

StanfordLawSchool

Policy Practicum: California Department of Social Services' Civil Rights Complaint Process and Regulations (Law 806S)

# Improving Civil Rights Enforcement for Californians Utilizing Public Benefits and Social Services Programs

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# EXECUTIVE SUMMARY

## **Scope of Policy Practicum**

In 2017, staff from the California Department of Social Services (CDSS) Civil Rights Unit (CRU) and faculty associated with Stanford Law School's Policy Lab identified CDSS's discrimination complaint and compliance monitoring processes for county social services agencies as an area with process challenges that would be ripe for student research.

Under California and federal law, CDSS is required to provide a process through which complaints about discrimination in the provision of social services by county or state agencies can be investigated and resolved. As a recipient of funds through the U.S. Department of Agriculture, there are also requirements to engage in civil rights compliance monitoring of county agencies that distribute those funds through local programs. This includes reviewing civil rights compliance plans submitted by county agencies and engaging in audits of those agencies. CDSS identified a need for information regarding best practices for complaint and compliance monitoring processes that apply to agencies administering public benefits and social services programs (e.g., food assistance, cash aid, childcare subsidies).

This policy practicum was undertaken with the understanding that Californians who need state and federal support should not face discriminatory barriers to be provided life-sustaining and critical assistance. Many users of these programs already face dire circumstances that have led them to seek help to gain subsistence support that meets their basic needs for food, housing, medical care, or child care. It is imperative that unnecessary obstacles from discrimination or failure to provide a reasonable accommodation, as required by state and federal laws, be identified and removed to their obtaining these important forms of aid.

The students enrolled in this policy practicum engaged in the following:

- (1) Research that led to recommendations about best practices to improve the complaint processes for users of government social services to resolve complaints of discrimination. Research included analysis of other state and federal models, including interviews with key stakeholders in those models (government employees, advocates for consumers, etc.), and literature reviews and analysis.

A sub-part of this topic was the potential role of alternative dispute resolution (ADR) models in the complaint process. Students conducted research into the viability of incorporating ADR into the complaint processes through interviews and other research.

- (2) Research on the evolving landscape of civil rights regulation at the state and federal levels and a proposal for modifications to the current CDSS civil rights regulations, contained in CDSS Manual of Policies and Procedures, Division 21.

### **Key Policy and Fiscal Issues**

The research documented below and accompanying recommendations should be read and understood within certain policy and fiscal constraints. The work of the Unit exists within a complex set of legal, regulatory, social, and policy challenges.

### **Jurisdiction and Resource Allocation**

Overarching all of our recommendations is the need for the State of California to make decisions about allocation of resources and how to prioritize effective investigation of discrimination complaints by indigent Californians who must use public benefits and other social services in order to meet their basic human needs.

Technically, several state and federal agencies have overlapping jurisdiction to investigate and attempt to resolve complaints of discrimination by users of public benefits and social services programs that receive state and federal funds and are administered by CDSS. These include the California Department of Fair Employment and Housing (DFEH), as well as U.S. Departments of Agriculture and Social Services.

Through its budgeting and policy purview, California determines how it will allocate resources to address discrimination concerns. Specifically, the state's DFEH currently receives a very limited number of discrimination complaints in the administration of public benefits and social services programs. However, should this become a more robustly utilized process, the nature of the work of DFEH, which also has jurisdiction to receive complaints by individuals who allege they have experienced civil rights violations in the areas of housing or employment by private as well as public parties, would be significantly changed and challenged.

CDSS's CRU staff are comprised of five (5) analysts, a policy specialist, and a director who are experienced in the areas of administration of public benefits and civil rights laws. For discrimination complaints filed in all of California's fifty-eight (58) county welfare departments ("CWDs"), the CRU staff is currently responsible for: review of all complaints and investigations; approval of resolutions, dismissals, and case closures; policy development and analysis; training of staff at CWDs; monitoring and auditing of CWDs' compliance with disability and civil rights laws, investigation for appeals, monitoring and compliance review of the discrimination complaints that are filed throughout the state. Through the counties, the CRU currently reviews and assists with investigations in approximately 400-700 complaints per year. A bulk of these



complaints are received from Los Angeles County with the remaining complaints made up largely of complaints from San Diego County and the three Bay Area counties.

The limited budget allocation to CDSS's CRU means that there are only so many staff who can carry out its mission to "facilitate compliance with all state and federal civil rights mandates governing equal and effective access to benefits and services. [It is] dedicated to providing [its] constituents with education, services, and proactive leadership necessary to ensure that all programs administered or supervised by the California Department of Social Services are done so equitably and effectively." These limitations require the Unit to make difficult, specific choices about how to meet the needs of the users of government programs in incredibly diverse settings, geographically, by population, as well as across specific constituent needs by language, physical or mental ability, and housing insecurity. All of these decisions also must be made within the context of federal requirements for compliance review, which is a time consuming and complicated process.

Based upon our research, it is quite clear that, to fulfill its mission in any meaningful way, the budget of CDSS for staffing of the CRU should be increased.

Simultaneously, counties must determine how to allocate their limited resources to staff the intake and investigation of civil rights complaints. While each CWD is required to designate a staff person for this process, those who are designated Civil Rights Coordinators (CRCs) frequently must take on these job duties on top of their existing responsibilities. There is also an inter-relationship between county benefits workers and county-designated employees who specialize in reasonable accommodations for persons with disabilities. In smaller counties, this can present particular challenges. Especially where the best resolution of a complaint about discrimination might be the assignment of a new Eligibility Worker or where a full work up regarding the need for reasonable accommodations or auxiliary aids is needed, there are very limited options for assigning more or new or different work to key employees.

### **Data Tracking and Management**

Related to resource allocation is the issue of data tracking. There is not a uniform system across all of the counties in California to maintain information required by both state and federal law. The Unit is in the process of shifting to a Salesforce platform that should allow it to better monitor information that is received but has not been provided the financial resources that would allow it to make this platform available to all fifty-eight (58) counties across the state. This raises concerns about the uniformity of types of information that will be kept and maintained as well as limiting the usefulness of the data for purposes of analysis and compliance monitoring.

## **Recommendations and Next Steps**

Recognizing the policy and fiscal constraints that may impede implementation of the recommendations that we have found would address the civil rights concerns of users of government-funded public benefits and social services programs, we have identified both relatively easier and harder next steps for the State and Unit to undertake.

### **Improving the Discrimination Complaint Process**

There are several steps with which a user of government-funded public benefits and social services programs must engage in order to successfully file a discrimination complaint and obtain a meaningful resolution. The steps that we considered and address range from the decision to make a civil rights complaint through the decision to appeal a negative finding from an original complaint.

#### *Decision to Make a Complaint*

To start, users must understand the purpose, benefits, and availability of a civil rights complaints process. Based upon our research, it is clear that users lack access to information about all of these realms. Information about this process currently is provided either in CWD offices, with varying degrees of success, or through advocates who represents users.

In order to improve user awareness and knowledge of the civil rights complaints process, we recommend that the CDSS Civil Rights Unit:

1. Distribute information about the civil rights complaint process in as many places and through as many methods as possible
2. Modify the complaint system information provided to users in public documents to improve clarity and consistency
3. Require caseworkers to provide accommodations when communicating complaint system information to users
4. Maintain and publicize a clear non-retaliation policy
5. Consider the prospect of an anonymous option for complaints
6. Conduct greater outreach to potential clients by partnering with advocates and non-legal community organizations

#### *Complaint Intake*

Once a user has decided to make a civil rights complaint, there are several critical aspects to the intake process: methods of access; accessibility and accommodations of a disability or language needs; as well as obtaining and tracking necessary information to move forward and to inform broader policy and compliance needs. Based upon our research, we found that the effectiveness of the intake process is heavily reliant upon individual counties' developed policies, cultures, or norms, both in terms of the information that is obtained and whether or how

accommodations are provided during this step of the process. An overarching recommendation for all aspects of intake is to create more consistency and uniformity across counties of the information recorded and the processes for information gathering. In addition, because many of the users of the programs within CDSS's purview are seeking benefits due to some form of disability, we were particularly attuned to the fact that in addition to accommodations being provided to access benefits, those same users may likely require accommodations to utilize the civil rights complaint process. Therefore, we recommend that CDSS:

1. Improve the Intake Process
  - a. Make complaint forms clear, simple, and widely available in all client-facing county offices
  - b. Provide training to and require county employees to affirmatively offer and give assistance to users making civil rights complaints
  - c. Develop alternative intake methods in addition to use of written complaint forms
  - d. Require county civil rights coordinators to review complaint form information with the user-complainant
  - e. Develop and require consistent tracking of information for all counties and CDSS
2. Complaint Form Content
  - a. Complaint forms should request a narrative description of the discrimination alleged.
  - b. Complaint forms should provide checkboxes for protected classes and request a narrative detail of how problem treatment was discriminatory
  - c. Complaint forms should include checkboxes of potential remedies as well as an "other" option
  - d. Complaint forms should request a separate contact person and additional contact methods to reach complainants
  - e. Complaint forms should inform complainants of the non-retaliation policy and include instructions for reporting retaliation
  - f. Complaint forms should ask complainants if they need accommodations for intake
  - g. County and state data tracking systems should track intake method
  - h. Complaint forms should ask if alleged conduct is ongoing

#### *Initial Review and Application of the "Pleading Standard"*

Following intake, a decision must be made about whether there is sufficient evidence to proceed with a civil rights investigation. In this phase, we found that there is a clear lack of guidance about how to evaluate an intake to determine if there are sufficient grounds to designate the complaint as one involving a potential civil rights violation as opposed to one involving a decision to deny benefits or a "simple" customer service issue. Because of this lack of clarity, this review process is subject to varying practices across counties that leads to judgement calls about how to sort a complaint into the appropriate process.

