CABINET FOR HEALTH AND FAMILY SERVICES
Department for Aging and Independent Living
Division of Quality Living
(Amended at ARRS Committee)

910 KAR 1:200. Senior Community Service Employment Program.

RELATES TO: KRS 205.201, 205.455, Chapter 342, 20 C.F.R. Part 641, 29 C.F.R. 95.2gg, 97.3, 5 U.S.C. 7323, 29 U.S.C. 206, 3101, 3171~~[2801, 2881, 2901]~~, 38 U.S.C. 4215(a)(1), 42 U.S.C. 401, 402, 3001 - 3058ee~~[641.230. 2002(22)]~~, 3021, 3056~~[n]~~, 9902(2), 11302(a)***, Pub.L. 113 - 128[.]***

STATUTORY AUTHORITY: KRS 194A.050(1), 205.204(1), (2), 42 U.S.C. 3001

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: The Older Americans Act of 1965, as amended, authorizes grants to states to provide assistance in the development of new or improved programs for older persons. KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations to implement programs mandated by federal law or to qualify for the receipt of federal funds. KRS 205.204(1) and (2) authorize the cabinet secretary to administer the Older Americans Act in Kentucky and authorize the cabinet to promulgate administrative regulations to comply with any requirement imposed or required by federal law. This administrative regulation sets forth the standards of operation for the senior community service employment program in Kentucky.

Section 1. Definitions.

(1) "Area plan" means a plan, submitted by a district for approval of the department, which releases funds under contract for the delivery of SCSEP services within a planning and service area.

(2) "At risk for homelessness" means an individual who:

(a) Is likely to become homeless; and

(b) Lacks the resources and support networks needed to obtain housing.

(3) "Authorized position" means an enrollment opportunity during a program year based on an average national unit cost pursuant to 20 C.F.R. 641.140.

(4) "Co-enrollment" means enrollment for an individual who meets the qualifications for SCSEP participation and is also enrolled as a participant in WIOA~~[WIA]~~ or another employment and training program, as ***identified~~[provided]~~*** in the participant's individual employment plan.

(5) "Community service" means a service provided by the SCSEP participant within a community to gain work experience and job skills, including:

(a) Social, health, welfare, and educational services including literacy and tutoring;

(b) Legal and other counseling services and assistance including tax counseling and assistance and financial counseling;

(c) Library;

(d) Recreational;

(e) Conservation, maintenance, or restoration of natural resources;

(f) Community betterment or beautification;

(g) Antipollution and environmental quality efforts;

(h) Weatherization activities;

(i) Economic development; or

(j) Other services essential and necessary to the community as determined by the Secretary of Health and Human Services ***pursuant to 20 C.F.R. 641.140***.

(6) "Community service assignment" means part-time, temporary employment paid with grant funds for a project at a host agency through which an eligible individual is engaged in community service and receives work experience and job skills that can lead to unsubsidized employment.
(7) "Department" or "DAIL" means the Department for Aging and Independent Living.
(8) "Disability" means a mental or physical impairment, or a combination of mental and physical impairments, that result in substantial functional limitations in one (1) or more of the following areas of major life activity:
(a) Self-care;
(b) Receptive and expressive language;
(c) Learning;
(d) Mobility;
(e) Self-direction;
(f) Capacity for independent living;
(g) Economic self-sufficiency;
(h) Cognitive functioning; or
(i) Emotional adjustment.
(9) "District" is defined by KRS 205.455(4).
(10) "Frail" means an individual fifty-five (55) years of age or older who is functionally impaired because the individual:
(a) Is unable to perform at least two (2) activities of daily living without verbal reminding, physical cueing, or supervision; or
(b) Requires supervision due to a cognitive or other mental impairment and behaves in a manner that poses a health or safety hazard to the individual or another individual pursuant to 42 U.S.C. 3002.~~[2002(22)]~~
(11) "Grantee" is defined by 29 C.F.R. 97.3.
(12) ~~[(11)]~~ "Greatest economic need" is defined by~~[means the need resulting from an income level at or below the poverty guidelines established by the Department of Health and Human Services and approved by the Office of Management and Budget pursuant to]~~ 42 U.S.C. 3002(23).
(13) ~~[(12)]~~ "Greatest social need" is defined by~~[means the need caused by non-economic factors pursuant to]~~ 42 U.S.C. 3002(24)~~[, including:]~~
~~[(a)] [Physical and mental disabilities;]~~
~~[(b)] [Language barriers; and]~~
~~[(c)] [Cultural, social, or geographical isolation, including isolation caused by racial or ethnic status that:]~~
~~[1.] [Restricts the ability of an individual to perform normal daily tasks; or]~~
~~[2.] [Threatens the capacity of the individual to live independently]~~.
(14) ~~[(13)]~~ "Homeless" is defined by~~[means an individual, pursuant to]~~ 42 U.S.C. 11302~~[(a), who:]~~
~~[(a)] [Lacks a fixed regular nighttime residence; and]~~
~~[(b)] [Has a primary nighttime residence that is:]~~
~~[1.] [A supervised publicly or privately operated shelter designed to provide temporary living accommodations including:]~~
~~[a.] [A welfare hotel;]~~
~~[b.] [A congregate shelter; or]~~
~~[c.] [Transitional housing for the mentally ill;]~~
~~[2.] [An institution that provides a temporary residence for individuals intended to be institutionalized; or]~~
~~[3.] [A public or private place not designed for or ordinarily used as regular sleeping accommodations for human beings]~~.

