

TECHNICAL ASSISTANCE

Date: 11/09/2023

Contact: SCSEP@dwd.in.gov

Program: Senior Community Service Employment Program (SCSEP)

Subject: DWD Technical Assistance 2023-02
SCSEP Grievance Procedure

Purpose

To provide an overview of the complaint process for the Senior Community Service Employment Program (SCSEP).

References

- WIOA Section 188
- Title V of the Older Americans Act
- Title VI of the Civil Rights Act of 1964
- Section 504 of the Rehabilitation Act of 1973
- 20 CFR 641.110, 641.200, 641.505, 641.570, 641.580, and 641.910
- 29 CFR Part 38
- IC 4-21.5-1-15
- IC 4-21.5-5 et seq
- Indiana Department of Workforce Development Senior Community Service Employment Program, Notice of Award PY2023
- TEGL 18-22 *Program Year (PY) 2023 Planning Instructions and Allotments for Senior Community Service Employment Program (SCSEP) State, Territorial, and National Grantees*
- DWD TA 2021-07 *Complaint Procedures for WIOA Nondiscrimination and Equal Opportunity Provisions*
- DWD Policy 2016-09 *Equal Opportunity and Nondiscrimination Guidance Letter*

Content

Background

DWD is the grant recipient of a SCSEP award from the United States Department of Labor (USDOL). SCSEP serves unemployed low-income persons aged 55 years and older who have poor employment prospects by training them in part-time community service assignments. SCSEP also assists participants

in developing skills and experience to facilitate their transition to unsubsidized employment.¹ As a result, this program fosters individual economic self-sufficiency by increasing the number of older persons who may enjoy the benefits of unsubsidized employment in both the public and private sectors.

SCSEP is authorized by Title V of the Older Americans Act (OAA) and is also a required partner under the Workforce Innovation and Opportunity Act (WIOA) one-stop delivery system. When acting in their capacity as WIOA partners, SCSEP grantees and sub-recipients (also referred to as sub-grantees throughout this guidance) must follow all applicable rules under WIOA and its regulations.² Further, 20 CFR 641.910 requires that grantees establish grievance procedures for resolving complaints arising from the grantee, employees of the grantee, sub-recipients, and applicants or participants. DWD and all sub-recipients implementing SCSEP must:³

1. Make their grievance procedures available to applicants, employees, and participants.
 - a. These procedures must be used to resolve complaints arising between the grantee, employees of the grantee, sub-recipients, and applicants or participants; and
 - b. Must be implemented fairly and consistently.
2. Participants and employees must be informed of the formal grievance procedures at the time of enrollment or hire and the importance of following these procedures exactly to ensure compliance with federal requirements.
 - a. During participant orientation, intake staff must discuss the grievance procedures and give each participant a copy of the procedures.
 - b. Documentation of all adverse actions and steps to resolve complaints must be maintained.
3. A participant may file a grievance for the following reasons:
 - a. Denial of eligibility at application and recertification;
 - b. Denial of paid training or supportive services;
 - c. Disputes over wages, work hours, assignments, Individual Employment Plans, working conditions, approved breaks, compensation for necessary sick leave and/or federal holidays;
 - d. Any disciplinary actions;
 - e. All termination, including individual durational limits;
 - f. Reduction in work hours;
 - g. Alleged discrimination based on race, creed, color, sex, age, disability, national origin, religion, political affiliation, ethnicity, sexual orientation, or health related issues; or
 - h. Other areas as deemed appropriate by DWD.

Participant Termination

Written notices of termination, including the reason for the action and appeal procedures, will be given to the participant when a decision has been made to terminate program participation.⁴ Participants will have the right to appeal any termination decision. A participant may not be terminated until thirty (30) calendar days after they have been provided a written notice. However, the participant can be put on an immediate leave of absence while the investigation ensues.

¹ 20 CFR 641.110.

² 20 CFR 641.200.

³ SCSEP NOA.

⁴ **Attachment B** *SCSEP Reasons for Termination*.

Civil Rights Violations

In accordance with WIOA Section 188 and its implementing regulations at 29 CFR Part 38, all WIOA required partners such as SCSEP are responsible for complying with equal opportunity and nondiscrimination complaint procedures. Any person who believes that he or she, or any specific class of individuals, has been or is being subjected to discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, or related medical conditions, gender identity, and transgender status), national origin (including limited English proficiency), age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in WIOA Title I has the right to file a complaint within one hundred and eighty (180) calendar days of the alleged discrimination. Those interested in filing a discrimination complaint should follow the processes outlined in DWD TA 2021-07 *Complaint Procedures for WIOA Nondiscrimination and Equal Opportunity Provisions*.