We heard from various stakeholders that there is an overall concern that there is under-reporting of civil rights complaints, so improving this stage of the process is particularly important to address this concern. There are initial decisions that CDSS must make about what will trigger further review for potential civil rights violations.

To improve this part of the process, we recommend:

1. CDSS decide upon and make clear to counties the pleading standard and review process, including whether a complainant's reported allegation is sufficient or whether there needs to be a plausible nexus documented between a protected class and the incident described
2. Once CDSS makes this decision, it also should provide training and clear guidelines

### *Investigation*

In this stage, there is also a lack of uniformity and clarity across counties about how to conduct investigations of alleged civil rights violations. While every county does engage in some investigative steps once a complaint has been designated a civil rights complaint, limited resources and a lack of uniform training lead to inconsistent tactics. Additionally, because CDSS's CRU is required to sign off on all case closures, this step is frequently reopened when the Unit asks a CRC to gather additional information, creating frustration and a duplication of efforts, such as needing to interview a party or witness a second or third time.

Another problem that was identified within this stage is the potential loss of contact with the original complainant. When the investigation process is lengthy, complainants with housing insecurity or other challenges, can be difficult to reach or locate. Existing and limiting policies about when a complainant can or should be contacted exacerbates this problem

To improve the investigation of alleged civil rights complaints, we recommend:

1. Investigations should always include interviewing the complainant and reviewing her/his entire county record
2. CDSS should develop training and clear guidelines for CRCs and investigators
3. County workers should be required to provide regular updates to complainants
4. CDSS should evaluate whether it can establish its own standing to pursue a complaint when a complainant has become unavailable
5. CDSS should require county workers to record the dates and actions of each investigative step
6. CDSS should evaluate whether to assume more control over all investigations or reduce its review role to increase its availability for training and technical assistance

### *Resolution*

In the resolution phase, there is an interesting and problematic structural issue created by the current regulations. CDSS's CRU must perform a detailed review and sign-off on all case closures. As described above, this is a time-consuming process that occupies a lot of the time of already limited staff resources. Again, this drawn out and lengthy process also risks losing contact with the complainant. The regulations also prescribe that CDSS's CRU be the recipient of any appeal by a complainant dissatisfied by a determination regarding her/his civil rights complaint. Oddly, CDSS thus functions as the appellate review body over decisions it has previously reached.

In addition, for county offices that are particularly leanly staffed, if the best resolution of a complaint would be assignment to a new county worker, there can be very limited options and concerns on the part of the complainant about potential retaliation, in a process that is supposed to assist their ability to access life sustaining benefits and programs. There are also tensions between the needs of a complainant for information about the result of her/his complaint and the potential privacy requirements regarding disciplinary actions taken with an employee.

Due to these important and complicated issues, it is in this aspect of the complaint process that we make our most significant recommendations. The first of these recommendations would require changes in law.

1. The policy requiring CDSS's CRU to review and approve every civil rights complaint resolution should be eliminated or severely limited
2. Counties should be required to contact complainants a minimum number of times, using various contact methods
3. CDSS should provide model examples of determination letters to county workers
4. CRCs should contact complainants regarding resolutions in ways additional to the written resolution letter and should be available for a phone call to explain the findings
5. Consistent types of data about resolutions of complaints should be recorded
6. CDSS should develop model communications for counties to use that acknowledge a complainants' experience without conceding liability or breaking privacy rules

### *Appealing an Initial Determination*

There appears to be a very limited understanding of the process to appeal a determination with which the complainant disagrees as well as narrow use. Similar to the process to file a complaint, available information is limited both in terms of distribution as well as understanding of any benefits an appeal might produce. Therefore, we would reiterate many of the recommendations regarding those made regarding the Decision to Make a Complaint step of the process. In addition, we recommend:

1. The appeal process be reframed as a "request for reconsideration"
2. Counties should publicize opportunities for reconsideration requests at the outset of the complaint process, including on posters and the complaint form

3. Counties should provide a reconsideration request form with determination letters and provide accessible instructions and guidance for filing a request
4. Counties should develop alternative methods for notifying complainants about determinations
5. CDSS should assign reconsideration requests to an analyst uninvolved in the original investigation and complaint review
6. CDSS should document and track reconsideration data to gauge patterns and common areas for improvement in investigations

### **Additional Recommendations**

In addition to these specific steps to improve the civil rights complaint process, we also make recommendations regarding ensuring the availability of reasonable accommodations and auxiliary aids by screening every complainant for a potential disability and seeking to provide those accommodations at the outset. In addition, we recommend adopting parallel procedures for addressing grievances regarding reasonable accommodations through an expedited process.

We also make recommendations regarding data tracking that include potential methods for standardization and integration. As noted above, data collection and analysis are critical next steps for CDSS's CRU to be able to fulfill its compliance review and policy development functions.

The CDSS civil rights complaint process also covers the child welfare system. This creates specific challenges due to the urgency of issues related to child dependency and potentially custody as well as some overlapping jurisdiction with the Office of the Foster Care Ombudsman. These challenges make the CDSS process appear to have limited value. There are areas for further research and improved information sharing should CDSS want to increase its engagement with these processes.

There are some models for alternative resolution of complaints that are also worthy of further evaluation by CDSS, which we describe below. A tension with either a formal or informal mediation model would be to ensure that either any process include protections so that a user-complainant not feel coerced into a resolution.

### **Updating Division 21 to Ensure Compliance with State and Federal Laws**

Within the memorandum and Appendix G, we provide updated regulatory language that addresses the need to comply with current state and federal civil rights laws as well as recommendations that particularly address issues related to language and clarity of the regulations, mechanics of the complaint process should others of our recommendations be adopted, as well as specific concerns related to serving users who are limited English proficient or who have disabilities that require accommodations and auxiliary aids.

## **Potentially Promising Practices from Other States**

Based upon our research of the systems and models used by several other states, we also include a section of this memorandum about promising practices and an Appendix containing model documents from other states. Some of these practices we have identified and recommended for adoption within the sections of our memorandum addressing the varying steps of the complaints process.

## **Conclusion**

We have been gratified to work on this important project and impressed by the seriousness with which CDSS's CRU takes its responsibilities. While we have certainly identified numerous areas for improvement, we applaud the work that the Unit has recently undertaken to better engage the user community and to address the shortcomings it already has acknowledged. We also are pleased by the passion and commitment we have witnessed among the CRU staff, county workers, and others with whom we have engaged to ensuring that indigent Californians can gain access to the necessary programs and benefits that provide them with at least a minimum of subsistence to remain in a state facing increasing and complicated economic divides and gaps in opportunity.

## **Disclaimer**

The information, research, analysis, opinions, and recommendations set forth in this document are the sole opinions and representations of the Stanford Law School Policy Practicum research team. This report is not intended to be legal advice to nor policy directives for the California Department of Social Services. The content is provided for general, informational purposes only.

## I. COMPLAINT PROCESS STEPS

### **Step Zero: User Decides to Make a Complaint**

This initial step consists of the elements and factors that impact a user before she makes a complaint: the information users have about the complaint process, their rights, and the decision to file a complaint.

#### **Goals and Challenges**

There are several broad goals for this step. First, and fundamentally, users must become aware that the complaint process exists and how it can be accessed. Without user knowledge about the system or their ability to use it, the civil rights complaint process is completely ineffective.