(15) ~~[(14)]~~ "Host agency" means a public agency or private, nonprofit organization, other than a political party, exempt from taxation pursuant to~~[under the provision of Section 501(c)(3) of the Internal Revenue Code of 1986,]~~ 26 U.S.C. 501(c)(3)~~[, which provides a training worksite and supervision for one (1) or more participants]~~.

(16) ~~[(15)]~~ "Individual employment plan" or "IEP" means a participant's plan ***developed in accordance with 20 C.F.R. 641.535(a)(3)(ii) and*** based on:

(a) An assessment of the participant conducted by the sub-recipient; or

(b) A recent assessment or plan of the participant developed by another employment and training program and a related service strategy.

[(c)]][[The IEP must be developed pursuant to 20 C.F.R. 641.535(a)(3)(ii).]

(17) ~~[(16)]~~ "Job ready" means an individual does not require further education or training to perform work that is available in the individual's labor market.

(18) ~~[(17)]~~ "Limited English proficiency" means an individual who does not speak English as a primary language and has a limited ability to read, speak, write, or understand English.

(19) "Low employmentprospects" is defined ***by*** ~~***[in]***~~ 20 C.F.R. 641.140.

(20) ~~[(18)]~~ "Low income" means an income that during the preceding six (6) months on an annualized basis or the actual income during the preceding twelve (12) months, whichever is more beneficial to the applicant, is not more than 125 percent more than the poverty levels established and periodically updated by the United States Department of Health and Human Services.

(21) "Low literacy skills" means the individual computes or solves problems, reads, writes, or speaks at or below the grade 8 level, or is unable to compute or solve problems, read, write, or speak at a level necessary to function on the job, in the individual's family, or in society.

(22) ~~[(19)]~~ "OAA" means the Older Americans Act, 42 U.S.C. 3001 to 3058ee, as amended.

(23) ~~[(20)]~~ "One-stop center" means the one-stop center system in a WIOA~~[WIA]~~ local area through which one-stop partners provide core services and access to other programs and services carried out by the one-stop partners.

(24) ~~[(21)]~~ "One-stop delivery system" means a system through which:

(a) Employment and training programs, services, and activities are available through a network of one-stop partners;

(b) Information about and access to core services is available, regardless of where the individual initially entered the workforce investment system;

(c) Referral to WIOA~~[WIA]~~ intensive and training services is available; and

(d) Access to other activities and programs carried out by other one-stop partners is available.

(25) ~~[(22)]~~ "Participant" means an individual who is:

(a) Determined to be eligible for the SCSEP program;

(b) Given a community service assignment; and

(c) Receiving a service funded by the SCSEP program.

(26) ~~[(23)]~~ "Program year" means the one (1) year period beginning on July 1 and ending on June 30.

(27) ~~[(24)]~~ "Project" means an undertaking by a sub-recipient in accordance with a contract agreement between the department and sub-recipient that provides service to a community and training and employment opportunities to an eligible individual.

(28) "Recipient" is defined by 29 C.F.R. 95.2(gg).

