

STEVE FRANKS
DIRECTOR
OC COMMUNITY RESOURCES

RYAN DRABEK
DIRECTOR
OC ANIMAL CARE

KAREN ROPER
DIRECTOR
OC COMMUNITY SERVICES

MARK DENNY
DIRECTOR
OC PARKS

HELEN FRIED
COUNTY LIBRARIAN
OC PUBLIC LIBRARIES

December 30, 2011

TO: SCSEP Contractors of the Orange County
Workforce Investment Area

FROM: Andrew Munoz *AM*
Community Investment Division/
OC Workforce Investment Board Executive Director

SUBJECT: Participant Termination Policy
Information Notice No. 11-OC SCSEP-01

PURPOSE:

This Information Notice transmits California Department of Aging's (CDA) new Participant Termination Policy to Senior Community Service Employment Program (SCSEP) providers and explains the provider's responsibilities under this policy.

BACKGROUND:

The U.S. Department of Labor (DOL) recently approved the Participant Termination Policy that the CDA wrote for participants in SCSEP. DOL and CDA require that all SCSEP providers implement this policy immediately and make it known to all existing and incoming program participants.

EFFECTIVE DATE:

This policy is effective upon release and remains in effect until superseded.

REFERENCES:

- Older Americans Act (OAA) Amendments of 2006
- Code of Federal Regulations, Title 20, Part 641 Senior Community Service Employment Program; Final Rule (September 1, 2010)
- CDA Program Memo PM11-20(P)
- CDA, SCSEP Participant Termination Policy

The Orange County Workforce Investment Area (OCWIA) will adopt and enforce the attached CDA SCSEP Participant Termination Policy.



ACTION:

- 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.

INQUIRIES:

Inquiries regarding this policy may be directed to the following:

- Ron Milone (714) 480-6431; Ron.milone@occr.ocgov.com
- Jaclyn Canzone (714) 480-6430; Jaclyn.canzone@occr.ocgov.com

ATTACHMENT:

CDA, SCSEP Participant Termination Policy

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
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California Department of Aging (CDA)
Senior Community Service Employment Program (SCSEP)
Participant Termination Policy, continued

**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

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California Department of Aging (CDA)
Senior Community Service Employment Program (SCSEP)
Participant Termination Policy, continued

**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)].

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California Department of Aging (CDA)
Senior Community Service Employment Program (SCSEP)
Participant Termination Policy, continued

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 **not** 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).

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California Department of Aging (CDA)
 Senior Community Service Employment Program (SCSEP)
Participant Termination Policy, continued

**Involuntary
 Termination
 Procedures
 Chart**

If Participant:	Then procedures are:	Other requirements:
Knowingly provided false information [20 CFR 641.580(a)]	<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • 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)]	<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • 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)]	<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • 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)	<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • 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.

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California Department of Aging (CDA)
 Senior Community Service Employment Program (SCSEP)
Participant Termination Policy, continued

Involuntary Termination Procedures Chart
 (continued)

If Participant:	Then procedures are:	Other requirements:
Has reached the durational limit (20 CFR 641.570)	<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • 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)]	<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • 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)	<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • 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)]	<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • Participant is provided a copy of CDA's grievance policy along with 30-day notice.