

## State Policy

## Senior Community Service Employment Program (SCSEP)

Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16 <sup>th</sup> St Lincoln, NE 68508 <a href="mailto:ndol.scsep@nebraska.gov">ndol.scsep@nebraska.gov</a>	<b>Policy Category</b>
	Administrative Requirements
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## Grievances and Complaints – SCSEP

### Background

Each grantee must establish grievance procedures for resolving complaints arising between the grantee, employees of the grantee, sub-recipients, and applicants or participants.<sup>1</sup>

### Policy

#### Reasonable Effort

The American Job Centers and NDOL Offices will make reasonable efforts as provided for in 29 CFR 38.9 to assure that information on all complaint and grievance procedures and forms will be understood by individuals, including limited English-speaking participants, in order to meet their language needs and be effectively informed.

#### Protection

These procedures are designed to ensure that the identity of a person who furnishes information or assists in the investigation of a complaint will be kept confidential to the extent possible consistent with a fair determination on the complaint. A complainant's rights include freedom from employment termination, discrimination, retaliation, or denial of program benefits to which entitled because the person filed a complaint. The complainant's identity will be kept confidential to every extent possible unless and until identity is necessary to resolve the issue.

#### Reprisal

Retaliation is prohibited against a person who files a complaint or testifies. An individual may file a complaint without fear of jeopardizing his/her program participation, employment, advancement opportunities, salary increases, or any other rights and benefits.

#### Who May File

Any participant, applicant, host agency, or employee has the right to file a grievance.

#### Filing Deadline

Non-criminal complaints and grievances of a nondiscriminatory nature should be filed as soon as possible and shall be filed within 180 days of the alleged occurrence.

<sup>1</sup> 20 CFR § 641.910(a)

## **Complaints Process**

If a grievance or complaint is made directly to the State or Secretary, they will be referred to the appropriate local area for resolution. Local level procedures shall be exhausted before the complaint may be addressed at the State level.

### **Initial Complaint**

A participant, applicant, host agency, or employee who has a complaint should be instructed to take the following actions:

1. Discuss the issue with appropriate personnel at the lowest level at which the complaint occurred. The local coordinator/case manager is to be immediately notified of all complaints by the host agency supervisor. The local coordinator will notify the SCSEP Staff Supervisor and Director of the complaint the same day the complaint is received. If the complainant finds it difficult to discuss the complaint with the local coordinator, he/she may contact the SCSEP Staff Supervisor.
2. Local SCSEP personnel responding to an informal complaint should take the following action(s):
  - a. If a resolution is not reached on the same day, the local coordinator will notify the complainant of the anticipated response date. The local coordinator has five calendar days to respond to a complaint.
  - b. The local coordinator will work with the participant, applicant, Host Agency, or employee to encourage an informal resolution.
  - c. If the complainant is dissatisfied with the informal resolution, the local coordinator must inform the complainant of their right to file a formal grievance.
  - d. Regardless of the outcome of the informal complaint, the local coordinator is to document the outcome in writing and retain a copy in the appropriate file.

If the complaint cannot be resolved, the participant shall be advised to put the complaint in writing as a formal grievance. E-mails are to be considered an acceptable form of submittal of a grievance. The SCSEP Program Director must notify the State Grantee when a formal complaint is filed. The following formal grievance procedure must be followed, and the timeframes adhered to.

### **Formal Grievance**

#### **Informal Meeting: SCSEP Staff Supervisor**

For a grievance involving the host agency, a SCSEP participant must first go through the established grievance procedure of the host agency training site.

The written formal grievance shall first be presented to the SCSEP Staff Supervisor. The supervisor shall schedule an informal meeting(s) with the complainant within 10 calendar days of the grievance. If the grievance can be resolved during this meeting, the SCSEP supervisor shall provide written documentation of the resolution, submit the documentation to the grievant, and enter into the appropriate file.

Formal Meeting: SCSEP Director

If the grievance cannot be resolved during the informal meeting, the SCSEP Staff Supervisor shall schedule a meeting within 10 days with the SCSEP Director, or designee, the SCSEP Staff Supervisor, and the grievant.

