



AUG 15 1996

OLDER WORKER BULLETIN 96-11

TO: ALL SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM  
SPONSORS

SUBJECT: Individual Development Plan Related Termination  
Requirements


1. Purpose. To provide Senior Community Service Employment Program (SCSEP) sponsors with the requirements for Individual Development Plan (IDP) related terminations.

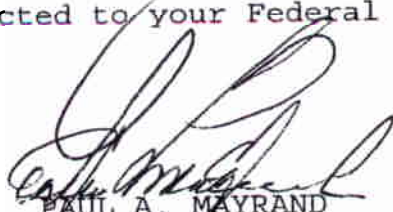
2. References. SCSEP regulations at 20 CFR Sec. 641.316 and Sec. 641.324.

3. Background. The regulations which were published on May 17, 1995 for the SCSEP indicated that the Department of Labor would issue minimum requirements for: enrollee assessments Sec. 641.309 (g); eligibility documentation Sec. 641.302 (c); and Individual Development Plan (IDP) related terminations Sec. 641.316. A work group consisting of State and national SCSEP sponsors prepared draft standards for these regulatory related matters. These draft standards were circulated to SCSEP sponsors for comments. A number of sponsors provided comments which have been incorporated into our final issuances. This bulletin is the last in a series of issuances which are intended to clarify the SCSEP regulation.

4. Directive. SCSEP sponsors who choose to terminate enrollees based on IDPs must adhere to the requirements stated in the attachment to this bulletin, "IDP Related Termination Requirements". This bulletin and the attachment provide the minimum requirements. Termination of an enrollee based on his/her IDP is an optional provision of the regulation. Grantees not wishing to exercise this option are not compelled to do so. For those grantees who do exercise this option, it should be remembered that it is a process to be used as a last resort.

Inquiries. Questions may be directed to your Federal Representative at (202) 219-5904.

  
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Attachment

Attachment

SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM (SCSEP)  
CRITERIA TO BE APPLIED FOR IDP RELATED TERMINATIONS  
20 CFR PART 641.316  
INDIVIDUAL DEVELOPMENT PLAN (IDP) RELATED TERMINATIONS

**PREAMBLE**

The regulations which were published on May 17, 1995 for the SCSEP indicated that the Department of Labor would issue minimum requirements for IDP related terminations. This attachment will provide those minimum requirements.

- o **Available Option.** The section in the regulation regarding IDP related terminations is an optional provision. Grantees not wishing to exercise this option are not compelled to implement Sec. 641.316. For those grantees who exercise this option, all practical steps should be employed to avoid termination of an enrollee based on the IDP.
- o **Need for Adequate Notification.** Prior to putting this option into effect, the grantee must provide all enrollees with information regarding the grantee's rules for IDP related terminations. These rules must be presented during orientation or, if that is not possible, at an enrollee meeting. The rules must also be contained in the grantee's enrollee handbook or similar document. Enrollees must be given ample time to consider the ramifications of this policy.
- o **Relationship to the IDP.** An IDP related termination must be a logical consequence of the agreements established between the enrollee and the project staff in the jointly signed IDP. The IDP must clearly and accurately reflect the goal(s) of the enrollee. If the enrollee is unable or unwilling to commit to fulfilling the jointly signed IDP agreement, it is essential that this lack of commitment be determined and resolved early in the process.
- o **Consistency of Application.** The grantee's rules and procedures must be applied in a fair and consistent manner to all enrollees in a project or subproject.
- o **Levels of Review.** A minimum of two levels of review must be built into the appeal procedures employed by the grantee/subgrantee, if possible. Anyone with direct responsibility in the IDP related termination decision should recuse themselves from the appeal.

- o **Adequate Internal Procedures.** When the enrollee's actions are not consistent with the IDP, staff must explore the cause in each case. A corrective action notice or letter<sup>1</sup> must be developed and provided to the enrollee in each of these cases, including instances where a referral is provided, but not fulfilled. The notice shall include appropriate response time frames.
- o **IDP Change.** Where appropriate, an IDP may be modified to be consistent with a new situation which was not considered in the original IDP.