There are multiple challenges to achieving this goal. Advocates have told us repeatedly that it is difficult for unrepresented clients to learn about the existence of the process. This is, in part, because county offices are chock full of all kinds of information and notices directed at relatively unsophisticated users who are often focused primarily on receiving their benefits. When our team visited the Santa Clara County offices, we observed this firsthand: dozens of flyers and posters littered the walls of the CDSS offices, often only in English, and some flyers were presented in such a way to misleadingly suggest the office *condoned* discriminatory treatment. (County “Know Your Rights” Pamphlet, Appendix at 2.) The staff “greeter” at the front of the office was not familiar with the civil rights complaint form, and had none at the front desk to offer us. Moreover, because the written materials about the complaint process are complicated and unclear, they are particularly inaccessible to users with physical and mental disabilities, given what we have heard from many advocates.

Second, users must understand *when* the civil rights complaint process applies to them, — that is, they must know when they have experienced a civil rights violation. The challenges on this second goal largely mirror the challenges of the first: unsophisticated users, some of whom have physical or mental disabilities, do not receive sufficient information to understand when their rights are violated.

Third, and relatedly, another goal for this step is to ensure complaints that are not related to civil rights are filtered out of the process, to avoid inundating CDSS systems with unrelated issues. As a part of this goal, complaints regarding other issues — such as programmatic complaints or customer service complaints — should be routed to the proper channel. The challenges of this goal, much like the last two, also relate to imperfect information: as county civil rights coordinators (CRCs) have explained, users often do not understand what constitutes a civil rights complaint or the purpose of the CDSS system, so they use the civil rights complaint system



to register programmatic and human resources complaints, which should be addressed through other avenues.

Finally, users must feel empowered to use the civil rights complaint system. This encompasses both fostering in users a sense that the complaint system will result in meaningful change as well as addressing fear of retaliation. Many advocates spoke directly to both of these issues, explaining that they often do not direct clients to the civil rights complaint process due to skepticism that the system will benefit the client. They also explained that many users are resistant to using the complaint system in the first place, because they fear retaliation from the case worker who is the subject of the complaint — a fear that is more pronounced and relevant in smaller counties with fewer staff.

## **Potential Solutions**

### **1. Distribute Information About the Civil Rights Complaint Process in as Many Places and Through as Many Methods as Possible.**

First, caseworkers should orally inform users about the complaint system when receiving and processing applications for benefit programs. Other government workers who interact with benefits users should also notify users of the complaint process. County staff should also inform users about the process — and provide a physical copy of the complaint form — when any user suggests they experienced behavior from which the worker could infer a civil rights violation. Second, complaint process information should be provided to users both within packets of information given to users throughout the benefits application or appeal processes, as well as on the back of every benefits application, a promising practice currently used in Ohio. (Ohio Complaint Notice, Appendix at 136.) Third, CDSS should create a more effective poster and provide counties guidance about effective placement. Posters should convey clear, consistent information about the existence of the complaint system, its benefits, and how users can access it, in multiple languages.<sup>1</sup> Including this requirement in regulations, as advocates suggested, would ensure consistency across counties. We also recommend emphasizing this requirement in an All County Letter (ACL). Finally, complaint forms should be available in multiple languages in the lobbies of county offices, with greeters knowledgeable about the forms.

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<sup>1</sup> For an example of a clear, visible poster about a county's civil rights policy, see Washington State's Nondiscrimination Notice, Appendix at 57. This is an example of a multi-lingual notice that could be expanded to further explain how to file a complaint.

## **2. Modify the Complaint System Information Provided to Users in Public Documents.**

First, the language used should be as simple as possible. Materials should be revised to avoid overly legalistic terminology and to present information in a way that is accessible for unsophisticated users. One tool of improving accessibility could be providing a frequently asked questions (FAQ) pamphlet or online site about the complaint process that answers questions such as the processes available to file a complaint and potential resolutions. (For a sample FAQ that is accessible and informative, see New York City Assistance for the Complainant, Appendix at 110-111.) Second, to illustrate the types of incidents that could provide the basis for a complaint, public documents should include examples of discrimination focused both on access to benefits, as well as non-programmatic rudeness from county staff. Third, the language used, particularly around disability, should be as broad and inclusive as possible. One advocate explained that her clients often self-describe as having a “learning disability” instead of an “intellectual disability,” and emphasized that this language would resonate more with users. For examples of language that addresses the previous three solutions, see “sample language for discrimination examples” below.

Fourth, information should include and clarify the existence of alternative civil rights complaint options, such as the USDA or HHS complaint systems, and ensure users understand when, how, and why they should access those alternative systems. Fifth, and related, the information provided should include avenues that users can follow when seeking to make programmatic or customer service complaints, both to ensure that users know how to access those systems, if applicable, and to filter out non-civil rights complaints. On these final two solutions, a flowchart helping users understand which complaint system(s) they can access and when would assist with these solutions. (For an example of a complaint process flowchart, see Ohio Flowchart, Appendix at 138.)

*Sample Language for Discrimination Examples (loosely adapted from the Santa Clara County Commonplace Handbook: Section 36, Civil Rights) (Santa Clara County Commonplace Handbook, Appendix at 6-18; 30-34):*

- You have trouble filling out forms because you have a learning disability. You told a county worker that you needed help, but she told you to fill it out yourself.
- You don’t understand English well. You think a county worker was telling you something important about your benefits, but you could not understand. You tried to talk to the county worker, but she could not understand you. The county worker did not get an interpreter or ask for other help.
- You have trouble seeing, and you read Braille. You asked for notices in Braille, but the county sent you an important notice printed visually, without Braille. The county ended your benefits because you did not follow the directions in the notice.
- A county worker made a sexual comment to you.
- A county worker treated you very rudely but was polite to people of another race.

### **3. Require Caseworkers to Provide Accommodations When Communicating Complaint System Information to Users.**

These accommodations should be identical to those provided elsewhere including: large print, interpreters and document translations, accommodations screenings, and so forth. Additionally, given very high call drop rates, advocates have suggested allowing for an accessible call-in process, which could include hiring more hotline staffers and establishing a callback option for users to leave their phone number and have someone return their call within a designated time frame.

### **4. Maintain and Publicize a Clear Non-Retaliation Policy.**

Any non-retaliation policy should define retaliation and give examples of prohibited retaliatory acts. The policy should clearly state that it is against the law for county workers to retaliate because a user complained about their behavior, and encourage users to file a complaint, potentially in a different location, if they do not trust the county workers in the office at issue, if they believe they have been retaliated against. This information, or an abridged version, should be included on all materials regarding the complaint process listed above. To the extent they currently do not, county workers should also receive training on non-retaliation. Minnesota's Department of Human Services notifies users of its non-retaliation policy (and how to report retaliation) in its instructions for filing a civil rights complaints. (Minnesota's "Civil Rights in Human Services" Website, Appendix at 146-148.)

### **5. Consider the Prospect of an Anonymous Option for Complaints.**

A process to receive anonymous complaints would be of limited utility for individual redress. However, it would serve to track potential user needs and "problem" offices, issues, or case workers. But both CDSS and advocates have stated their belief that the current civil rights complaint process dramatically undercounts actual violations, a claim backed up by the number of complaints that are filed but do not reach a resolution for one reason or another, and experts suggest an anonymous complaint system would encourage more users to file complaints, particularly given retaliation concerns.<sup>2</sup> Tools such as TalkToSpot.com, which allows for follow-up with anonymous discrimination complaints, would also be useful in the process.<sup>3</sup>

### **6. Conduct Greater Outreach to Potential Clients by Partnering with Advocates and Non-legal Community Organizations to Inform Users About the Complaint System.**

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<sup>2</sup> See, e.g., Julia Shaw, TED talk on discrimination and harassment complaints (2018), [https://www.ted.com/talks/julia\\_shaw\\_a\\_memory\\_scientist\\_s\\_advice\\_on\\_reporting\\_harassment\\_and\\_discrimination?language=en](https://www.ted.com/talks/julia_shaw_a_memory_scientist_s_advice_on_reporting_harassment_and_discrimination?language=en)].

<sup>3</sup> HR Reporting Tool for Harassment and Discrimination, SPOT, <https://talktospot.com/> (last visited Apr. 8, 2019).

In New York City, the Human Rights Commission (HRC) works with legal aid organizations and community groups to ensure that people are aware of the existence of the complaint process.<sup>4</sup> Acknowledging that CDSS undertakes some of this activity already, we recommend that it continue and bolster these connections. Many of the changes in this document that should produce more support from advocates, many of whom are skeptical of the benefits of the process.

## **Step One: Complaint Intake**

### **Goals and Challenges**

In this step, the county or CDSS receives the user's complaint and enters it into the tracking system. This step includes suggestions on the intake process and designing a complaint form.