The SCSEP Director or designee shall facilitate the meeting and render a decision in writing to the grievant within 10 calendar days following the scheduled formal meeting. The decision, including the justification for the decision shall be maintained in the appropriate file.

Administrative Review: State Grantee SCSEP Administrator

The participant has the right to request an administrative review of the SCSEP sub-grantee Director's decision by the State Grantee Administrator.

A request for administrative review must be filed in writing within 30 days of receipt of the notice of an adverse action. The request shall be signed by the grievant or an authorized representative of the grievant and directed to:

Nebraska Department of Labor  
Division of Reemployment Services  
Attention: State SCSEP Administrator  
550 S 16<sup>th</sup> St  
Lincoln, NE 68508

The State SCSEP Administrator or designee shall schedule an administrative review conference to meet with the grievant or a representative of the grievant. At the administrative review conference, the grievant or the grievant's representative may review pertinent evidence on which the action was based.

The Nebraska Department of Labor SCSEP Administrator shall issue a final decision in writing within 30 days of the filing of the request for administrative review. The Nebraska Department of Labor's decision is final. The final written determination and related documentation will be maintained by Nebraska Department of Labor in accordance with the SCSEP record retention policy.

U.S. Department of Labor

If the grievant alleges discrimination on the basis of race, color, religion, sex, national origin, disability, or age, and is not satisfied with the final decision at the administrative level, he/she may file a complaint, within 30 days of the final determination of the State SCSEP Administrator, to:

Director, Civil Rights Center, U.S.  
United States Department of Labor  
200 Constitution Avenue, NW  
Washington, D.C. 20210

If the grievant alleges grievance procedures were not followed, or alleges violation of federal law, other than nondiscrimination requirements, the grievant may file a complaint within 30 days of the final determination with the U.S. Department of Labor at:

Chief, Division of Adult Services  
Employment and Training Administration  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, D.C. 20210

### **Notification of Grievance Rights**

In all cases, it is the intent of the SCSEP program to resolve the grievance at the lowest level possible, giving the applicant, participant, host agency, and employee the benefit of doubt if circumstances warrant such. Notification and explanation of grievance rights shall be completed as follows.

### **Applicants/Participants**

The grievance procedure must be given, reviewed, and explained to all applicants at the time of intake while completing a full application. It must then be documented in their case file that the procedure was provided to them when the new enrollee signs the intake form stating same.

A copy of the grievance procedures must be included with the 30-day notice of termination. All terminations are subject to the Nebraska SCSEP grievance procedure. When a participant leaves the program for any reason, be it voluntary or involuntary, they are provided an additional copy of their grievance procedure. It is again explained to them the steps that must be taken in the event of a grievance. A copy of the grievance procedure will be attached to the termination letter.

### **Host Agency**

The host agency will receive a copy of the grievance procedure when they sign the Host Agency Agreement. The policy must be reviewed with them at that time.

### **Employee**

In the event of an employee grievance, all employees (at the State and local level) are to follow the grievance procedures outlined in their own employer's Policy and Procedure Manual.

### **Statewide Grievances and Complaints**

Grievances and complaints from participants and other interested parties affected by Statewide Workforce Development programs may be submitted to the State at:

Nebraska Department of Labor  
Division of Reemployment Services  
550 South 16th Street  
Lincoln, Nebraska 68508

If it is determined that the complaint is directly related to the SCSEP program, then the complaint/grievance will be remanded to the SCSEP provider grievance process. Local level procedures shall be exhausted before the complaint may be addressed at the State level.

### **PII and Record Retention**

Nebraska SCSEP, the sub-grantee, and host agencies shall ensure the confidentiality of participant information. Confidential information shall be maintained in locked files. If electronic records are utilized, confidential information must be secured.

All required documentation, both fiscal and programmatic, must be retained for three program years after the end of the program year in which the document was generated. For participants who enter unsubsidized employment after exiting the program, this means three program years after the end of the program year in which all follow-up activity is ended.

If documentation is missing, reasonable steps must be taken to recreate the required information. If documents are recreated, case notes should be documented in detail to identify action taken.

### **Disclaimer**

This policy is based on NDOL's reading of the applicable statutes, regulations, rules and guidance released by the U.S. Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.