(29) "Residence" means an individual's declared dwelling place or address as demonstrated by appropriate documentation ***pursuant to 20 C.F.R. 641.140*** .

(30) "'Rural" means:

(a) An area not designated as a metropolitan statistical area by the U.S. Census Bureau;

(b) Segments within metropolitan counties identified ***pursuant to 20 C.F.R. 641*** by codes 4 through 10 in the Rural Urban Commuting Area (RUCA) system; and

(c) RUCA codes 2 and 3 for census tracts that are larger than 400 square miles and have population density of less than ***thirty (30)*** ~~***[30]***~~ people per square mile.

(31) ~~[(25)]~~ "SCSEP" means the Senior Community Service Employment Program authorized pursuant to~~[under Title V of the OAA,]~~ 42 U.S.C. 3056~~[n, and administered by the Department of Labor that serves unemployed low income persons who:]~~

~~[(a)]~~ ~~[Are fifty-five (55) years of age and older;]~~

~~[(b)]~~ ~~[Have poor employment prospects; and]~~

~~[(c)]~~ ~~[Need training in part-time community service assignments, skills, and experience to facilitate transition to unsubsidized employment]~~.

(32) "Service area" means the geographic area served by a local SCSEP project in accordance with a grant agreement.

(33) "Severe disability" means a severe, chronic disability attributable to mental or physical impairment, or a combination of mental and physical impairments that:

(a) Is likely to continue indefinitely; and

(b) Results in substantial functional limitation in three (3) or more of the following areas of major life activity:

1. Self-care;
2. Receptive and expression language;
3. Learning;
4. Mobility;
5. Self-direction;
6. Capacity for independent living; and
7. Economic self-sufficiency.

~~[(26)]~~ ~~["Sub-recipient" means the legal entity to which a sub-award of financial SCSEP assistance is made by the department and who is accountable to the department for the use of the funds provided]~~.]

(34) ~~[(27)]~~ "Sub-recipient agreement" means an agreement between the department and sub-recipient that provides for transfer of SCSEP funds to the sub-recipient for the purpose of carrying out the activities authorized in the agreement.

(35) ~~[(28)]~~ "Supportive services" means services and incidentals, specified in Section 7 of this administrative regulation, that are necessary to enable an individual to participate in activities authorized under the SCSEP.

(36) ~~[(29)]~~ "Unemployment" means an individual who is without a job, is available to work and wants to work, or has occasional employment that does not result in a constant source of income.

(37) "Veteran" means an individual who is a "covered person" for purposes of the Jobs for Veterans Act, 38 U.S.C. 4215 (a)(1).

(38) ~~[(30)]~~ "Workforce Innovation and Opportunity Act" or "WIOA" means the Workforce Innovation and Opportunity Act, Public Law 113-128 (July 22, 2014), as amended. ~~["Workforce Investment Act" or "WIA" means the Workforce Investment Act of 1998, 29 U.S.C. 2801 to 2901, as amended.]~~

Section 2. Eligibility Criteria. To participate in SCSEP, an applicant shall be:

(1) At least fifty-five (55) years old;

(2) Unemployed;

(3) An individual or a member of a family with an income that is not more than 125 percent of the federal poverty guidelines, updated annually in the Federal Register by the United States Department of Health and Human Services under authority of 42 U.S.C. 9902(2);~~[and]~~

(4) A resident of Kentucky~~[.]~~; and

(5) Not job-ready.

Section 3. Application.

(1) A participant shall not be considered a federal employee solely as a result of the participant's participation in the SCSEP.

(2) To apply for SCSEP, an applicant shall submit official records to a sub-recipient that substantiate:

(a) The applicant's state of residence, such as:

1. Driver's license;
2. State, federal, or tribal ID card;
3. Social Security statement;
4. Rental agreement; or
5. Voter registration card;

(b) The applicant's date of birth, such as:

1. Birth certificate;
2. Driver's license;
3. Government identification card; or
4. Social Security award letter;

(c) The number of individuals residing in the applicant's household, with documentation, such as a:

1. Lease; or
2. Signed attestation:
   a. From a third party who has knowledge of the number of individuals residing in the applicant's household; and
   b. That reflects the living situation at the time of the application;

(d) If applicable, that the applicant has a disability and shall be considered a family-of-one, with documentation, such as:

1. Social Security Disability Insurance (SSDI) or other Social Security Administration records; and
2. Records indicating disability, such as the following:
   a. Medical records;
   b. Disability records;
   c. Veteran's medical record;
   d. Vocational rehabilitation letter; or
   e. Worker's compensation record; and

(e)

1. The applicant's employment including official documents and business records that establish includable income, military discharge papers, or other military identification; and
2. Attestation that other includable income does not exist.