One of the most important goals for this step is to make the process accessible, easy, and transparent for the user. Based on our conversations with advocates, complaint intake accessibility should take into account varying types of complaints, remedies sought, languages spoken, technological literacy and access levels, written literacy levels, abilities, and access to stable housing, among other factors. Advocates also emphasized that transparency throughout the complaint process would improve the experience for users and increase their willingness to follow through. In that light, the intake step should provide clear information to the user about the steps and requirements of the process.

Another goal of intake is to collect the information required to determine whether to investigate (Step Two) and begin evaluating the claim. Follow-up on closed complaints with missing information is consuming a lot of CDSS's time when reviewing county complaints. Although we recommend some changes to the review process that should alleviate that problem, collecting comprehensive intake information will avoid wasted time on duplicative work. There are at least two serious obstacles to obtaining full information. First, users may not understand the information they need to provide or may be unable to provide the information in the format requested. Second, CRCs may not be soliciting enough information during phone intakes. As we explain in more detail in Step Two on the "pleading standard," the CRCs we interviewed typically redirect many calls to personnel or programmatic avenues without obtaining very much information about the caller and/or her complaint. Even a fully informed user with no serious accessibility issues might never have a chance to communicate key information under this limited intake approach. The revised complaint process should therefore prioritize accessibility, clarity, and a consistent CRC interview approach.

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<sup>4</sup> New York advocate.

Finally, the intake process should ensure that every complaint is recorded in a format that CDSS can access and analyze. Given the barriers for users to learn about the complaint process and to decide to complain, an actual complaint is precious information. Our interviews indicate that CRCs typically do not track complaints that are redirected to other avenues, so training is also important for achieving tracking goals. It is also worth noting that the interface between county tracking methods (such as Excel) and CDSS's Salesforce also present potential challenges for comprehensive tracking generally, including at intake. However, our main analysis of those issues appears in Section III, Data Tracking.

## **Potential Solutions**

Our recommendations for the intake step fall into two categories: (1) recommendations for the intake process, including logistics, and (2) the content of the intake form.

### **1. Intake Process**

#### **a. Complaint Forms Should Be Clear, Simple, and Widely Available in All Client-Facing County Offices.**

Unless a complainant calls a CRC directly, her first interface with the complaint system will be a form and/or an employee in a local county office. At this stage, it is crucial that the forms be clear, simple, and widely available, and that county employees be trained to help users complete them. Paper complaint forms should be prominently displayed in all client-facing county offices, near the posters that describe discrimination and the right to complain. Wherever the forms are available (in person or online), the information and examples on discrimination described in Step Zero should be included in flyers to help clients fill out the form effectively. Likewise, simple information on what to expect from the complaint process should be available with the form. For example, a complainant might want to know who receives her complaint, who investigates the claim, when she will hear from the CRC, who can answer questions, and which remedies are available. To improve accessibility, we also recommend that the forms be provided to the counties in several commonly-spoken languages and in large print versions.

#### **b. County Employees Should Be Required to Affirmatively Offer and Give Assistance to All Users Who Ask To Make a Civil Rights Complaint and Should Be Trained to Give Such Assistance.**

Advocates also recommended that county employees be required to affirmatively offer and provide help to all users who ask to make a complaint. Based on our experience in Santa Clara County benefits offices, some county employees do not know the complaint form or process exists. Training on the complaint process, particularly on how to fill out the form, is important for all user-facing county employees. The training should make clear that county employees are required to provide the same accommodations to users in the complaint process as in the administration of

benefits. Employees should also explain the complaint process and submission instructions to the client orally (in the language of the user).

Disability advocates emphasized that the requirement to offer help should include safeguards to ensure that the user retains control over content. They suggested that an employee who fills out a form for a user be required to read the full content back to the user for approval. Alternatively or in addition, they suggested that the user could take the form home to check its accuracy and then submit it herself. That option gives the user the most control, but, if followed, the employee should make and retain a copy of the complaint, marking in the administrative use section that it is a “draft.” We recommend that the process require the employee to present the user with both options. The employee could tell the user: “I can submit this for you now, or, if you prefer, you can take it home to review.” If the user opts to take the complaint home, the employee should provide an addressed and stamped envelope for mailing the complaint, as well as written instructions for submission. If the complaint is filed, a copy should be made and provided to the complainant.

**c. In Light of Barriers to Users Submitting Paper Complaints, CDSS Should Develop Additional Intake Methods for Complaints such as an Online Portal.**

Training county employees to effectively help users complete paper complaints will require additional time and resources. However, this step is crucial to ensure that users’ complaints actually reach CRCs with complete information. Without assistance from county employees, paper complaint forms may not be an effective substitute for calling a CRC directly. In fact, our interviews with CRCs indicated that almost all their complaints came in by phone. Although this pattern could indicate a user preference for phone intake, it may also reflect barriers to the submission of paper complaints. Several advocates told us that having multiple, effective intake methods is useful for accessibility purposes, so it is important that filing a written complaint form be easy and accessible. In addition to the paper form, one advocate recommended that CDSS include an option for online submission of the complaint form on its website. For example, the U.S. Department of Health and Human Services’ Office of Civil Rights has a centralized online portal that walks users through submitting a civil rights complaint.<sup>5</sup> Allowing users to submit complaints instantaneously would remove logistical barriers for users with computer access. As an interim measure, CDSS’s website could explicitly include an email submission option for complaints. Currently, the complaint form submission page includes the form in several languages and directs the user to print and mail it. Because some users likely lack access to a printer, allowing users to submit the completed form electronically would overcome this barrier. It bears emphasis, however, that CDSS should always maintain its paper form and call-in options to ensure that users without computer access or who have literacy limitations can effectively use the process.

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<sup>5</sup> See Complaint Portal Assistant, U.S. Department of Health and Human Services, <https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf>.

**d. During Intake Calls with Complainants, CRCs Should be Required to Review the Questions on the Complaint Form with the User.**

Once the complaint reaches a CRC, either as a complaint form or a call, it is important that the CRC obtain and track a consistent set of information. One way to ensure that CRCs collect full information from the user during a phone call is to require them to go through the questions on the paper form with the user. However, that approach could risk making the conversation mechanical and stilted, undermining the human, problem-solving approach that some CRCs are already taking to users' complaints. The "remedies-first" policy that we introduce in Part 2 of this section and elaborate in Section IV.A is one way to temper that effect by emphasizing problem-solving. In addition, directions to CRCs should encourage them to ask about the complaint generally before going through the form questions.

**e. The Complaint Form, County Tracking Systems, and the Salesforce Interface for Counties Should All Require the Same Information Be Collected.**

To ensure consistency in tracking, the complaint form, the various county tracking systems, and the Salesforce interface for counties should all require collection of the same information. As we describe in our data tracking section, CDSS may want to create an Excel template for county logs to streamline interfacing with Salesforce. To build data for compliance reviews and ensure that no complaint is lost, CRCs should be required to enter paper forms immediately into their county tracking system (such as Excel) upon receipt. Ideally, all the information in the paper complaint should be copied into the tracking system so that it is easily accessible for CDSS review. In other words, the paper version should be used only as a point of access for users and should become duplicative after intake. Because the CRCs we interviewed said that most complaints are initiated by phone, this requirement should not be an overwhelming burden, if their experience is typical of most offices.

## **2. Form Content**

Although a comprehensive design for CDSS's new complaint form is outside the scope of this project, we offer some concrete recommendations for the form as a whole and suggestions for fields to include. In general, the form should use checkboxes wherever possible to facilitate tracking. The current CDSS complaint form, as well as most of the other states' complaint forms, use checkboxes to designate the protected class that forms the basis of discrimination. Using checkboxes and uniform word choices for other fields, such as those relating to the complainant's demographic characteristics, would facilitate better data analysis for CDSS's broad compliance efforts. Ohio's complaint form uses checkboxes for multiple categories (including race, ethnicity, sex, and program area) for ease of filing and recording complaints. (See Ohio Discrimination

Complaint, Appendix at 137.) As appropriate, checkbox sections should read “check all that apply” and include an “other” checkbox to avoid confining the user to only the options provided. Disability advocates also suggested that the complaint form use simple language and avoid legal jargon to help users understand what information is needed. We have provided some suggestions of simple language for some items in the form throughout.

**a. Complaint Forms Should Request a Narrative Description of the Discrimination.**

The form should include a question asking for a narrative description of the discrimination. One potential simple language option for this question is “What went wrong during your experience?” The form should request the date, time, and location of the problematic experience. Advocates indicated that the form should obtain the names of the worker(s) involved in the complaint, to help CDSS identify trends and target compliance efforts. The form should also request information on whom to interview to facilitate investigation. One simple language option is to ask “Who else saw this happen?” For both the worker and the witness prompts, the form should clarify that the user can describe the person physically if they do not know their name.

