

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION SCSEP
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ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 17-20

TO: SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM GRANTEES

FROM: SUZAN G. LEVINE /s/
Principal Deputy Assistant Secretary

SUBJECT: Senior Community Service Employment Program – Updated Guidance on Priority of Service, Durational Limits, and State Plan Submissions

1. **Purpose.** This Training and Employment Guidance Letter (TEGL) provides guidance to Senior Community Service Employment Program (SCSEP) grantees regarding updates to the priority of service provisions, durational limit waiver categories, and State Plan requirements due to the passage of the Supporting Older Americans Act of 2020, which reauthorized the Older Americans Act (OAA) and included new provisions regarding certain individuals who were formerly incarcerated or under supervision following release from prison or jail.
2. **Action Requested.** Grantees must use this updated guidance to: 1) identify the priority of service for individuals determined to be eligible for the SCSEP program; and 2) determine whether extended periods of participation for individual participants within a grant or increases to a grant's average participation cap are allowable, and to track such data.
3. **Summary and Background.**
 - a. **Summary.** This TEGL shares guidance regarding amended statutory requirements to provide priority of service to eligible individuals who have been incarcerated within the last 5 years or are under supervision following release from prison or jail within the last 5 years. The amended statute also includes these individuals as an additional category of individuals with barriers to employment. This TEGL provides updated guidance regarding related waivers of individual durational limits, as well as state plan reporting.
 - b. **Background.** SCSEP is authorized by the Older Americans Act and was most recently reauthorized in Title IV of the 2020 reauthorization, the Supporting Older Americans Act (Public Law 116-131). The most recent SCSEP Final Rule (20 CFR 641) was published on July 30, 2018. These regulations provided better alignment between the performance measures under SCSEP and the performance measures under programs authorized by the Workforce Innovation and Opportunity Act of 2014.

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Under OAA, SCSEP-eligible individuals must:

- be age 55 or older;
- have an income of no more than 125 percent of the Federal poverty guidelines; and
- be unemployed at the time of enrollment.

Additionally, when selecting eligible individuals for participation in SCSEP, grantees and sub-recipients must give priority to individuals who have specific characteristics, described further in 4.d.

4. Impacts of Reauthorization on SCSEP Requirements. The 2020 reauthorization of the Older Americans Act added a new category to these priority requirements such that *eligible individuals who have been incarcerated within the last five years or are under supervision following release from prison or jail within the last five years* are now a priority population for enrollment and an additional category for the most-in-need characteristics.

- a. Definition.** For the purposes of this TEGL, “formerly-incarcerated individuals” are those individuals who: 1) were incarcerated and released from prison or jail at any point within the last five years; or 2) were under supervision at any point within the last five years, following release from prison or jail. The five-year period specified in this definition refers to the five years preceding the date of first determination of program eligibility, as described in 20 CFR 641.505, for initial enrollment into the program.
- b. Effective Date.** The changes to SCSEP made by the Supporting Older Americans Act of 2020 and described in this TEGL took effect one year from that legislation’s enactment, March 25, 2021.
- c. Priority of Service.** The 2020 reauthorization adds a tenth characteristic category that has priority of service over those individuals who meet only the basic eligibility criteria related to age, income, and employment. The revised list of priority of service characteristics includes individuals who:
- are 65 years of age or older;
 - have a disability;
 - have limited English proficiency;
 - have low literacy skills;
 - reside in a rural area;
 - are veterans (or eligible spouses of veterans) for purposes of the Jobs for Veterans Act, Pub. L. No. 107-288 (38 USC 4215(a));
 - have low employment prospects;
 - have failed to find employment after using services provided under the Workforce Innovation and Opportunity Act (WIOA) of 2014 (Public Law 113-128);
 - are homeless or at risk for homelessness; or
 - are formerly incarcerated or on supervision from release from prison or jail within five years of the date of initial eligibility determination.

The 2020 reauthorization does not impact how grantees and sub-recipients must apply these priorities, as described in 20 CFR 641.520:

- Persons who qualify as a veteran or qualified spouse under § 2(a) of the Jobs for Veterans Act, 38 U.S.C. 4215(a), and who possess at least one of the other priority characteristics;
- Persons who qualify as a veteran or qualified spouse under § 2(a) of the Jobs for Veterans Act, 38 U.S.C. 4215(a), who do not possess any other of the priority characteristics;
- Persons who do not qualify as a veteran or qualified spouse under § 2(a) of the Jobs for Veterans Act (non-veterans), and who possess at least one of the other priority characteristics.

d. Individual Durational Limit Extensions. Additionally, those participants identified as individuals with barriers to employment and most-in-need will now include formerly-incarcerated individuals, as defined in section 4.a. above. Formerly-incarcerated individuals are, therefore, now eligible for an additional 12 months of participation under their individual participant durational limit, pending ETA approval of the grantee's revised individual durational limit (IDL) policy (20 CFR 641.570(b)).

