

New York State Office for the Aging (NYSOFA) Termination Policy

Participant Involuntary Termination Policy:

There are six (6) reasons a participant may be involuntarily terminated from the SCSEP. The reasons are listed below along with an explanation. This Termination Policy will be followed fairly and equitably when involuntarily terminating participants. Participants will not be terminated based on age; there is no upper age limit for participation in the SCSEP. Except as noted below in the case of serious violations, participants will receive progressive discipline and an opportunity for corrective action before a formal termination notice is issued. In all cases, participants will receive a 30 day termination letter notifying them of the date of exit, the reason for the termination, and the right to appeal under NYSOFA's grievance procedure. A copy of the grievance procedure will be attached to the termination letter. Participants will receive both a copy and a verbal explanation of the Involuntary Termination Policy during orientation. This policy is based on the Older Americans Act Amendments of 2006 and the SCSEP Final Rule, effective on October 1, 2010.

Types of Involuntary Terminations

A participant can be involuntarily terminated from the SCSEP for six (6) reasons. The reasons are:

1. Knowingly providing false information in the eligibility process.
2. Being incorrectly determined eligible at enrollment or the annual recertification.
3. Being determined no longer eligible at recertification.
4. Reaching the maximum 48 months enrollment limit.
5. Becoming employed during enrollment.
6. For cause, including refusing to accept a reasonable number of job offers or referrals to unsubsidized employment based on the Individual Employment Plan (IEP) (with no extenuating circumstances hindering the participant from moving to unsubsidized employment.)

1. Termination Due to Knowingly Providing False Information in the Eligibility Process:

A participant may be terminated for fraudulent actions, such as intentionally providing inaccurate information to qualify for the SCSEP. If this occurs, the participant will be placed on Leave without Pay immediately, and a 30 day notification of termination will be sent to the participant.

2. Termination Due to Being Incorrectly Determined Eligible:

A participant will be terminated if found ineligible for participation in the SCSEP either after enrollment or after the annual recertification through no fault of the participant. A participant may be enrolled or deemed eligible for continued enrollment based on an error in determining program eligibility, e.g. income may be recorded or calculated inaccurately. When this occurs, the participant will be notified regarding the error and immediately sent a 30 day notification of

termination letter. The participant will be able to continue participating in the program until the date of exit as noted in the letter.

3. Termination Due to No Longer Being Eligible:

Annually, or more frequently if there is a substantial change in circumstances, each participant is recertified to determine if he or she continues to be eligible for participation. During the recertification, a participant may be determined no longer eligible due to a change in eligibility criteria such as income, family of one due to a change in disability status, employment status, and number of household members. The participant will be notified and immediately sent a 30 day notification of termination letter. The participant will be able to continue participating in the program until the date of exit as noted in the letter.

4. Termination Due to 48 Month Participation Limitation:

A participant will be terminated when he or she meets the 48 month maximum participation date, unless he or she has a qualified, documented waiver factor based on NYSOFA's Individual Durational Limit Policy. A waiver factor qualifies the participant for a temporary 12 month extension. If the participant does not qualify for a temporary extension, he or she will be sent a 30 day notification of termination letter 30 days before the 48 month maximum participation date. The participant will be able to continue participating in the program until the date of exit as noted in the letter.

5. Termination Due to Becoming Employed During Enrollment:

To qualify for enrollment in the SCSEP, a participant has to be unemployed; all participants are informed that they may not be employed while participating in the program and that they must notify the program representative immediately upon becoming employed. A participant who is discovered to be employed while enrolled without having notified the program of the employment will be terminated from the program. If this occurs, the participant will be placed on Leave without Pay immediately, and a 30 day notification of termination will be sent to the participant.

6. Termination for Cause:

There are several reasons to terminate a participant "for-cause." When warranted, a participant may be terminated for certain behaviors and/or conduct. The following are specific reasons; however, other similar reasons that demonstrate willful misconduct or an intentional disregard of program rules may cause involuntary termination:

IEP related reasons:

Refusing to accept a reasonable number of job offers or referrals to unsubsidized employment or for not complying with the Individual Employment Plan (IEP). A participant may be subject to disciplinary action up to and including termination when he or she refuses a total of three job offers and/or referrals to job openings and/or to follow through with objectives to achieve goals that are based on the IEP. If the participant fails, without good cause, to cooperate fully with NYSOFA sub grantee staff to accomplish the goals of his or her service strategy, an IEP-related termination "for-cause" may be in order. Examples of lack of cooperation with sub grantee staff

to accomplish IEP service strategies may include but are not limited to the following when provided for in the participant's IEP:

Refusing to search for a job:

- Sabotaging a job interview, for example, a participant tells the interviewer that he or she is not interested in the job or tells the interviewer that he or she is not qualified.
- Refusing or not participating fully in training opportunities.
- Refusing to transfer to a new community service training assignment.
- Refusing to register at the One-Stop/Job Service.
- Refusing to take advantage of WIA opportunities.
- Refusing to accept or lack of follow-through in obtaining supportive services that will enhance the participant's ability to participate in a community service assignment consistent with the IEP.
- Refusing to cooperate with other IEP-related referrals.
- Refusal to cooperate with the assessment or IEP process, e.g., refusing to participate in completing the assessment and training development plan.

Non-IEP related reasons:

- Refusal to cooperate in recertifying eligibility, for example, refusing to provide required document to determine continued eligibility or refusing to attend or be available for the recertification appointment.
- Failure or refusal to perform assigned duties, e.g., refusing without good cause to do assignments that are part of the training description and required to increase skills and knowledge.
- Falsification of official records, such as timesheets, for example, intentionally signing the signature of the host agency supervisor on a timesheet or other official document, or including hours on a time sheet that are not accurate.
- Intentional disclosure of confidential or private information obtained from the host agency, grantee, or local project, for example, informing others of information that is supposed to be kept private or confidential.
- Frequent tardiness or unauthorized absences, including reporting to the assignment late or not reporting to the assignment and not informing the supervisor. Generally, three instances of absence without good cause or without proper notice may warrant termination.

- Insubordination, defined as intentionally refusing to carry out the direction or instructions of a host agency supervisor or sub grantee staff member, provided there were no extenuating circumstances and the directions or instructions were reasonable.
- Workplace harassment or discrimination on the basis of sex, race, color, religion, national origin, age, marital status, or disability.
- Obscene, abusive, harassing, or threatening language or behavior.
- Physical violence or intentional destruction of property, for example, being violent and threatening to or carrying out threats that physically harm individuals or property.
- Theft, meaning illegal taking or withholding the property of another without permission.
- Causing an imminent threat to health or safety of self or others.
- Non-compliance with drug and alcohol free policy, which prohibits participants from consuming, selling, purchasing, manufacturing, distributing, possessing or using any illegal or non-prescribed drug or from being under the influence of alcohol and or drugs while performing their host agency assignment or while carrying out objectives required by the IEP. Legally prescribed medications are excluded if they do not affect the participant's ability to perform his or her duties or protect the safety of the participant or others.
- Exceeding approved Leave without Pay by failing to return from an approved break by the required date without due notice or good cause

Participant Corrective Action and Warning:

A participant will be given an opportunity to correct his or her behavior or conduct, or his or her failure to comply with the IEP requirements, except in cases involving serious harm or imminent threat to health, safety, property, etc. At any point, if a participant makes positive efforts or the participant's lack of action is justified, corrective action will be discontinued. The following steps for corrective action will be taken:

Step 1: First Formal Warning

If a participant displays behavior or conduct outlined in the reasons for "for-cause" terminations or refuses to comply with the IEP requirements, the participant will be given a verbal warning and counseled to correct his or her actions. Absent extenuating circumstances, the participant will be informed in writing by the sub grantee of the requirement to correct his or her behavior or conduct.

Step 2: Second Formal Warning

When a participant for a second time displays behaviors or conduct outlined in the reasons for "for-cause" terminations or refuses to comply with the IEP requirements, the participant will be verbally warned and counseled to correct his or her actions. Absent extenuating circumstances,

the sub grantee will send the participant a written warning that he or she has 30 days from the date of the letter to correct his or her behavior or conduct. In the case of an IEP violation, the participant may be directed to complete specific IEP-related task. The written warning will include a statement that failure to make improvement or complete the IEP-related tasks will result in termination.

Step 3: When a participant does not make improvement in his or her actions or for a third time displays behavior or conduct outlined in the reasons for “for-cause” terminations, a letter will be sent notifying the participant that he or she will be exited 30 days from the date of the letter.

For-Cause Terminations that Require Immediate Removal from Host Agency and Leave without Pay Pending Termination:

When a participant’s violation of NYSOFA’s policy is of a serious nature, immediate action to remove the participant from the host agency may be required. In this case, the participant will be placed on leave without pay and a written 30-day notice of termination sent. Examples of circumstances warranting immediate removal from the host agency and leave without pay include, but are not limited to:

- Gross misconduct such as violating NYSOFA’s 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.