Aside from the processes detailed in DWD TA 2021-07, questions about or complaints alleging a violation of the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964, sec. 504 of the Rehabilitation Act of 1973, sec. 188 of WIOA, or their implementing regulations, may be directed or mailed to:⁵

**Director, Civil Rights Center
U.S. Department of Labor
Room N-4123
200 Constitution Avenue N.W.
Washington, DC 20210.**

Complaint Process

SCSEP Participants are strongly encouraged to discuss their complaint informally (either verbally or in writing) with the Sub-Grantee SCSEP Regional Manager prior to beginning the formal complaint process. Should no resolution be achieved, the SCSEP participant may initiate a formal complaint. Allegations of violations of federal law (other than violations related to Equal Opportunity provisions) which are not resolved within sixty (60) days by DWD through the process outlined below may be filed by the complainant with:⁶

**Chief, Division of Adult Services
Employment and Training Administration U.S. Department of Labor
200 Constitution Avenue N.W.
Washington, DC 20210**

The following process will be implemented regarding resolution of any grievance/complaint within SCSEP arising between grantee, sub-grantees, applicants, or participants:

- 1. Written Complaint**
 - a. The complainant must contact the Sub-Grantee Director of Regional Operations and DWD SCSEP Director in writing to begin the formal grievance procedure. The written

⁵ 20 CFR 641.910(d).

⁶ 20 CFR 641.910(c).

complaint should be submitted through the process described in **Attachment A SCSEP Written Complaint Submission Process**.

- b. The complainant will be allowed the opportunity to further discuss the problem either by telephone or in person. The Sub-Grantee Director of Regional Operations (or a designated representative) will contact the complainant to investigate the grievance within three (3) calendar days of receiving the written complaint.
- c. The Sub-Grantee Director of Regional Operations (or a designated representative) will then provide a written response within five (5) calendar days of contacting the complainant.

2. Appeals

a. Administrative Review

- i. If the complainant is unsatisfied with the decision on the written complaint, they have the right to appeal in writing to the DWD Director of WIOA Title I within three (3) calendar days of receipt of the decision from the Sub-Grantee Director of Regional Operations or their designee.
 1. The appeal must state relevant facts concerning the allegation(s).
 2. The appeal must include complainant's address so that official notices can be mailed to complainant.
 3. Appeals must be directed to:

DWD Director of WIOA Title I
10 N. Senate Ave Rm SE100
Indianapolis, IN 46204
WIOATitle1@dwd.IN.gov

- ii. The complainant will be allowed the opportunity to further discuss the problem either by telephone or in person.
 - iii. The DWD Director of WIOA Title I will select an Administrative Review Committee comprised of three (3) DWD staff members who were not involved in the initial decision. This committee will conduct a review and send notice of its decision to the parties within twelve (12) calendar days of receiving the request for an administrative review.
- ### b. Appeal of Administrative Review
- i. An appeal of the administrative review decision must be submitted electronically to WIOATitle1@dwd.in.gov or mailed to the DWD Director of WIOA Title I within five (5) calendar days of the notice of the administrative review decision. The request for an appeal of the administrative review decision must include the following:
 1. Name and address of complainant;
 2. Copy of administrative review decision;
 3. Justification for appeal; and
 4. Any documentation to support the appeal's justification.

- ii. A hearing will be scheduled and conducted no more than fourteen (14) calendar days after the appeal has been filed, and a decision will be issued no more than five (5) calendar days after the hearing.
- c. **Objection of the Decision on Appeal of Administrative Review**
 - i. Not more than three (3) calendar days after the issuance of the decision regarding the appeal of the administrative review, any party adversely affected by the order may file an objection to the decision in writing to the DWD Commissioner and request that the Commissioner review the decision. The party must identify the basis of the objection with reasonable particularity. No later than ten (10) calendar days after the objection is filed with the Commissioner, the Commissioner shall issue a final decision affirming, modifying, or dissolving the decision. The Commissioner is the ultimate authority (as defined by IC 4-21.5-1-15) for DWD. A party may contest the decision of the ultimate authority by filing a petition for judicial review consistent with the requirements of IC 4-21.5-5 et seq.
- d. DWD will keep the complaint/grievance along with the decision on file.