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) blanket extension described in TEGL 22-19, "Program Year (PY) 2020 Planning Instructions and Allotments for Senior Community Service Employment Program (SCSEP) State, Territory, and National Grantees; and Implementation of SCSEP Provisions of the CARES Act" is separate and distinct from the standard IDL requirements described below.

Consistent with 20 CFR 641.570 and the most recent guidance on IDL policies in TEGL 22-19, grantees must provide their IDL policies to ETA for approval, and usually do so when submitting their annual grant plans. Grantees may adjust their IDL policies at any time by submitting them to ETA for approval. As explained in TEGL 22-19, Attachment V, grantees may choose one of three options for their IDL policies:

- 1) Provide no extensions to any participant beyond the statutory 48 months.
- 2) Allow extensions for participants with any one of the eight barriers to employment that are waiver factors, which include:
 - a. Having a severe disability;
 - b. Being frail;
 - c. Are age 75 or older;
 - d. Meeting the eligibility requirements related to age for, but do not receive, benefits under title II of the Social Security Act (42 U.S.C. 401 *et seq.*);
 - e. Living in an area with persistent unemployment and are individuals with severely limited employment prospects;
 - f. Having limited English proficiency;
 - g. Having low literacy skills; or
 - h. Being a "formerly-incarcerated individual," as defined by section 4.a. above.
- 3) Allow extensions for a specified subset of the eight barriers only, e.g., limited English proficiency only; limited English proficiency plus either severe disability

or being 75 or older; or any subset combination of the barriers as identified in the grantee's policy.

If a grantee can document that a current participant would meet the requirement for this waiver factor (that is, at their date of initial eligibility determination, they were within five years of their date of release from being incarcerated or under supervision after release from prison or jail), then the current participant would be eligible for the IDL extension for this waiver factor. Both Option 2 and Option 3 allow the retroactive consideration of this new waiver factor.

Grantees that have not adopted Option 2 or 3 for their IDL policy but wish to offer extensions for formerly-incarcerated individuals should submit their revised IDL policy to their Federal Project Officer. Grantees that already have an approved IDL policy that falls into Option 2 do not need to take any additional action at this time to activate this newly available waiver factor; on March 25, 2021, grantees with Option 2 policies will automatically be able to provide IDL extensions to eligible participants, both current and future.

- e. **State Plan Reporting.** State grantees, in collaboration with the national grantees operating in their states, will be required to report on the relative distribution of formerly-incarcerated individuals as part of the Four-Year State Plan, next due in 2023. ETA will provide specific guidance on this requirement in the 2023 State Plan instructions.
- f. **SPARQ Data Collection.** Updates are underway to allow for the specific tracking of this priority population in the SPARQ database. ETA will require grantees to track this information once the system change is complete. Until such time as this system change is made, a sample hard-copy data collection template is available to help grantees track this information (see Attachment I).
- g. **Documentation.** Below are allowable forms of documentation of an individual's qualification as formerly incarcerated, as described in TEGL 23-19, "Guidance for Validating Required Performance Data Submitted by Grant Recipients of U.S. Department of Labor (DOL) Workforce Programs." Each of these documents must include the relevant date of release from incarceration (or from supervision from release of incarceration) in order to corroborate that it occurred within the five-year period:
 - Documentation from the Adult Criminal Justice System;
 - Written statement or referral document from a Court or Probation Officer;
 - Referral transmittal from a Reintegration Agency;
 - Signed intake application or enrollment form;
 - Case notes;
 - Needs assessment;
 - Self-attestation; or
 - Federal Bonding program application.
- h. **Related Resources.** To support the employment prospects of formerly incarcerated individuals, ETA supports the Federal Bonding program, which provides fidelity bonds

to employers to protect them from losses resulting from illegal acts of persons that they hire. This resource that can be very beneficial for SCSEP grantees as they support formerly incarcerated participants with unsubsidized employment. Training and Employment Notice (TEN) 07-20, “Resources for Serving Youth and Adults Involved with the Justice System,” provides information on Federal Bonding and other resources to support this population.

5. **Inquiries.** Please direct inquiries to the appropriate Regional Office.

6. **References.**

- Supporting Older Americans Act of 2020, Public Law 116-131 (March 25, 2020);
- SCSEP Final Rule, 75 FR 537864 (September 1, 2010), and 83 FR 146 (July 30, 2018) published at 20 CFR Part 641;
- TEN 07-20, *Resources for Serving Youth and Adults Involved with the Justice System* (November 23, 2020);
- Paperwork Reduction Act of 1995, Public Law 104-13 (May 22, 1995)(as amended);
- SCSEP Performance Data Collection Approval (Office of Management and Budget No. 1205-0040) (expiration date November 30, 2021).

7. **Attachment.**

Attachment I: SCSEP Data Collection Sample Template