

## **Part 8: Assignment Limit, Discrimination, Political Activities, Nepotism, Work During Labor Disputes and Personnel Policies**

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## 800 Limits on Community Service Assignments

### A. Change of Community Service Assignments

The length of time that participants may remain in a community service assignment is determined by each participant's Individual Employment Plan (IEP).

A project director may choose to move a participant to a new community service assignment, either within the existing host agency or to a new host agency, when the participant has mastered existing opportunities and a change in assignment would provide the participant with additional experiences to further progress towards his or her IEP goals.

Sponsors must document in each participant's IEP the appropriate assignment length.

Changing community service assignments is intended to:

- Increase the participant's chances of obtaining unsubsidized employment;
- Provide opportunities to increase responsibilities and learn or improve skills in new assignments;
- Prevent a host agency from using any participant to perform tasks which otherwise would be performed by regular staff members; and
- Encourage the development of new host agency training assignments.

A project director should move the participant to a new community service assignment if the project director determines that a different community service assignment would accomplish any of the following:

- Provide greater opportunity for the participant to use and develop existing or new skills and aptitudes;
- Provide work experience that will enhance the participant's potential for unsubsidized employment; or
- Serve the best interests of the participant or the project sponsor.

When moving a participant to a new community service assignment, sponsors need to update a *SCSEP Community Service Assignment Form*. To monitor the length of time a participant has been assigned to a particular community service assignment, project sponsors are required to keep adequate records of the beginning date of each participant's assignment in the participant's file. Sponsors can locate this information in SPARQ.

NOTE: Participants who are exercising the Right of Return – following a failed unsubsidized placement are not allowed to return to the previously held community service assignment. You must create a new community service assignment even if you assign the participant to the old host agency (for more information, see section 202-C Right of Return).

For participants reaching their Individual Durational Limit (IDL), SSAI requires projects to develop Transition Assessment & IEPs for participants who have not secured unsubsidized employment and are within 12 months of reaching their durational limit.

The purpose of the Transition Assessment and IEP for participants reaching their IDL and who are not job ready to give them a post-SCSEP survival plan by the time they must be terminated from the program.

## 801 Discrimination Prohibited

### A. Project Sponsor Responsibility for Non-Discrimination

Project sponsors are responsible for ensuring participants are not sexually harassed or discriminated against on the grounds of race, color, religion, gender, national origin, disability or age by the project sponsor or host agency. Participants may not be excluded from, or be denied the benefits of, any activity funded in whole or in part under SCSEP. SSAI subgrantees also may not select, reject, promote or terminate participants based on their political affiliations or beliefs.

Sponsors must prioritize the eligible people they select for SCSEP participation as outlined in section 201. Selection of eligible participants based on these enrollment priorities is not a discriminatory process. (Reworded)

Project sponsors must be aware of, and take necessary steps to comply with Title VI of Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 and Section 188 of the Workforce Innovation and Opportunity Act of 2014 (WIOA).

Sponsor Staff must refer complaints alleging discrimination on the basis of race, color, religion, gender, sexual orientation, national origin, disability or age – except when age was used as a valid requirement for SCSEP eligibility as described in Policy 203, Eligibility Requirements – to the Civil Rights Center as outlined in 805-A-1.

### B. Definition of Disability

For the purposes of SCSEP<sup>\*</sup>, the 2006 Older Americans Act (OAA) defines “disability” as attributable to mental or physical impairments that singly or in combination result in substantial functional limitations in one or more of the following major life activities: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, economic self-sufficiency, cognitive functioning and emotional adjustment.

<sup>\*</sup> The OAA definition of “disability” may not match the definition of other programs you may be familiar with, such as the Department of Veterans Affairs. Refer to SSAI Data Validation Checklist.