**b. Complaint Forms Should Provide Checkboxes for Protected Classes and a Narrative Box Requesting Details of How the Treatment was Discriminatory.**

The form should also ask for the protected class that is the basis of the discrimination and prompt the user to explain why she thinks this was the reason they were treated differently. The form should include checkboxes for protected classes, with a simple language prompt. (*See id.*) Many agencies use the phrase “treated differently because of my \_\_\_\_” to describe discrimination (Appendix at 120-121, 146-47). The checkbox section could read, “I believe I was treated differently because of my \_\_\_\_” with all the protected classes listed below. There should also be a reminder to complainants to check *all* bases of discrimination that apply. For example, North Dakota’s complaint intake form instructs complainants to “check all [the bases of the discrimination] that apply.” (*See* Appendix at 126.) This reminder will prevent complainants from having to choose just one basis of discrimination when the discrimination at issue had multiple bases.

The form could then include a narrative box asking something like “Please explain why you believe the treatment or incident you experienced was because of your actual or perceived race, color, ethnic group identification, sex, religion, national origin, gender, gender identity, gender expression, sexual orientation, age, ancestry, mental disability, physical disability, political affiliation or belief, marital status, and/or citizenship/participant status, medical condition, genetic information, and/or military and veteran status. (Please attached additional sheet(s) of paper, if necessary to fully state your complaint.)” This section would help elicit information that supports the user’s claim. However, CRCs should be instructed that a blank in this section does not



necessarily indicate the user does not have a valid claim. Even with simple language, the user might not understand the question or know how to answer it, even if their claim has merit.

**c. Complaint Forms Should Include Checkboxes of Potential Remedies, as well as an “Other” Option with Space for a Complainant to Request an Unlisted Remedy.**

The form should also include a requested remedy. Simple language options include “What can we do to make this right?” or “How can we fix this?” Those framings are commonly used in the customer service context, where companies are focused on customer satisfaction. Using them in this context would help make the user central to the process. CDSS could consider including checkboxes to help users understand the available options, as well as an “other” option with space for narration. If CDSS develops the no-fault apology option described in Step Four, it could include an apology as a remedy option.

**d. Complaint Forms Should Request a Separate Contact Person and Additional Contact Methods for Reaching the Complainants Such as Email or Text.**

To make sure that the CRC does not lose contact with the complainant, the form should request multiple contact options, including a separate contact person. Based on our team’s experience working in the benefits space, the best way to reach people without stable living situations is often a relative or friend with a stable address. Some clients prefer email or text, so those contact methods should also be collected.

**e. Complaint Forms Should Inform Complainants of the Non-Retaliation Policy and Include Instructions for Reporting Retaliation.**

Minnesota’s Department of Human Services notifies users of its non-retaliation policy (and how to report retaliation) in its instructions for filing a civil rights complaints. (*Id.* at 146.) CDSS should expand this practice and notify complainants of its non-retaliation policy (and how to report retaliation) on the complaint form.

**f. Complaint Forms Should Ask Complainants if They Need Accommodations Filling Out the Form.**

The form should also include options to receive help to complete the complaint. One possibility is to provide a CDSS number, with a message like “Do you need help filling out this form? Call . . .” The form should also prompt the user to indicate any accommodations they might need in going through the complaint process. In its complaint form, North Carolina asks complainants if they will need accommodations in the complaint process and lists examples of

accommodations such as sign-language interpreters, large-print materials, and a language interpreter. (*Id.* at 122.) Also, Minnesota notifies users of the reasonable accommodation process for complaints in its instruction guide for civil rights complaints. (*Id.* at 145-46.)

CDSS's recent work on improving disability screening in the counties will be helpful in designing that prompt. In addition, a Santa Clara County disability screening document, developed with input from advocates, provides some promising language to use (*See* Appendix at 51-52.) The Santa Clara screening begins with the phrase "Need extra help?" (*Id.*) The CDSS complaint form could indicate that the CRC may need to talk to the complainant and send her written information about the complaint. It could then prompt the user, "Do you think you will need extra help with those things?" The form could include checkboxes with an "other" option. The Santa Clara County screening includes the following:

- Do you have difficulty reading? Hearing? Speaking?
- Do you need information in Braille?
- Do you need a sign language interpreter?
- Do you need help arranging appointments to fit your needs or friendly reminders of deadlines or due dates?
- Do you need help filling out or understanding forms or complicated instructions?
- Do you have difficulty walking, sitting, or standing for a long time?
- Do you need any other extra help due to a disability?

(*Id.*)

Large print notices should be included as an accommodation option. The form should also prompt the user to indicate whether they need to communicate in a language other than English by asking that question in multiple languages.

**g. County Data Tracking Systems and Salesforce Should Track the Intake Entry Point (Phone, In Person, Mail).**

In addition to the information in the client-facing form, the Excel and Salesforce systems should include some additional administrative information. One suggestion is a field with checkboxes for the intake entry point (e.g., phone, in person, etc.). This will allow CDSS to analyze whether some intake methods result in better information collected or different outcomes. Tracking the particular county office involved would also be important information to gather.

**h. Complaint Forms Should Ask If the Discriminatory Conduct is Ongoing.**

The New York state discrimination complaint form asks users if the "circumstances of [their] complaint is continuing." (Appendix at 100.) This question captures users who may struggle

pinpointing one date for the conduct at issue because the conduct is ongoing. Moreover, this inquiry better frames the investigation if the conduct is a pattern of repeated civil rights violations, rather than one discrete event.

## **Step Two: Initial Review and Application of the “Pleading Standard”**

### **Goals and Challenges**

Application of a “pleading standard” that allows a complaint to move forward is one of the most important and overlooked steps in the process. CDSS needs to implement a uniform pleading standard across counties to ensure fairness for complainants. The pleading standard should be chosen with an eye towards balancing resource constraints at the county and state levels with the need to address all reported civil rights violations.

Currently, there are several challenges to implementing a uniform pleading standard. Counties lack clear guidance about the pleading standard. Thus, the standard that is applied varies among counties. Counties develop their own norms based almost entirely on the judgement of the individual CRC. CRCs we spoke with used a variety of strategies at the initial review stage to decide whether they would investigate a complaint as a civil rights complaint. Some CRCs will probe during an intake interview to identify whether discrimination was involved by asking the complainant whether they are a member of a protected class. Other CRCs will only flag a complaint as a civil rights complaint if the complainant affirmatively mentions being a member of a protected class. Still other CRCs will encourage civil rights complainants to use other complaint processes because the civil rights investigation process is long and unlikely to give them the resolution they are seeking. For example, if a complainant believes their benefits were cut off for a discriminatory reason, the CRC will direct the complainant to the programmatic complaint process because the civil rights process cannot reinstate their benefits.

The existence of other complaint processes creates a significant amount of confusion about the civil rights pleading standard. Counties often have several complaint systems— customer service, programmatic, etc. Because these other avenues exist, CRCs tend not to think of pleading as a distinct step in the civil rights complaint process at all. Instead, they think of intake as a sorting process. They listen to the complainants’ issues and then sort the complaint into the appropriate “pile.” If they determine the complaint involves discrimination, that will trigger a civil rights investigation (i.e., it meets the pleading standard). If it gets sorted into a different pile, it is no longer considered a civil rights complaint at all. In this sorting process, the CRCs are implicitly applying some form of pleading standard, but it is based on their own beliefs about the system and about complaint needs rather than on clear guidance from the state.

This sorting process is indicative of another tension present at the pleading stage: the perceived tradeoff between resolving a complainant’s “issue” quickly and ensuring that actionable

discrimination is recorded and investigated. CRCs tend to see initial review as requiring a choice between these two options.

Finally, CDSS is overwhelmed by the number of complaints they are currently reviewing, which raises the question of whether too many complaints are passing the pleading stage. However, it is unclear to us if this problem is largely caused by the number of complaints coming from Los Angeles County. During CRC interviews, it was reported that the annual complaint load from most counties is fairly low, between two and twenty per year.

## **Potential Solutions**

The first step necessary to getting complaints over the initial hurdle is to make it clear to counties that pleading analysis is a distinct step of the process and to explicitly lay out the pleading standard. Because “pleading” is not a widely accessible term, this step could be described as “deciding whether a complaint will be investigated, referred, or dismissed.” CDSS should consider implementing one of these two pleading standards:

### **1. A Pleading Standard Based Only on Complainant’s Reported Belief that Discrimination Occurred.**

In this case, staff doing intake for *any type* of complaint, programmatic, customer service, or otherwise, would be required to ask the complainant if they are a member of a protected class and if they believe the incident described is related to their protected class. If the complainant believes there is a connection, the complaint would advance and require investigation.