(3) An individual selected for participation in the SCSEP shall participate in the following activities:

(a) Initial orientation;

(b) Initial assessment;

(c) Subsequent assessment as specified in Section 5(1)(c)2 of this administrative regulation; and

(d) Development of initial and updated IEP.

Section 4. Eligibility Determination.

(1) A sub-recipient shall determine an applicant's initial eligibility through the application process established in Section 3 of this administrative regulation and annually thereafter.

(2) The sub-recipient shall:

(a) Calculate:

1. The includable income received by the applicant during the twelve (12) month period ending on the date the applicant applied; and

2. The annualized income for the six (6) month period ending on the date the applicant applied; and

(b) Compute the applicant's income eligibility using the method identified in paragraph (a) of this subsection that is more favorable to the applicant.

(3) The following benefit payments shall be included in SCSEP income eligibility determinations:

(a) Earnings;

(b) Seventy-five (75) percent of benefits received under Title II of the Social Security Act, 42 U.S.C. 402;

(c) Survivor benefits;

(d) Pension or retirement income;

(e) Interest income;

(f) Dividends;

(g) Rents, royalties, estates, and trusts;

(h) Educational assistance;

(i) Alimony; and

(j) Other inclusions as authorized by the Department of Labor, pursuant to 20 C.F.R. 641.507 and 641.510.

(4) The following benefit payments shall be excluded from SCSEP income eligibility determinations:

(a) Unemployment compensation received under Title XVI of the Social Security Act, 42 U.S.C. 3021;

(b) A payment made to or on behalf of veterans or former members of the Armed Forces administered under the Secretary of Veterans Affairs;

(c) Twenty-five (25) percent of a benefit received under Title II of the Social Security Act, 42 U.S.C. 401 to 402;

(d) Social Security Income or Social Security Disability Income; and

(e) Other exclusions allowed by the Department of Labor, pursuant to 20 C.F.R. 641.507 and 641.510.

(5) Priority for SCSEP shall be given to an individual who has one (1) or more of the following characteristics:

(a) Is ~~[age]~~ sixty-five (65) years of age or older;

(b) Has a disability;

(c) Has limited English proficiency or low literacy skills;

(d) Resides in a rural area;

(e) Has low employment prospects;

(f) Has failed to find employment after using services provided through the one-stop delivery system;

(g) Is homeless or at risk for homelessness; or

(h) Is:

1. A veteran as defined by the Jobs for Veterans Act, 38 U.S.C 4215(a);

2. The spouse of a veteran who died of a service-connected disability;

3. The spouse of a member of the Armed Forces on active duty who has been listed for a total of more than ninety (90) days as missing in action, captured in the line of duty by hostile force, or forcibly detained by a foreign government or power;

4. The spouse of a veteran who has a total disability resulting from a service connected disability; or

5. The spouse of a veteran who died while a disability so evaluated was in existence.

(6) A sub-recipient shall apply priorities in the following order:

(a) A veteran or veteran's spouse who:

1. Qualifies as a covered person under the Job for Veterans Act, 38 U.S.C. 4215(a); and

2. Possesses at least one (1) of the priority characteristics specified in subsection (5)(a) through (g) of this section;

(b) A veteran or veteran's spouse who:

1. Qualifies as a covered person under the Job for Veterans Act, 38 U.S.C. 4215(a); and

2. Does not possess any of the priority characteristics specified in subsection (5)(a) through (g) of this section; and

(c) An individual who:

1. Is not a veteran or veteran's spouse;

2. Does not qualify as a covered person under the Jobs for Veterans Act, 38 U.S.C. 4215(a); and

3. Possesses at least one (1) of the priority characteristics specified in subsection (5)(a) through (h)~~[(g)]~~ of this section.

Section 5. Enrollment Process.

