

a fringe benefit that grantees/subgrantees must offer annually to each participant. Physicians commonly recommend annual physical examinations for people over the age of 50 as a means of early identification of any serious medical problems. The Department's policy is to actively promote this program benefit for each participant. Grantees/subgrantees should encourage participants to take advantage of this important benefit.

Grantees may not provide physical examinations to determine a participant's "fitness to work." Physicals can be useful, however, in helping participants make informed judgments about their ability to perform certain work assignments. After an individual is enrolled (on the payroll) and the grantee/subgrantee is developing a suitable assignment, job-related medical inquiries are permissible to assist in matching the participant with an assignment. These inquiries, if made, should be made of every participant to ensure that each participant is receiving the same level of service.

The Department continues the policy of discouraging the use of title V funds for unemployment insurance and retirement fund contributions.

#### Is There a Time Limit on Participation in the Program? (§ 641.570)

There is no time limit on participation in the SCSEP because the Department recognizes that some participants may never transition to unsubsidized employment. It is expected, however, that most SCSEP participants will receive services for only a reasonable period of time, *i.e.*, not more than 24 to 36 months. Due to the increased emphasis in the OAA for unsubsidized employment placements, and the Government Performance and Results Act goals, grantees/subgrantees should work to place as many participants as feasible in unsubsidized jobs in order to create additional community service opportunities. Grantees/subgrantees may also require that participants rotate to different host agency assignments after specified periods of time.

The Department may authorize the establishment of a maximum duration of enrollment in the grantee's grant agreement, on the condition that the grantees provide a process for transitioning participants into unsubsidized employment or other assistance before the maximum duration period has expired.

#### May a Grantee Establish a Limit on the Amount of Time Its Participants May Spend at Each Host Agency? (§ 641.575)

Some grantees have found that they have been able to increase their unsubsidized placement rate by limiting the amount of time their participants can spend at each host agency. The regulations clarify that this is an allowable practice, provided that the time limit is established in the grant agreement and included in the participants' IEPs. Grantees that intend to establish a limit on the amount of time a participant may spend at a host agency must submit this plan in their application proposal. If the Department approves the grant application, this process will become part of the grant agreement.

#### Under What Circumstances May a Grantee Terminate a Participant? (§ 641.580)

Grantees/subgrantees may serve only those individuals who are eligible for the SCSEP. Should a grantee/subgrantee learn that an individual is no longer eligible for the program, the grantee/subgrantee must terminate the participant from the program.

Grantees/subgrantees may terminate participants for cause, including behavior that is inconsistent with their SCSEP IEP, or for refusing to accept a reasonable number of referrals to jobs or training. The Department expects grantees to inform participants of the conditions that could lead to a termination from the program in writing and review the requirements with each participant in person at the time of enrollment.

As provided in § 641.570, grantees may terminate participants based on an approved maximum duration of enrollment provision in the grant agreement approved by the Department as long as they provide appropriate services to help the participants transition to other available programs.

Grantees/subgrantees may not terminate a participant because of age, nor may they impose an upper age limit for participation in the SCSEP.

#### Are Participants Employees of the Federal Government? (§ 641.585)

This regulation clarifies that participants are not Federal employees. If, however, the grantee or host agency of a participant is a Federal agency, whether or not the participant qualifies as an employee depends on the laws defining an employer/employee relationship. (*See* § 641.590).

#### Are Participants Employees of the Grantee, the Local Project, and/or the Host Agency? (§ 641.590)

Proposed § 641.590 addresses the issue of whether a participant is an employee of the grantee, local project, or host agency. The Department is unable to concretely answer this question because whether a participant is an "employee" depends on the laws defining an employee/employer relationship. Thus, grantees and participants should consult with an attorney to determine if there are circumstances that qualify a participant as an employee.

#### *Subpart F—Private Sector Training Projects Under Section 502(e) of the OAA*

This section describes private sector training projects authorized under section 502(e) of the OAA, including information on allowable activities, eligibility, co-enrollment, and administration. The Department received many suggestions for changing the section 502(e) program, particularly to allow for more flexibility in the use of the funds, and two suggestions to eliminate the program altogether due to the additional reporting and budgeting requirements. The section 502(e) program is required by the OAA, which authorizes the Department to reserve up to 1.5 percent of the total appropriation to place individuals into private sector job opportunities. The Department believes that the section 502(e) program will complement grantee efforts to promote training for older individuals and move participants into unsubsidized employment in the general SCSEP program. The Department recognizes the need for improved technical assistance, however, and will work to help section 502(e) grantees and subgrantees better implement and take advantage of the program.

One of the biggest changes to the administration of the section 502(e) program, is the Department's decision to sponsor a full and open competition for the funds so that all eligible entities may apply. The Department has made this change to be more in line with the statutory requirements, as well as Department policy on having full and open competition. The Department believes that competing this program will strengthen the unsubsidized placement goals of the program as a whole and will integrate private industry into the SCSEP community.