The primary advantage of this pleading standard is that it would be very simple to apply. Any intake staff could ask these questions and record the answers, even without civil rights training. This standard is also likely to ferret out unreported or underreported civil rights violations because it would capture complaints that are currently being sorted into other complaint processes. This approach would likely increase the number of civil rights complaints significantly. The increased burden would fall on the counties rather than the state if the state substantially reduces its review of county complaints, as discussed below.

### **2. A Pleading Standard that Requires a Plausible Nexus between the Protected Class and the Incident Described.**

In this case, staff doing intake for any type of complaint would still be required to ask complainants whether they are a member of a protected classes and whether they believe the incident is related to the protected class, as above. If they respond affirmatively, their complaint would be passed along to the CRC, who would determine whether a plausible nexus exists between the incident and the complainant’s protected class. This process is still likely to ferret out more

reported discrimination than the current process by asking all types of complainants about protected class membership. Those complaints with a reported belief that discrimination occurred based upon membership in a protected class would still be recorded as civil rights complaints, but they would no longer automatically require investigation. This process would reduce the burden on CRCs by limiting the number of investigations. Even though full investigations would not be required, CRCs would still have to review all complaints for plausibility. However, CRC discretion could prove a challenge. CRCs would have an incentive *not* to find a plausible nexus in order to reduce their own investigation workload. Further, CRC training and competency appears uneven across counties. With varied training and ability, giving CRCs more discretion at the pleading stage will likely result in inconsistent outcomes statewide.

Either of these standards should be made available to CRCs and other complaint intake staff in a simple flowchart form. A basic example of what a flowchart version of Option 2 might look like can be found in the Appendix at page 54. Giving a flowchart to all staff doing any form of complaint intake will aid in capturing civil rights complaints across the board and will make the process more consistent across counties. Whether or not CDSS chooses to implement one of the above pleading standards, CDSS should at minimum clarify to all counties that discriminatory intent is not required to pass the pleading stage.

In order to better understand the civil rights complaint universe, CDSS should require counties to track complaints that do not make it past the pleading stage and describe the reason. The information tracked will depend on what uniform pleading standard is instituted. For example, if the pleading standard requires a plausible nexus between protected class and an alleged incident, CRCs would record that the complaint did not meet the standard because there was: (i) no plausible nexus, (ii) no identified protected class, or (iii) no incident. The CRC would then give a brief accompanying explanation. In general, this data can help CDSS evaluate the effectiveness of its chosen pleading standard. If a noticeably small or large percentage of complaints are being denied at the pleading stage, CDSS can review the reasons for denial and consider adjusting the pleading standard accordingly or providing more guidance.

Finally, we propose two processes to resolve the tension between resolving complainants' immediate needs quickly and thoroughly investigating and resolving civil rights complaints. Both processes are discussed in greater detail below. First, complaints about reasonable accommodations and auxiliary aids should be assigned to a separate, parallel process. (*See* Section II, Parallel Process.) This process would allow complainants to quickly be provided necessary accommodations. Second, CDSS should implement a general "remedy-first" policy in which CRCs must attempt to meet the complainant's immediate need, independent of and in addition to the formal civil rights complaint process.<sup>6</sup> For example, if a complainant requests reassignment to

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<sup>6</sup> This "remedy-first" track would be simultaneous to the formal complaint process. That way, CDSS will not lose the value of the formal complaint for data tracking purposes, procedural justice for the complainant, and when

a different staff member, automatic translation of documents going forward, or restoration of benefits, CRCs should first attempt to solve that problem by directing the complainant through the proper channels. Advocates indicated that these types of “informal” resolutions are helpful and efficient, but that only some counties were amenable to them. Codifying a remedies-first approach would result in faster resolutions of problems that can delay access to critically needed benefits. As the complainant receives their desired remedy, the civil rights complaint would remain open. CRCs would be required to inform users that they can still proceed with the formal civil rights complaint process after the remedy-first triage. (For further detail, *see* Section V, Alternative Dispute Resolution.)

### **Step Three: Investigation**

#### **Goals and Challenges**

Every county performs some form of investigation when it receives a civil rights complaint. Our goals for this step were to ensure that enough information is collected to create a full understanding of the incident, encourage uniform investigative procedures and standards to ensure fairness for complainants statewide, while keeping complainants engaged and informed throughout the process.

Challenges at this step mirror those seen in other steps: intercounty variation and limited resources. Specifically, the scope and content of investigations as well as the resources available to conduct thorough investigations varies among counties. The time investment for CRCs for every investigation is significant. One CRC estimates that completing an interview with just a single employee takes 2 hours and one with a non-employee takes 3 to 4 hours. Writing up the post-investigation report for CDSS is typically a full day’s work. Further, training of CRCs on civil rights investigations is varied and irregular, and some CRCs have never received formal training on investigation techniques. CRCs lack clear guidance on what exactly they should be looking for during an investigation. Because investigations can be lengthy, contact with complainants can be lost during the process. When this occurs, it becomes unclear if and how the investigation should proceed.

#### **Potential Solutions**

##### **1. For Complaint Investigations, Review the County’s Record for Evidence and Develop Training Guidelines for CRCs and Investigators.**

To ensure consistency, CDSS should require specific steps be taken during each civil rights complaint investigation. At a minimum, county workers should be required to interview the

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resolutions involve training for the county worker/office. The “remedy-first” track being simultaneous to the formal complaint will also help avoid complications related to tolling statutory deadlines.

complainant, the worker involved, and any witnesses identified by the complainant during intake who can be reasonably located. In addition, any investigation should include a review of the complainant's entire county record to look for any information that points to different treatment or that can explain the treatment forming the basis of the complaint. CDSS should also develop training guidelines for core competencies (e.g., understanding what constitutes "nexus," interviewing skills, how to solicit confirmatory evidence from witnesses) expected from any staff member conducting civil rights investigations. Allowing other staff beyond just the CRC to conduct interviews as part of civil rights investigations would relieve the burden on CRCs and allow investigations to move faster, but training of staff is essential to ensure consistency and quality. Requiring a review of the entire county record and developing training guidelines for core competencies are not currently included in the proposed regulations but should be added to the regulations if these practices are adopted. CDSS should also consider incorporating these recommendations into an ACL.

## **2. Require County Workers Provide Regular Updates to the Complainant in Her Preferred Form of Communication.**

To prevent loss of communication with a complainant during investigation, CDSS should require that county workers provide updates to a complainant in the preferred form identified by the complainant at specified intervals throughout the investigation process. This requirement would keep complainants engaged, reassure them that action is ongoing, and reduce the number of complainants who fall out of touch during the process. We recommend that a county worker check in with the complainant every two to three weeks, let the complainant know the investigation is ongoing, and give an estimated time for completion of the investigation. Requiring county workers to contact complainants a minimum number of times at various intervals is not currently in the proposed regulations. We recommend adding this requirement to the Regulations Section .224 and explaining this new requirement in an ACL.

## **3. Consider Allowing Counties to Initiate or Continue a Complaint in Their Own Capacity.**

If contact with a complainant is lost, CDSS should establish the standing of counties to bring the complaint in their own capacity. In New York City, the human rights division can bring civil rights complaints against an organization if they see a pattern of complaints but no complainants want to pursue a complaint. Similarly, counties could advance civil rights complaints when a complainant falls out of touch, assuming enough information about the incident has already been gathered to move forward. Such a system would need to be codified in the regulations, so that counties are aware of this option. This would ensure that civil rights violations with internal resolutions (resolutions such as re-trainings or reprimands that do not require the complainant) are still completed.

#### **4. Require County Workers to Record When Each Step of Investigation is Conducted.**

To create greater accountability in counties, CDSS should require county workers to record the date and time at which each step of the investigation process is completed. For example, attempts to contact witnesses as well as witness interviews should be documented. Advocates emphasized that this information is key during compliance reviews. Recording this information in real time would allow CDSS to review open investigations mid-process. If CDSS adopts this recommendation, we advise that this recording requirement be added to the regulations.