(1) If an individual is selected for participation in the SCSEP program, the sub-recipient shall:

(a) Provide orientation to the SCSEP, including:

1. Information of project goals and objectives;

2. Community service assignments;

3. Training opportunities;

4. Available supportive services;

5. The availability of a free physical examination;

6. Participant rights and responsibilities;

7. ***Allowed*** ~~***[Permitted]***~~ and prohibited political activities pursuant to the Hatch Act, 5 U.S.C. 7323; and

8. A written copy and verbal review of its policies for terminating a participant as specified in Section 10(4) of this administrative regulation;

(b) Assess a participant's work history, including:

1. Skills and interests;

2. Physical capabilities;

3. Talents;

4. Aptitudes;

5. Needs for supportive services;

6. Occupational preferences;

7. Training needs;

8. Potential for performing community service assignments; and

9. Potential for transition to unsubsidized employment;

(c)

1. Perform an initial assessment upon program entry, unless an assessment has already been performed under Title I of WIOA~~[WIA]~~, 29 U.S.C. 3171~~[2881 to 2901]~~; and

2. Perform assessments at least twice annually, including the initial assessment;

(d) Use the information gathered during an initial assessment to develop an IEP that includes an employment goal for the participant, except that an assessment and IEP developed under Title I of WIOA~~[WIA]~~ shall satisfy the requirement for SCSEP assessment and IEP ~~[in accordance with 42 U.S.C. 641.230]~~;

(e) Update an IEP to reflect information gathered during subsequent assessments;

(f) Place a participant in a community service assignment in the community in which the participant resides or a nearby community;

(g) Provide or arrange for training identified in a participant's IEP consistent with the SCSEP's goal of unsubsidized employment;
(h) Assist a participant with supportive services identified in the participant's IEP;
(i) Provide services for a participant or refer the participant to services through the one-stop delivery system established under WIOA[~~WIA~~];
(j) Provide counseling to the participant on progress in meeting the goals and objectives identified in the participant's IEP and in meeting the participant's supportive service needs;
(k) Provide a participant with wages and benefits for time spent in the community service assignment, orientation, and training;
(l) Monitor to ensure a participant's safe and healthy working conditions at the participant's community services employment worksite; and
(m) Assist the participant in obtaining unsubsidized employment, including providing or arranging for employment counseling in support of the participant's IEP.

(2) A sub-recipient shall not enroll a job-ready individual as a SCSEP participant but shall refer the individual to an employment provider, such as a one-stop center for job placement assistance under WIOA[~~WIA~~] or another employment program.

Section 6. Participant Training.

(1) In addition to the training provided in a community service assignment, a sub-recipient may arrange skill training for a participant, if the training:
(a) Is consistent with the participant's IEP;
(b) Makes the most effective use of the participant's skills and talents; and
(c) Prepares the participant for unsubsidized employment.

(2) If training is provided, training shall be:
(a) Before or during a community service agreement;
(b) In the form of:
1. Lectures;
2. Seminars;
3. Classroom instruction;
4. Individual instruction; or
5. On-the-job experiences; or
(c) Through the sub-recipient or an arrangement with other workforce development programs, such as WIOA[~~WIA~~].

(3) A sub-recipient shall pay, if necessary in accordance with a participant's IEP, for:
(a) Participant training including the payment of costs of:
1. Instructors;
2. Classroom rental;
3. Training supplies;
4. Materials;
5. Equipment; and
6. Tuition; or
(b) Costs associated with supportive services as specified in Section 7 of this administrative regulation.

Section 7. Supportive Services.

(1) A sub-recipient shall, if necessary in accordance with the participant's IEP, provide directly or arrange for supportive services identified on a participant's IEP to enable the participant to successfully participate in the SCSEP project, such as:
(a) Costs of transportation;
(b) Health and medical services;
(c) Special job-related or personal counseling; or
(d) Incidentals for work or training, such as:

1. Shoes;
2. Badges;
3. Uniforms;
4. Eyeglasses;
5. Tools;
6. Dependent care;
7. Housing, including temporary shelter; or
8. Other needs-related payments for job readiness.

(2) A sub-recipient shall contact a placed participant throughout the first twelve (12) months following placement to determine if the participant has the necessary supportive services to remain employed and to provide or arrange to provide the services if needed.

