable, unsubsidized employment opportunities, and to identify other forms of job-related assistance;
2. Discussion(s) with host agencies to hire qualified participants;
3. Guidance and assistance provided to participants to contact public and private employers to identify suitable employment opportunities and arrange for interviews.

Voluntary Termination

Nebraska SCSEP should request a written notification from the participant indicating their desire to exit the program voluntarily and include the effective date of exit (last day of participation). This written notification shall be retained in the participants program file.

If it appears that no appropriate host agency can be secured, the participant may choose to exit for personal reasons. If this is the case, the *Participant Case Narrative* must clearly contain all attempts at placement and actions taken by both the participant and Nebraska SCSEP staff to address barriers to placement. The participant, with their approval, should be connected with additional resources prior to exit. For this purpose, “Administrative Reasons” is not to be used as an Exit reason.

Moved from the Area

Sub-grantees should request a written notification from the participant indicating their plans to exit the program due to moving from the area. This notice is to include the effective date of exit (last

day of participation). This written notification shall be retained in the participant's program file. The participant should be provided the location and contact information for the SCSEP program and One-Stop center in the area they are moving to. With the participant's approval, a referral should also be made to the One-Stop center in the area the participant will be moving to.

Exit Procedure

Exit Form

An *Exit Form* shall be completed for each participant whose enrollment has ended regardless of reason or circumstance (for cause termination, unsubsidized placement, voluntary, health, etc.) If the exit is for any reason other than unsubsidized employment, the *Exit Form* is the final document in a participant's case record. If the participant exits for unsubsidized employment, then the exit form is not the final case closure form. In this case, an *Unsubsidized Employment Form* must also be completed. The signature of the participant on the *Exit Form*, on or very near the date of exit, is sufficient corroboration of the exit date.

Re-enrollment

Participants who have exited for any reason provided they are not job ready and meet other eligibility requirements may be considered for re-enrollment following the Nebraska SCSEP Eligibility Policy.

Right of Return

If a participant has exited the program to enter unsubsidized employment, a SCSEP "Entered Employment" status will not occur until the participant has been employed for 30 days within the first 90 days after exit. Should the unsubsidized employment last for fewer than 30 days in the first 90 days after exit, the participant is entitled to re-enter the program and be assigned to a new host agency without having to re-enroll (i.e., not subject to priorities of service and can begin without a new *Participant Intake form*.) If there are no available slots in the program, the participant will be on leave without pay until a slot opens; once a slot opens, the participant can be assigned to the new host agency or be on "job search" status and can receive training wages.

If the participant elects to return to the program, the exit must be deleted in the database (the reason for exit, date of exit, and assignment end date), but maintained on the paper Exit form. The paper Exit form must be kept on file with a note explaining the failed placement.

Follow-up

Conducting follow-up only to gather the required information for the DOL database is not sufficient. Follow-up is required in order to provide case management to the newly placed participant, to establish or maintain contact with the employer, to deliver the customer service survey to the employer, and to obtain information needed for the performance measures.

Three required follow-ups are to be conducted. Results of the follow-ups are to be recorded in the approved DOL/ETA grant management software. Each follow-up must be completed in the program year in which the reporting quarter falls.

Follow-Up	Captures "Common Measure" data for:	Activity Period Covered	Reporting Period Covered	Scheduled Follow-up Date
1	Entered Employment	2nd quarter after exit quarter	2nd quarter after exit quarter	1st day of 2 nd quarter after exit quarter
2	Employment Retention	4th quarter after exit quarter	4th quarter after exit quarter	1st day of 4th quarter after exit quarter
3	Average Earnings	2nd quarter after exit quarter	2nd quarter after exit quarter	1st day of 2nd quarter after exit quarter

Follow-up shall include, but is not limited to, the following:

1. Determine if the job placement is an appropriate match for the participant and the employer and is satisfactory to the participant and the employer. Should a problem be identified with the job placement, Nebraska SCSEP staff shall work with the participant and the employer to resolve the problem.
2. Assist former participants who are no longer employed to become employed again before the next follow-up milestone.
3. Identify and provide SCSEP services required by the participant and/or the employer. This may include referrals for direct services Nebraska SCSEP is unable to provide.
4. Maintain contact with the participant and their employer at least quarterly within 12 months of placement. Each follow-up shall be documented in case notes. Contacts shall be made based on system calculated dates in the approved DOL/ETA grant management software. Failure to complete and obtain follow-up information will negatively affect sub-grantee performance measures.

Follow-up activities must be properly documented in the participant's file, including official records establishing wages earned by the participant. Documentation on actual earnings is required for every pay period claimed. Proof of a single pay period cannot be multiplied by 13 weeks in order to obtain earnings for an entire quarter. Documentation may include, but is not limited to:

1. A written statement of earnings from employer or paystubs issued to the participant. The written documentation of the amount of all earnings claimed must come directly from the employer.
2. Detailed case notes. In addition to the standard requirements for all case notes, the notes must also detail actual earnings for each increment claimed. The information must come from the employer. For example, a call to employer documented by a detailed case note is acceptable.
3. Pay stubs
4. Participants may sign a self-attestation form ONLY if the employer has not provided information on wages after reasonable efforts (e.g. 3 unanswered calls or messages) were made to obtain this information. NOTE: If a participant signed self-attestation is used, case notes must also document all efforts to obtain the required information from the employer.

PII and Record Retention

Nebraska SCSEP, the sub-grantee, and host agencies shall ensure the confidentiality of participant information. Confidential information shall be maintained in locked files. If electronic records are utilized, confidential information must be secured.

All required documentation, both fiscal and programmatic, must be retained for three program years after the end of the program year in which the document was generated. For participants who enter unsubsidized employment after exiting the program, this means three program years after the end of the program year in which all follow-up activity is ended.

If documentation is missing, reasonable steps must be taken to recreate the required information. If documents are recreated, case notes should be documented in detail to identify action taken.

Disclaimer

This policy is based on NDOL's reading of the applicable statutes, regulations, rules and guidance released by the U.S. Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.