#### **5. Consider Either Assuming More Control Over Investigations or Reducing Current Review of Investigations to Reallocate Time and Resources on Training.**

CDSS should choose between assuming more control over the investigation process itself or reducing its review of county investigations to focus on training. In Ohio, all civil rights investigations are managed at the state level. (Interview with Ohio CRC; *see also* Appendix at 138.) The state decides the investigation's scope and controls its progress and then outsources specific parts of the investigation that require local expertise to county CRCs. (Interview with Ohio CRC.) The CRCs receive specific questions and tasks from the state and are required to respond with the requested information quickly, typically within 14 days. (*Id.*) The CRCs generally do not conduct any interviews. (*Id.*) They primarily review internal data such as case notes and application documents and transmit that information to the state. (*Id.*) Though CDSS likely does not currently have the capacity to run this type of system, the standing practice of reviewing every county investigation is problematically time-consuming. We understand that there are serious concerns about the quality of investigations conducted at the county level due to insufficient training and resource constraints. To address these concerns in a more efficient way we suggest: (a) assuming more control over conducting investigations at the outset or (b) reducing review and aggressively training investigators statewide to ensure investigative quality at the outset. Options for reducing review will be further discussed in the next step.

### **Step Four: Resolution**

#### **Goals and Challenges**

The resolution process presents an opportunity to ensure justice for complainants and improve counties' effective delivery of services by fostering solutions that capture critical parts of the investigation while offering peace to all parties involved. In considering this final segment of the initial complaint process, we focused on the following goals: (1) increasing complainant



satisfaction with the outcome of her complaint, (2) improving county mechanisms for complaint resolution, (3) streamlining and more narrowly focusing CDSS's involvement with the resolution process, and (4) facilitating future assessment and improvement of the process through comprehensive tracking of data.

Complainants, counties, and CDSS face several challenges in executing civil rights complaint resolutions. These challenges fall into three categories: structural, logistical, and legal/interpersonal.

## **1. Structural**

Throughout our assessment of the civil rights complaint process, we observed the largest structural problem to be the mandatory CDSS Civil Rights Unit (CRU) review of all complaint resolutions before closure. We heard from advocates, county workers, and state workers that this process creates frustration and clogs the system. Because the closure of a civil rights complaint is contingent on CRU approval of the counties' investigation and findings, complaints cannot reach resolution until CRU makes a determination. While the CRU investigators promote justice by methodically assessing every complaint investigation and resolution, this current process complicates and delays remedies for complainants while forestalling CRU from directing its resources and expertise toward larger policy objectives.

Complainants and the advocates who support them consistently volunteered to us that they experience the complaint resolution process as taking too long. From their perspective, they launch a complaint into an opaque system, receive no communication as to the progress in their case, and grow frustrated waiting for some resolution or acknowledgement from the state or county. They perceive this delay to mean the state and county are not working on their complaints and are simply letting them drag on.

County and state workers' experiences show a dramatic disconnect from what the complainants and advocates see as apathy: county workers are not allowed to contact complainants until they receive approval of their investigations and findings from CRU. In addition, county workers complain that they receive little to no feedback from the state as to why their investigations were approved or denied.<sup>7</sup> They say they are uncertain what CDSS wants from them in the investigations, sometimes resulting in an investigation that does not meet standards that to them are not clearly articulated. Meanwhile, a small number of state workers are tasked with assessing a flood of complaints from all fifty-eight counties across the state of California. The limited number of employees at the state level paired with the high number of complaints that require their attention generate a backlog at the state level that precludes CRU from focusing on more

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<sup>7</sup> Our team interviewed only a small sample of county workers from across the state, but their feedback in this regard was fairly consistent.

substantive training and policy objectives, disrupts counties' efficiency in resolving civil rights issues, and delays justice for already suffering complainants.

Finally, beyond the burdens it places on all stakeholders, the current system creates a problematic structural tension: CDSS reviews all complaints before they are resolved with the county, but the Department is also the authority that reviews *appeals* of those same complaints if the complainant is unsatisfied with the result. Through this structure, CDSS is oddly functioning as the appellate authority over its own decisions.

## **2. Logistical**

County workers often lose communication with complainants due in part to vague CDSS policies about permissible contacts and, in part, to problematic methods of communication. For example, while the current regulations do direct workers to contact complainants within 20 days for complaints under investigation and within 40 days for complaints that will not be investigated, the guidance does not instruct county workers on what methods and how many times they should try to contact a complainant before closing a case for loss of communication. The guidance is insufficient. County workers' uncertainty is sometimes compounded by inadequate forms of communication and failure to assess the most effective contact methods for complainants.

The small workforce of some county offices also creates barriers to an optimal resolution process: fewer staff members mean county offices face heightened challenges in replacing or reassigning case workers (a commonly requested resolution outcome) due to a complaint. Complainants or would-be complainants also fear retaliation for filing complaints against one worker when that worker's removal may mean a close colleague takes over the complainant's benefits assessment.

Counties lack clarity on both how they should track and how they should respond to complaints that bridge two separate offices. One CRC noted that she often receives complaints that are more "personnel" complaints than civil rights complaints. She tracks them on intake as civil rights complaints, but she then refers them to the county personnel office. Based on our conversations with other county CRCs, we believe at least some other counties simply perform the referral or reject the complaint if it is a mixed issue without ever tracking it in their civil rights complaint data.

## **3. Legal/Interpersonal**

Advocates say that their clients often express frustration that they were never informed about the resolution of a complaint about a specific county worker. Legally, the state and county cannot divulge worker discipline or termination because such a disclosure would violate the worker's privacy rights and likely run afoul of union contracts. However, complainants want some

acknowledgment that CDSS is taking their complaint and their suffering seriously and addressing it in some way.

## Potential Solutions

### 1. CDSS Should Limit the Practice of Requiring CRU Approval of Every Civil Rights Complaint Resolution.

Based on our conversations with advocates as well as county and state workers, we recommend CDSS eliminate its current process of requiring CRU approval of every county civil rights complaint resolution. We acknowledge following this recommendation would constitute a major change to the CRU workflow, but we have identified this as the best option to remedy many of the issues we discovered throughout our research. A common refrain among advocates and county workers alike is that County Welfare Department workers need more robust and frequent training in order to better prevent discrimination, provide appropriate disability accommodations and equal access to services, and to receive, process, and resolve complaints. Advocates further recommend more careful and targeted audits of county offices to substantively change how the counties respond to civil rights complaints. Under the current regime, complaint review monopolizes the majority of CRU's limited staff resources, preventing the Unit from conducting desperately needed training and compliance monitoring.

We therefore propose the following methods of limiting CRU review of all county civil rights complaints, in order of our preference:

- a. *Check a random sample of decisions from across the state before the resolutions are submitted to the complainant.* We recommend a sample size of 10% of all complaints.<sup>8</sup> In practice, this procedure would allow review at the complaint level. We recommend that CDSS incorporate a mechanism for generating this random sample into its data tracking system. Doing so would enable CDSS to generate a sample from its database of all complaints from all counties.

This method stems the flow of work through CRU and frees up resources for more substantive interventions while preserving some oversight over county investigations. Multiple advocates recommended unannounced audits of county offices. This method would maintain the spirit of the unannounced audit. This

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<sup>8</sup> Each complaint should have some indicator of its county of origin, but the CDSS investigator should be blind to that indicator until she has performed her review. Once the review is complete, CDSS may evaluate whether any patterns emerge of certain problematic counties or workers. The process for generating the sample should be shared to the extent possible with the county offices. Approved data tracking of complaints at the county level would allow for targeted sampling and create a larger body of information to fill gaps in this limited review. (See Section III, Data Tracking.)

option would still allow CDSS review at the appellate stage and would require a robust and easily accessed appeal process. This practice would be combined with more training and oversight into the investigation process and with close analysis of the data being collected under the new data collection and tracking procedures. (See Section III, Data Tracking.)

- b. ***Eliminate CDSS review of county complaint investigations entirely and refocus resources on intense training in identified areas.*** This method allows CDSS to redirect focus from reviewing resolutions to identifying patterns of problematic behavior around certain offices or employees and then pursue joint training and discipline directives. We believe based on our conversations with CDSS workers and state advocates that complainants would be best served if CRU investigators were free to use their civil rights expertise on substantive changes rather than on individualized complaint review. This option would still allow CDSS review at the appellate stage and would require a robust and easily accessed appeal process, which is discussed in more detail in Step Five.
- c. ***Limit CDSS review to “problem” counties.*** This method would require CRU to create a “probationary” designation and determine how counties enter into that designation. The “probationary” designation could be based on CDSS’s own experience/knowledge, what percentage of a county’s determinations are getting appealed, and/or advocates’ assessments. This option could be problematic for several reasons, including the “political” difficulties of designating probationary status to particular counties. Also, because of the differential sizes of California counties, the gap between this method and unlimited review could be small. For example, if Los Angeles county receives the probationary designation, CRU will face the same backlog problems they have now, and even the non-probationary counties will suffer.