Section 8. Wages and Benefits.

(1)

(a) Pursuant to 20 C.F.R. 641.565(a), a sub-recipient shall pay a participant's wages for time spent in:

1. Orientation;
2. Training; and
3. Community service assignments.

(b) The highest applicable required wage shall be either the:

1. Minimum wage applicable under the Fair Labor Standards Act of 1938, 29 U.S.C. 206; or
2. Prevailing rate of pay for persons employed in similar public occupations by the same employer.

(2) A SCSEP participant shall be paid the highest applicable required wage while receiving WIOA~~[WIA]~~ intensive services.

(3) A sub-recipient shall:

(a) Make adjustments to minimum wage rates payable to a participant as required by the Fair Labor Standards Act, 29 U.S.C. 206;

(b) Ensure that a participant receives Worker's Compensation pursuant to KRS Chapter 342;

(c) Offer the participant an opportunity to receive a physical examination annually and inform the participant that:

1. A physical examination is a benefit and not an eligibility criterion; and
2. A participant may choose not to accept the physical examination;

(d)

1. Document a participant's refusal, if applicable, of an annual physical examination through a signed statement by the participant and within at least sixty (60) workdays of commencement of the community service assignment;
2. Each year thereafter, offer the physical examination and document the offer and a participant's refusal, if applicable;

(e) Provide compensation for scheduled work hours during which a host agency's business is closed for a federal holiday, that shall either be paid or in the form of rescheduled work time; and

(f) Provide sick leave that is not part of an accumulated sick leave program that shall either be paid or in the form of rescheduled work time.

(4) A sub-recipient shall not:

(a) Carry over allowable benefits from one (1) program year to the next;

(b) Provide payment or otherwise compensate a participant for unused benefits, such as sick leave or a holiday; and

(c) Use SCSEP funds:

1. To provide contributions to a retirement system or plan;

2. To pay the cost of pension benefits for a program participant;
3. For annual leave;
4. For accumulated sick leave; or
5. For a bonus.

Section 9. Durational Limits.

(1)

(a) Except as established in subsection (3) of this section, an eligible individual shall not participate in the SCSEP for more than forty-eight (48) months in the aggregate.

(b) Consecutive participation shall not be required, from the later of July 1, 2007, or the date of the individual's enrollment in the program.

(2) A sub-recipient shall:

(a) Inform a participant, upon enrollment in the SCSEP, of the time limit specified in subsection (1) of this section and possible extension in subsection (3) of this section;

(b) Provide for a system to transition a participant to unsubsidized employment or other assistance before the maximum enrollment duration has expired;

(c) Reflect the transition in the participant's IEP; and

(d) Ensure that a project does not exceed the overall average participation cap for all participants as described in subsection (4) of this section.

(3) The department may request from the Department of Labor increased periods of participation beyond forty-eight (48) months for a participant who:

(a) Has not obtained the participant's IEP goal; and

(b)

1. Has a severe disability; or
2. Is frail.

(4)

(a) Except as provided in paragraph (b) of this subsection, a sub-recipient shall manage its SCSEP project so that it does not exceed an average participation cap for all participants of twenty-seven (27) months in the aggregate.

(b) The department may request an extended average participation period of up to thirty-six (36) months (in the aggregate) for a particular project area in a given program year, if the Department of Labor determines that circumstances exist to justify an extension due to the following:

1. High rates of unemployment or poverty or participation in the program of block grants to States for temporary assistance for needy families under part A of Title IV of the Social Security Act, 42 U.S.C. 601, in the areas served by a sub-recipient, relative to other areas of the state involved or of the nation;

2. Significant downturns in the economy of an area served by the sub-recipient or in the national economy;

3. Significant numbers or proportions of participants with one (1) or more barriers to employment, including "most-in-need" individuals described in 20 C.F.R. 641.710(a)(6), serviced by a sub-recipient relative to the numbers or proportions for sub-recipients serving other areas of the state or nation;

4. Changes in federal, state, or local minimum wage requirements; or

5. Limited economies of scale for the provision of community service employment and other authorized activities in the areas served by the sub-recipient.