## 802 Political Activities and Lobbying by Project Sponsor and Participants

### A. Political Activities and Patronage

Participants and SSAI project sponsor staff members are free to engage in political activities with certain restrictions. The restrictions include the following:

- Neither participants nor SSAI project sponsor staff may engage in partisan or non-partisan political activity during hours for which the participant or the staff member is paid with SSAI SCSEP funds, including funds that are part of the non-federal share of costs.
- Neither participants nor SSAI project sponsor staff may engage in partisan political activity in which the participant or staff member represents himself or herself as a spokesperson for the project or SCSEP.
- Participants may not be assigned to the office of a member of Congress or a state or local legislator, or to the staff of any legislative committee.
- Participants may not be assigned to the immediate office of an elected chief executive officer of a state government or unit of general local government, except under these conditions:
  1. A unit of local government may serve as a host agency for a participant, provided that their assignments are non-political; and
  2. When an assignment technically is in such an office, but is for a program activity not in any way involved in a political function.
- Participants may not be assigned to perform any political activity in the office of any other elected official, although they may perform non-political activities if the SCSEP sponsor has safeguards to ensure the activities are non-political and the safeguards are subject to review and monitoring by SSAI.

SSAI subgrantees may not select, reject, promote or terminate participants based on their political affiliations or beliefs.

### B. Allowable and Unallowable Political Activity Notice Required

Program sponsors must provide all persons associated with SCSEP activities – including participants, staff and host agencies – with a written notice that explains allowable and unallowable political activities under the Hatch Act. The notice must be posted in every workplace in which SCSEP activities are conducted.

The notice, which is provided by SSAI, contains the address and telephone number of the Inspector General of the U.S. Department of Labor to whom questions regarding the enforcement of the Hatch Act may be addressed. The notice is available in this manual's Appendix II and on the partners' page at SSAI's website at <http://seniorserviceamerica.org>.

Project sponsors must ensure that host agency agreements stipulate that participants may not engage in defined lobbying activities, such as making phone calls, sending letters to Congress or assisting others in those activities as part of their paid community service employment. Sponsors must also monitor assignments to make sure that the restrictions are being enforced.

**C. SCSEP Funds May Not Be Used for Lobbying**

SCSEP project funds, including the non-federal share, may not be used in any way to attempt to influence a member of Congress to favor or oppose any legislation or appropriation or to attempt to influence a member of a state or local legislature to favor or oppose any legislation or appropriation by that legislative body.

## 803 Nepotism Prohibited

### A. Definition of Nepotism

Nepotism means providing favorable consideration to immediate family members of participants. The immediate family includes wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent and grandchild.

### B. Nepotism Prohibited in Enrollment and Assignment of Participants

SSAI subgrantees must ensure that no host agency serves as a worksite for a participant who works in a SCSEP community service assignment if a member of that participant's immediate family is engaged in a decision-making or supervisory capacity (whether compensated or not) for that project, host agency or participant.

The U.S. Department of Labor may exempt worksites on Native American reservations or in rural areas from this requirement if they can provide documentation that no other persons are eligible and available to participate. Sponsors in rural areas with participants who may be in this situation must contact SSAI to identify steps to take regarding the participant's placement.

Immediate family includes wife, husband, son, daughter, mother, father, brother, sister, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild.

Where state or local statutes regarding nepotism are more restrictive than this policy, the state or local laws apply.

## **804 Labor Union and Labor-Management Dispute Restrictions on Participants**

### **A. Union Organizing**

SCSEP funds, including the non-federal share of costs, may not be used to assist, promote or deter union organizing.

### **B. Participant May Not Work During Labor-Management Dispute**

When there is a dispute between employed workers who are represented by a bargaining agent and host agency management, and when employees undertake a certified job action to resolve unfair labor practices, participants cannot be assigned to perform work that is the same as or substantially the same as the work performed by those persons engaged in a sanctioned job action against a host agency. Also, participants cannot engage in assignments during the course of a bona fide labor-management dispute between the management and the employees of a host agency.

### **C. Alternate Temporary Assignments Required**

When there is a labor-management dispute, project directors must assign participants temporarily to other host agencies until the dispute is resolved. Such disputes are defined in section 804-B Participant May Not Work During Labor-Management Dispute.