### CORRECTIVE ACTION SITUATIONS

In each of the following situations, a corrective action notice or letter is appropriate when the enrollee's performance is inconsistent with the jointly signed IDP agreement. If an enrollee refuses to participate in the IDP process, he or she should be sent a notice stating that their refusal to participate could result in termination from the SCSEP.

#### **Job Referrals**

- o **Refusal.** A corrective action notice should be employed when an enrollee refuses to accept the referral of an interview at an employer's place of business. The proposed job must be consistent with the IDP and meet the placement indicators as defined in Older Worker Bulletin 95-6.
- o **Obstructive Behavior.** An IDP related corrective action notice may be applied to situations in which the enrollee deliberately undermines the job interview. There may be a pattern to the obstructive behavior such as providing false information and/or a general lack of cooperation by the enrollee.

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<sup>1</sup> Corrective Action Notice or Letter: For the purposes of this requirement, a corrective action notice or letter means a document conveyed to the enrollee in person, if possible, that contains information regarding a specific incident where the enrollee failed to fulfill his or her IDP responsibility. Such a notice shall list the specific event; cite the jointly signed agreement provision; and provide a period of 30 days to take corrective action. Subsequent notices should follow a progressive pattern, i.e., lead from a warning to termination following the last such notice provided to the enrollee and contain the same specific citations. The termination letter must state the enrollee's right to appeal, the appeal procedure with the appropriate time frames and the name of the person to whom the appeal should be made.

### Other Referrals

- o **Training.** A corrective action notice may be appropriate in a situation where an enrollee refuses training opportunities in the local community, such as those provided by JTPA, 502(e) or adult education.
- o **Community Service Assignments.** A corrective action notice may be appropriate if an enrollee refuses to accept an initial or alternative assignment.
- o **Job Service Registration.** A corrective action notice may be appropriate when there is a refusal of a requirement to register for work at the local job service office.
- o **Supportive Services.** A corrective action notice may be appropriate when there is a refusal by an enrollee to accept any services which impact on the ability of the individual to fully participate in the community service assignment or referral to an unsubsidized job. This may include such activities as personal counseling for hygiene, alcohol or drug abuse. However, consideration should be given to the support services needed by the enrollee and their inability to obtain those services. For example, a toothless enrollee may have a difficult time getting employment. Neither the project nor the enrollee may have the resources to address this need. In this instance, the lack of supportive service to fill a need would be outside the control of the project or the enrollee.
- o **Other Employment Related Referrals.** A corrective action notice may be appropriate when an enrollee refuses to participate in grantee developed or arranged activities such as job search workshops, scheduled workshops and resume development.
- o **Documentation.** All determinations must specify the basic information relating to the event. This information must be specific and verifiable. It must include written notice and time frames.
- o **Use as a Last Option.** Removal from the program should occur only after all options have been exhausted and the enrollee has been provided written notice. To avoid this option, it may be appropriate to modify the IDP and offer the enrollee an alternative community service training position.
- o **Extenuating Circumstances.** An IDP related termination is not appropriate when:

- occurrences are not within control of the enrollee, e.g., transportation is unavailable to training or an unsubsidized job;
- situations such as the death of a closely related person or partner or a physical condition impact the training or work situation;
- the training or unsubsidized job places undue hardship on an enrollee that exceed those of the community service assignment;
- the proposed unsubsidized employment is more costly to the enrollee than the SCSEP position; and
- other related reasons for an IDP-related termination should be considered on a case-by-case basis.

**REASONABLE NUMBER OF REFERRALS**

- o **Situational.** No hard and fast rule can be applied to what is determined to be an adequate number of referrals for a job or other referral for all grantees. Each grantee exercising this option must spell out a reasonable number of referrals depending upon the situations that apply to the projects which they administer. The number of referrals must be applied uniformly in the project or subproject where IDP-related terminations are being implemented. Referrals may include multiple referrals of the same type such as job interviews, or multiple referrals of various types such as sabotage of a job interview, training interview, or job service registration.