(5) An authorized break in participation from the program shall:

(a) Be considered a formal leave of absence~~*[for the following reasons]*~~:

1. ***For*** personal circumstances; or
2. If a suitable community service assignment is not available;

(b) Be formally entered by the sub-recipient in the Grantee Performance Management System (GPMS)~~[SCSEP Performance and Results Quarterly Performance Reporting~~

~~(SPARQ) system]~~; and

(c) Not count toward the individual time limit specified in subsection (1) of this section or the average participation cap specified in subsection (4) of this section.

(6) A host agency shall notify the sub-recipient of a participant's absence or break in participation without pay for up to:

(a) Two (2) weeks approved by the host agency supervisor; or

(b) Sixty (60) calendar days with approval of the host agency supervisor and sub-recipient staff.

(7) A participant shall be granted a leave of absence with approval from the department for up to ninety (90) calendar days in extenuating circumstances, such as:

(a) Illness;

(b) Family care; or

(c) Institutionalization.

(8) Except for an extenuating circumstance specified in subsection (7) of this section, the participant shall request a leave of absence or approved break in participation from the host agency supervisor at least five (5) working days prior to the proposed absence or break.

(9) A sub-recipient may request a waiver to the state SCSEP coordinator ninety (90) days prior to a participant reaching the forty-eight (48) month durational limit, if the participant meets the requirements of subsection (3) of this section.

Section 10. Termination.

(1) A sub-recipient shall give a participant written notice explaining the reason for termination and grievance procedures and may terminate the participant thirty (30) days after it has provided the written notice for the following reasons:

(a) If the sub-recipient determines that a participant was incorrectly declared eligible as a result of false information knowingly given by the individual;

(b) If, during eligibility verification, the sub-recipient finds a participant is no longer eligible for enrollment;

(c) If the sub-recipient determines that it incorrectly determined a participant to be eligible for the program through no fault of the participant;

(d) For failure to comply with the requirements of this administrative regulation or for cause, such as:

1. An act or threat of violence;
2. Inappropriate, disrespectful, demeaning, or abusive behavior, such as:
   a. Loud, abusive, profane, foul, obscene, vulgar, crude, insulting, or threatening language;
   b. Inappropriate jokes or gestures, discriminatory slurs, or sexual comments;
3. Theft or being a party to theft;
4. Dissemination of confidential information obtained during the course of the participant's community service assignment;
5. Illegal use, possession, or sale of prescription medication, alcohol, or drugs; or
6. Intoxication during work hours; or

(e) Refusal to accept a reasonable number, in accordance with 20 C.F.R 641.580(e), of job offers or referrals to unsubsidized employment consistent with the IEP and if there are no extenuating circumstances that would hinder the participant from moving to unsubsidized employment.

(2) If a sub-recipient makes an unfavorable determination of enrollment eligibility, the sub-recipient shall refer the individual to other potential sources of assistance, such as the one-stop delivery system.

(3) If a sub-recipient terminates a participant, the sub-recipient shall refer the participant to other potential sources of assistance, such as the one-stop delivery system.

(4) A sub-recipient[~~sup-recipient~~] shall provide a participant, upon enrollment, with a written copy and verbal review of its policies for terminating a participant as specified in subsection (1) of this section.

(5)

(a) A participant shall not be terminated from the SCSEP solely on the basis of age.

(b) A sub-recipient shall not impose an upper age limit for participation in the SCSEP.

Section 11. Sub-recipient Responsibilities. A sub-recipient shall:

(1) Provide SCSEP services throughout the geographic area under its area plan or proposal;

(2) Adhere to provisions set forth in the OAA and federal regulations promulgated under the Act, 20 C.F.R. Part 641;

(3) Implement and carry out the SCSEP[~~SCEP~~] in accordance with the provisions of a sub-recipient agreement;

(4) Enroll [~~Pursuant to 42 U.S.C. 3056(a)(4)(c), enroll~~] and serve eligible individuals, with the focus on:

(a) Individuals with the greatest economic need;

(b) Minority individuals;

(c) Individuals who are limited English proficiency; and

(d) Individuals with the greatest social need;

(5) Recruit and determine the eligibility of SCSEP participants;

(6) Recruit and select host agencies;

(7) Ensure that a host agency shall not reduce the number of employment opportunities or vacancies that would be available to an individual not participating in the program;

(8) Provide supervision for SCSEP participants;

(9) Assist a participant with supportive services identified on the participant's IEP;

