STATE OF TENNESSEE
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF WORKFORCE SERVICES
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Workforce Services Policy – Workforce Services (SCSEP Termination Policy) - WIOA

Effective Date: November 2016
Duration: Indefinite

Subject:
Voluntary/Involuntary Termination of Participants "for cause or otherwise"

Purpose:
To inform subgrantees and SCSEP Participants of Termination Regulations

Scope:
Office of the Governor, Tennessee Department of Labor and Workforce Development (TDLWD), Tennessee Department of Economic and Community Development (TDECD), Tennessee Department of Education (TDOE), Tennessee Eligible Training Providers (TTPLs), Department of Human Services (TDHS), Adult Education (AE), Rehabilitation Services (RS), Office of Registered Apprenticeship (RA), State Workforce Development Board (SWDB), Division of Workforce Services (WFS), Regional Council (RC), American Job Center (AJC), American Job Center Operator (AJC Operator), American Job Center Access Point (AJC Access Point), Workforce Innovation and Opportunity Act (WIOA), Local Workforce Development Boards (LWDBs), Chief Local Elected Official (CLEO), Local Workforce Development Areas (LWDAs), other Workforce System Subrecipients (Subrecipients), Workforce System Partners (Partners)

References:
20 CFR 641.580; Section 641.580 of SCSEP

Background:
Under the Senior Community Service Employment Program ***(20CFR 641.580)*** as stated, grantees are required to have written policies governing all involuntary terminations of

participants "for cause or otherwise."

Termination:
No participant may be terminated except in accordance with Tennessee Department of Labor and Workforce Development's (TDLWDs) SCSEP's Termination Policy. All participants have the right to appeal under TDLWDs SCSEP grievance procedure within 30 days of termination letter. A copy of the grievance procedure will be attached to the termination letter. Terminations and processes are listed below.

Voluntary Termination:
If a participant decides to voluntarily resign, one week notice should be provided by the participant, and the reason for resigning should be stated. If a participant has obtained an unsubsidized job, the participant should inform and work with his or her SCSEP Director/Coordinator to gather necessary information for the participant's exit. Project staff may ask the participant to submit copies of acceptable documentation to verify the reason for exiting SCSEP.

Participant's Involuntary Termination:
Each subgrantee's/local Program Director/Coordinator will make terminations in accordance with the involuntarily terminations in accordance with the involuntary terminations listed below. There are seven (7) reasons a participant may be involuntarily terminated from the SCSEP. The reasons are listed below along with an explanation. This Termination Policy will be followed fairly and equitably when involuntary terminating participants. Participants will not be terminated on account of age; there is no upper-age limit for participation in SCSEP. Except as noted below, in the case of serious violations, participants will receive counseling and an opportunity for correcting 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 and the reason for the termination. Participants will receive both a copy and a verbal explanation of the Involuntary Termination Policy during orientation. This policy is based on ***Older American Act Amendments of 2006 and the SCSEP Final Rule effective on September 1, 2010.***

1. 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 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.

2. Incorrectly Determination of a Participant as Eligible
A participant through no fault of that participant, will be terminated if found ineligible for participation in the SCSEP. This termination may occur either after the enrollment or after the annual recertification. A participant may be enrolled or deemed eligible or after the annual recertification. A participant may be enrolled or deemed eligible, for continued

enrollment based on an error in determining program eligibility, such as the inaccurate recording and/or calculation of income. 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 noted in the letter.

3. Termination Due to No longer Being Eligible

Annually, or more frequently if there is a substantial change in the participant's circumstances, each participant is recertified to determine if he or she continues to be eligible for the program. During the recertification, a participant may be determined ineligible, due to the a change in eligibility criteria, such as income, family of one due to a change in disability status, employment status, and a number of household members. The participant will be notified 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 noted in the letter.

4. Termination Due to 48 Month Participation Limitation

A participant will be terminated when he/she meets the federally–guided 48-month maximum-participation date without the possibility of extension. The participant will be notified by letter 90 and 30 days before exit.

Transitional assessment will be provided to all participants who are approaching their four year limit on participations, and who are still not job ready. The transition assessment is intended to help develop a post-SCSEP survival plan by the time the participant completes his or her duration in the program.

Participants have an option to decline the transition assessment process. If they decline, project staff must document this decision with detailed case notes.

5. Termination Due to Becoming Employed During Enrollment

To qualify for enrollment in SCSEP, a participant must be unemployed; all participants are informed that they may not be employed while participating in the program and that they must inform the program representative immediately upon becoming employed. A participant, who is discovered to be employed, while enrolled without notifying the program of the employment, will be terminated from the program. 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.