## 805 Personnel Policies and Complaint Resolution Procedures

### A. Complaints or Questions Regarding Nondiscrimination Requirements

1. Complaints or questions regarding nondiscrimination requirements, or complaints alleging a violation of the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 188 of the Workforce Innovation and Opportunity Act of 2014 (WIOA), or their implementing regulations must be directed or mailed to Civil Rights Center at the U.S. Department of Labor at: Director, Civil Rights Center, U.S. Department of Labor, Room N-4123, 200 Constitution Avenue, N.W., Washington, D.C. 20210.
2. Sponsor Staff must refer complaints alleging discrimination on the basis of race, color, religion, gender, sexual orientation, national origin, disability or age – except when age was used as a valid requirement for SCSEP eligibility as described in Policy 203, Eligibility Requirements – to the Civil Rights Center as outlined in 805-A-1 above.
3. Sponsor staff should not process an allegation based on 805-A. Sponsor staff should advise the participant that the complaint or question will be filed with the Civil Rights Center in accordance with this Section.
4. Pending the disposition of the allegation by the Civil Rights Center, the sponsor staff should assist the participant to resolve any Program problems in the same manner as sponsor staff would assist any other participant regardless of the discrimination allegation.

### B. Notification of Filing of Complaint Required

When a participant files a written complaint this invokes the project sponsor's complaint resolution procedures. The project sponsor must notify the SSAI SCSEP National Director and provide a copy of the complaint within seven business days.

### C. Adverse Action Against Participant

When a project sponsor takes an adverse action against a participant, the sponsor must notify the participant in writing of the reason or reasons for the action, and advise him or her of the complaint resolution procedures and of his or her right to appeal to SSAI's SCSEP National Director.

### D. Complaint Resolution Grievance Policy Procedure

Project sponsors must establish a complaint resolution procedure for participants. Below are the steps that must be included in the procedure. Project sponsors should be sure to include a specific time limit for completion of each of these steps.

1. Upon receipt of a written complaint, the project director, the participant who filed the complaint and the host agency supervisor, if appropriate, should seek promptly to resolve the differences in an informal conference.
2. A written statement outlining the result of the conference should be provided to all involved persons promptly.



3. If the participant who filed the complaint is not satisfied with the results of the informal conference, he or she has the right to appeal to an established complaint resolution committee or to the chief executive officer of the sponsor agency, as provided for in the applicable participant policies and procedures.
4. The project sponsor should ensure the appeal is heard promptly.
5. The participant should have the right to use the assistance of others at the hearing, to call witnesses and to question those involved in the complaint.
6. A written summary of the decisions made at the hearing must be provided promptly to all involved
7. The time limit of the complaint resolution procedure for each project sponsor is 45 business days, including the time for filing the appeal to SSAI.

#### **E. Right to Appeal to SSAI**

Persons who are dissatisfied with a decision resulting from the project sponsor's complaint resolution procedure have the right to appeal to SSAI.

1. The participant should file a written appeal to SSAI within five business days of the sponsor's decision.
2. SSAI will send a letter to the complainant acknowledging receipt of the complaint and will review the results of the complaint resolution procedure and may hold a hearing to gather additional information.
3. SSAI will affirm or amend the decision within 15 business days and provide the complainant and project sponsor a written copy of the decision stating that the decision is final, except if the participant appeals to the U.S. Department of Labor (see section 804-F Right to Appeal to the U.S. Department of Labor).

#### **F. Right to Appeal to the U.S. Department of Labor**

A complaint alleging violations of law may be appealed to the U.S. Department of Labor (DOL) as described below if the complaint is not resolved within 60 business days of the time of filing by the combined complaint resolution procedure of the project sponsor and the SSAI SCSEP National Director. A complaint alleging violations of law is appealed to the following DOL unit:

1. **Complaints alleging violations of the law.** A complaint alleging violations of law, other than a complaint alleging discrimination, which is not resolved within 60 business days as a result of the combined complaint resolution procedure of a project sponsor and SSAI may be filed with the Chief, Division of Adult Services, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Ave., N.W., Washington, D.C. 20210.

#### **G. U.S. Department of Labor Review**

U.S. Department of Labor regulations governing SCSEP (20 CFR 641) provide that, except for complaints alleging violations of the law and for complaints alleging discrimination, the department shall limit its review to determining whether the appeals procedures of a project sponsor and SSAI were followed.

**H. Training for Personnel Who Respond to Appeals**

Senior Service America Inc. provides training for its subgrantee staff, as well as its national office staff, on the compliant/grievance process including how to respond to an appeal. Sponsor staff training takes place via workshops at SSAI sponsored conferences or other meetings as well as via webinar. It is also a topic covered in New Project Director training. Sponsor staff are also encouraged to consult with SSAI national office staff at any point for direction should they have a question regarding a particular complaint.