Action

Each DWD SCSEP sub-grantee must:

- Provide information about the content of the grievance and complaint procedure to participants and other interested parties affected by the local workforce system, including WorkOne partners and service providers as applicable;
- Provide the information about grievance and complaint procedures to participants receiving services from such entities; and
- Make reasonable efforts to assure that the information about grievance and complaint procedures will be understood by affected participants and other individuals, including youth and those who are limited-English speaking individuals. Such efforts must comply with the language requirements of 29 CFR Part 38 regarding the provision of services and information in languages other than English (See DWD Policy 2016-09 *Equal Opportunity and Nondiscrimination Guidance Letter*) as well as all provisions in the Civil Rights Act of 1964 and the Rehabilitation Act of 1973.

Attachments

- **Attachment A** - SCSEP Written Complaint Submission Process
- **Attachment B** - SCSEP Reasons for Termination

Additional Information

Questions regarding the content of this publication should be directed to SCSEP@dwd.in.gov.

Attachment A SCSEP Written Complaint Submission Process

All SCSEP written complaints must include the following information:

- The name of the complainant;
- The address of the complainant;
- The name of the person or organization that the complaint is against;
- The address of the person or organization that the complaint is against; and
- A description of the complaint that includes the following:
 - A clear and concise description of the complaint or issue;
 - Names of all parties involved in the complaint;
 - Location and approximate time of day where the issue took place; and
 - Any other relevant information.

SCSEP written complaints should be directed to **both** of the following entities:

Director of Regional Operations

Vantage Aging
388 S. Main St. Suite 325
Akron, Ohio 44311
SCSEP@vantageaging.org

SCSEP Program Director

Indiana Department of Workforce Development
Workforce Programs & Services
10 N. Senate Ave., Rm SE100
Indianapolis, IN 46204
scsep@dwd.in.gov

Please call **(317) 617-2129** with questions or comments about the SCSEP written complaint submission process.

Attachment B

SCSEP Reasons for Termination⁷

Participants may be terminated from SCSEP due to any of the reasons listed below. As stated previously in this guidance, participants may submit a complaint if they take issue with their reason for termination.

Termination for knowingly providing false information.

If, at any time, DWD or a sub-grantee determines that a participant was incorrectly declared eligible as a result of false information knowingly given by that individual, DWD or a sub-grantee must give the participant immediate written notice explaining the reason(s) for termination and may terminate the participant thirty (30) days after it has provided the participant with written notice.

Termination due to being incorrectly determined eligible at enrollment.

If, during eligibility verification under 20 CFR 641.505, DWD or a sub-grantee finds a participant to be no longer eligible for enrollment, DWD or a sub-grantee must give the participant written notice explaining the reason(s) for termination and may terminate the participant thirty (30) days after it has provided the participant with written notice.

Termination due to being determined ineligible at recertification.

If, at any time, DWD or a sub-grantee determines a participant is no longer eligible for SCSEP, the participant will be sent a thirty (30) day notice of termination letter and grievance procedures. The participant will be allowed to continue the host agency assignment during the thirty (30) day notice period.

Termination due to reaching the 48-month Individual Durational Limit⁸

A participant may be terminated upon reaching the 48-month Individual Durational Limit. A waiver qualifies the participant for a twelve (12) month extension of the durational limit, if the participant is severely disabled or frail. Twelve (12) months prior to reaching the Individual Durational Limit, the sub-grantee will begin the transitional planning process.

The participant will be sent a thirty (30) day notice of termination letter and grievance procedures within thirty (30) days of reaching the Individual Durational Limit. The participant will be allowed to continue the host agency assignment during the thirty (30) day notice period.

Termination for cause.

DWD or a sub-grantee may terminate a participant for cause. DWD or a sub-grantee must give the participant written notice explaining the reason(s) for termination and may terminate the participant thirty (30) days after it has provided the participant with written notice.

Termination due to a refusal of 3 job offers/referrals to unsubsidized employment.

DWD or a sub-grantee may terminate a participant if the participant refuses to accept a reasonable number of job offers or referrals to unsubsidized employment consistent with the IEP and there are no extenuating circumstances that would hinder the participant from moving to unsubsidized employment.

⁷ 20 CFR 641.580.

⁸ 20 CFR 641.570.

DWD or a sub-grantee must give the participant written notice explaining the reason(s) for termination and may terminate the participant thirty (30) days after it has provided the participant with written notice.

Termination due to accepting other employment while participating in SCSEP.

DWD or a sub-grantee may terminate a participant if the participant accepts other employment while participating in SCSEP. DWD or a sub-grantee must give the participant written notice explaining the reason(s) for termination and may terminate the participant thirty (30) days after it has provided the participant with written notice.