6. Termination for Cause

Any participant terminated 'for cause' will receive an immediate written notice stating the reason(s) for termination and a 30-day notice of the pending termination date. Behaviors that may lead to termination for discipline should be documented and included in the project records.

a) Income eligibility determined at recertification
b) Unwillingness to perform assigned duties without good cause
c) Refusal to accept a different community service assignment that is consistent with the IEP without good cause
d) Frequent tardiness or unauthorized absences, including reporting to the assignment late or not reporting to the assignment and not informing the supervisor. Generally, instances of absence without good cause or without proper notice may warrant termination.
e) Falsification of time sheets or other officials records (those proving false information must be referred to American Job Center (AJC) or appropriate partner)
f) Insubordination, defined as intentionally refusing to carry out the direction or instructions of a host agency or SCSEP staff member, provided there were no extenuating circumstances and the directions or instructions were reasonable
g) Non-Compliance with the drug and alcohol free policy, which prohibits participants from consuming. selling purchasing, manufacturing, distributing, possessing, or using any illegal or non-prescribed drug; 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
h) Using obscene, abusive, harassing or threatening language or behavior
i) Theft, meaning illegal taking or withholding of the property of another without permission
j) 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
k) Physical violence or intentional destruction of property, for example, being violent and threatening to or carrying out threats that physically harm individuals or property
l) Causing and imminent threat to health or safety to self or others. Legal prescribed medications are excluded if they do not affect the participant's ability to perform his /her duties or to protect the safety of the participant others.
m) Workplace harassment or discrimination on the basis of sex, race, color, religion, national origin, age, marital status or disability
n) Exceeding approved leave without pay by failing to return from an approved break by the required date without due notice or good cause
o) For-Cause Termination that requires immediate removal from the host agency and leave without pay pending termination

When a participant's violation of a Tennessee department of Labor and Workforce Development (TDLWD) policy is of a serious nature, immediate action to remove the participant form the host agency may be required. In this case, the participant will be placed on leave without pay, and a written 30day notice of termination will be sent to the participant. Examples of circumstances warranting immediate removal from the host

agency and "Leave without Pay" include:

a) Gross misconduct, such as violating TDLWD's Drug and Alcohol Policy or intentionally endangering the lives of oneself or others
b) Violence, including physical or extreme violence at the training site
c) Individual Employment Plan terminations

Failure to participate in the IEP process may be cause for corrective action and, as a last resort, termination. Repeated refusal (three instances) to perform specific actions as agreed to in the IEP may result in termination. Prior to an IEP related termination, the participant will be given a chance to correct the offending action. Written notice shall be given to that participant citing a specific incidence in which participant did not fulfill his/her responsibility. The notice must list the specific event, cite the jointly signed agreement provision and provide time for corrective action.
Participants may be terminated for refusing to accept three job offers or referrals appropriately related to his or her IEP without good cause. The participant will be notified 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 noted in the letter.

The following is a list of action steps that could be a part of an IEP:

1) Job searching and submitting required documentation;
2) Attending a job interview;
3) Accepting an initial or alternative training assignment;
4) Registering at the local AJC for employment
5) Improving personal habit or appearances;
6) Participating in workshops, training etc.;
7) Pursuing A GED; and
8) Working on putting support services in place

Participant Corrective Action and Warning:
A participant will be given an opportunity to correct his or her behavior or conduct, or his or her failure to comply with IEP requirements 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.

Step 1: First Formal Warning
If a participant displays behavior or conduct outlined in the reasons "for cause" terminations or refuses to comply with the IEP requirements, the participant will be given a verbal warning and counseled to correct his or her actions by the Local SCSEP Project Director/Coordinator. Absent extenuating circumstances, the participant will be informed in writing by the Local SCSEP Project Director/Coordinator of the requirement to correct his or her behavior or conduct.

Step 2: Second Formal Warning
When a participant for a second time displays behaviors or conduct outlined in the reasons "for cause" terminations or refused to comply with the IEP requirements, the Local SCSEP Project Director /Coordinator will meet with the participant and provide a written warning along with providing counseling that he or she has 30 days to correct his or her behavior or conduct. Absent extenuating circumstances, the Local SCSEP Project Director/Coordinator 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. In the case of an IEP violation, the participants may be directed to complete a specific IEP–related task. The written warning will include a statement that failure to make improvements or complete the IEP–related task will result in termination.

Step 3: When a participant does not improve his or her actions, or for a third time displays behavior or conduct in the reasons "for cause" terminations, a letter will be sent by the Local SCSEP Project Director /Coordinator notifying the participant that he or she will be exited 30 days from the date of the letter.

Contact:
For any questions related to this policy, please contact Nicholas Bishop - Director of Compliance and Policy for Workforce Services at Nicholas.Bishop@tn.gov

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Sterling van der Spuy, Administrator