(10) Provide participant wages and benefits;

(11) Coordinate with the local Workforce Innovation and Opportunity Act[~~Investment Board~~] initiatives and programs including co-enrollment of SCSEP[~~SCEP~~] participants;

(12) Monitor for a participant's safe and healthy working conditions;

(13) ***Allow*** ***[~~Permit~~]*** staff of the department and the district to monitor and evaluate provided SCSEP services;

(14) Monitor that each paid or volunteer staff member meets the qualification and training requirements of SCSEP;

(15) Develop a policy and procedure for a referral for service to other programs and services in accordance with a participant's IEP;

(16) Work with a participant to ensure the participant is:

(a) Receiving SCSEP services; and

(b) Taking actions designed to help achieve the participant's goals;

(17) Contact private and public employers directly or through the one-stop delivery system to develop or identify unsubsidized employment opportunities;

(18) Encourage host agencies to assist a participant in the participant's transition to unsubsidized employment, including unsubsidized employment in the host agency;

(19) Adhere to other sub-recipient requirements set forth in this administrative regulation; and

(20) Collect and report program data timely as is required by the SCSEP [~~Submit required SCSEP data monthly to the Department of Labor, pursuant to 20 C.F.R. 641.700~~].

Section 12. Department Responsibilities. The department shall:

(1) Develop and implement the state SCSEP plan with the assistance of sub-recipients and national SCSEP providers;

(2) Have an equitable distribution of authorized positions in the aggregate;

(3) Adhere to provisions set forth in the Older Americans Act and federal regulations promulgated under the Act, 20 C.F.R. Part 641;

(4) Enroll [Pursuant to 42 U.S.C. 3056(a)(4)(c), enroll] and serve eligible individuals, with the focus on:

(a) Individuals with the greatest economic need;

(b) Minority individuals;

(c) Individuals who are limited English proficiency; and

(d) Individuals with the greatest social need;

(5) Provide a sub-recipient with:

(a) Technical assistance related to SCSEP;

(b) SCSEP information required to accomplish the sub-recipient's agreement responsibilities; and

(c) Annual SCSEP training;

(6) Monitor the performance of the sub-recipient for compliance with the terms, conditions, and performance criteria included within the sub-recipient agreement;

(7) Submit required SCSEP data quarterly to the Department of Labor[,][pursuant to 20 C.F.R. 641.700];

(8) Review performance measures on a quarterly basis and relay that information to each sub-recipient pursuant to 20 C.F.R. 641.700;

(9)

(a) Allocate SCSEP funds to a sub-recipient; and

(b) Monitor the sub-recipient:

1. For use of the allocated funds; and

2. To ensure the nonfederal share of the total SCSEP costs shall be used for in-kind services at a fair market value to services and facilities contributed; and

(10) Adhere to performance measures and indicators as determined by the U.S. Department of Labor annually, pursuant to 20 C.F.R. 641.700.

Section 13. Grievance Procedures.

(1)

(a) A participant receiving services from a contract agency of the sub-recipient may request a local resolution with the contract agency. The request shall be made within thirty (30) calendar days of receipt of denial for eligibility or termination of services.

(b) If the participant is dissatisfied with the results of the local resolution with the contract agency, the participant may request a local resolution with the sub-recipient. The request shall be made within thirty (30) calendar days of receipt of the results of the local resolution.

(c) If the participant is dissatisfied with the results of the local resolution with the sub-recipient, the participant may request an[a state] administrative hearing.

1. The hearing shall be in accordance with KRS Chapter 13B.

2. The participant shall submit a written request to the department within ten (10) business[thirty (30)] days after receipt of the results of the local resolution.

(2)

(a) A participant receiving services from a sub-recipient may have a local resolution with the sub-recipient. The local resolution shall be made within thirty (30) calendar days of receipt of denial for eligibility or termination of services.

(b) If the participant is dissatisfied with the results of the local resolution with the sub-recipient, the participant may request an[a state] administrative hearing.

1. The hearing shall be in accordance with KRS Chapter 13B.

2. The participant shall submit a written request to the department within ten (10) business[thirty (30)] days after receipt of the results of the local resolution.

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CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; Phone: 502-564-7476; Fax: 502-564-7091; CHFSregs@ky.gov.