## **2. Counties Should Be Required to Contact Complainants a Minimum Number of Times and Should Use Complainants’ Preferred Contact Method to Reach Them.**

Counties should be required to change their contact practices to include more varied forms and methods of communication in order to ensure complainants are not dismissed from the complaint process due to a fixable failure to communicate. CDSS should require, within well-communicated regulations, that county workers perform the following steps and record attempts and outcomes in Salesforce:

- a. The county worker must attempt to contact the complainant a minimum number of times.

- b. These efforts should occur at different times of the day and week to account for work, childcare, and other complicated schedules.
- c. Communication should be attempted through different methods, beginning with the method the complainant notes as preferable and followed by other methods, such as: text, email, phone call, written mail, contact with next of kin or other designated alternative. Further research is required to assess how these resolution communications could function through text messaging as well as whether there are privacy issues to contacting an alternative contact.

The proposed requirements listed above are not included in our proposed regulation edits, but should be added to either the regulations themselves or in an ACL.

### **3. To Improve Consistency in Quality of Determination Letters and Facilitate Provision of Sufficient Information Upon Which to File Appeals, CDSS Should Provide Model and Inadequate Examples of Determination Letters to Counties.**

Determination letters are the main source of information from which complainants can learn about the investigation of their complaints and file appeals.<sup>9</sup> But the guidelines for drafting these letters are limited. Once a county worker resolves a complaint, CDSS policy should require the CRCs to send a written letter to the complainant explaining the decision and including summaries of investigation findings to the extent they are permitted under worker privacy protections. The current requirements for the CRC resolution letter lack sufficient detail; multiple CRCs mentioned calling CDSS with questions about these letters. Also, CDSS analysts answered that common questions they get involve requests for guidance on writing findings letters. In addition to conducting intakes, CRU is spending a lot of time reviewing and re-writing letters. Advocates suggest complainants would benefit from increased transparency into the rigor of the investigation process.

To improve consistency and quality of these findings letters and free up CDSS' time that is spent re-writing these letters, CDSS should provide counties with examples of both excellent and subpar determination letters. First, CDSS should provide counties with model determination letters that reflect a high-quality investigation and sufficiently communicate to complainants the findings, why their complaints were denied, and their appeal rights. Second, CDSS should provide counties with examples of determination letters that fail to provide sufficient information to complainants. Along with providing these "what not-to-do" letters, CDSS should explain and provide training to counties about how these letters fall short and ways to remedy these gaps. Providing both model and subpar examples will: (i) give clarity to counties on drafting letters, (ii) signal to counties what constitutes a high-quality investigation, and (iii) hopefully decrease calls

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<sup>9</sup> The two findings letters we reviewed lack any language on the appeals process. We recommend requiring that findings letter include a notification of appeals rights, simple instructions for filing an appeal, and an enclosed appeals form. For a deeper discussion of this recommends, please refer to Step Five.

to analysts requesting guidance on drafting letters, enabling analysts to focus on other tasks. With respect to appeals, providing examples may lead to better determination letters that give complainants notice of their appeal rights and provide enough information so they can determine whether to file an appeal.

Additionally, we suggest that CRU create templates of findings letters with detailed guidance for CRCs. Eligibility denials are written using electronic templates that have options and guidances for each portion of the letter. We recommend CDSS develop similar templates for findings letters that will help counties write higher-quality findings letters and ensure complainants have sufficient information about the findings.

#### **4. CRCs Should Be Required to Use the Complainant's Preferred Contact Method to Explain the Resolution of the Complaint and Should Allow Complainants to Opt Into a Resolution Call During Which a CDSS Contact Could Explain the Findings.**

The CRC should additionally use the complainant's preferred contact method, if it is not a letter, to explain the resolution of the complaint. Alternatively, CDSS policy could allow complainants to opt into a resolution call in addition to the mandatory letter. This would allow more dynamic communication with the complainant and provide the complainant with an opportunity to ask questions and receive personalized attention. The resolution call would involve an explanation of the findings, the grounds for the findings, notification of the complainants' appeals rights, and instructions for filing an appeal. For complaints resolved unfavorably to the complainant, this resolution call should be conducted by an appeals worker, as is done for eligibility denials. This recommendation of a call with an appeals worker should be implemented as an initial step, to be revisited if it creates too much of a time commitment for the assigned appeals contact at CRU.

#### **5. County Workers Should Be Required to Record Data Related to Resolutions of Complaints.**

To ensure justice for the complainant, we would advise that county workers be required to record in both the county logs and on Salesforce the following:

- What kind of complaint was filed (e.g. language access, disability, etc.)? What were the demographic characteristics of the complainant?
- What did the complainant hope for in filing their complaint? A new caseworker? An apology or explanation? A continuation of their benefits?
- Did the complainant receive a remedy? What remedy did they receive? Was it what they requested? Why or why not?
- If not, did the complainant receive a satisfactory explanation of why they did not receive their desired remedy?

Also, CDSS should perform assessments of data related to resolutions of complaints to ascertain if certain counties are disproportionately denying complaints and identify gaps in resolutions (i.e., if certain types of complaints are getting denied more than others).

**6. Counties Should Affirmatively Acknowledge Complainants' Experience and Thank Complainants for Filing Their Complaints in the Resolution Letter.**

Although counties are likely barred from disclosing employee discipline, training, or termination in response to a complaint, we recommend that CDSS train counties to respond to complainants' frustration by acknowledging their struggles and expressing gratitude for their complaint. Advocates asserted that their clients would benefit greatly from some recognition by the state or county that they had a problematic experience and that what happened to them may have been inappropriate. We therefore suggest CDSS work with advocates to develop a response that acknowledges complainants without conceding liability or breaking privacy rules. The response, which would be incorporated into the resolution letters to complainants, might involve the following plain language:

“Dear (formal name), We write to thank you for telling us about your dissatisfaction with your experience with (nature of situation). We have worked within our offices to investigate and address your concerns, and we are sorry that you had a negative experience with our office. By submitting your complaint, you allowed us the opportunity to make our county and our state better for you and for others. We remain grateful to you for that opportunity. Sincerely, (county name) Civil Rights Coordinator.”

**Step Five: Appealing an Initial Determination [“Request for Reconsideration”]**

The right to appeal is critical to ensuring procedural justice and accuracy in the complaint process. Appeals not only allow complainants an additional opportunity for their complaints to be reviewed and resolved but also can be important for identifying and correcting errors in initial determinations from wrong facts to deficient investigations. Despite the importance of appeals rights, however, the appeals process is one of the more under-publicized, under-utilized parts of the complaint process. In our interviews, advocates and the CRCs did not have much, if any, exposure to the appeals process. Overall, the appeals process seems to be considered entirely separate from rather than a fundamental part of the complaint process. To address this issue—along with others in the appeal process—we have outlined specific goals, challenges, and potential solutions for your consideration.

**Goals**

Given the lack of awareness of the appeal process and the low number of appeals CDSS receives, one goal is to ensure that users know about the appeal process, including how and when to file appeals. Another important goal is to make the appeal process more accessible to complainants. A long-term goal could be analyzing appeals data to gauge patterns by counties and common areas of weakness in the complaint process. CDSS could then leverage this data to improve trainings, county reviews, and the complaint process overall.

## **Challenges**

On the complainant-side, challenges are: (i) lack of awareness of the right to appeal; (ii) lack of trust in the appeal process; and (iii) inaccessibility of the appeal process. A baseline challenge is complainants' lack of awareness that the option to appeal exists and/or how to file appeals. Another challenge is complainants' lack of trust in the appeal process. Complainants may be wary of filing appeals after the denial of their complaint, especially if receiving the initial denial was already a long process. Lastly, complainants lack resources to navigate appeals, a problem that is exacerbated by the opaqueness of the appeal process. There is little to no guidance for complainants on the appeal process on everything from what evidence to offer to which bases would support filing an appeal.

For CDSS and the counties, the primary challenges are resource limitations and the structure of the process. CDSS and counties face resource limitations, particularly in regards to staffing, to undertake appellate review. This is exacerbated by duplicative components of the process, including that CDSS both signs off on local determinations and is designated to receive any appeals. CDSS also faces challenges getting counties to comply with reversals of initial determinations in a timely manner, if at all. Multiple advocates have stressed the lack of practicable enforcement mechanisms to ensure county compliance with initial determinations. Given the already weak enforcement mechanisms for county compliance with initial findings, it is likely to be even more challenging to get counties to comply with reversals on appeal.

## **Potential Solutions**

Our recommendations for achieving the goals described above extend from the initiation of the complaint process to the determination of appeals. As such, many of these recommendations must operate in tandem with solutions described in Steps Zero through Four, e.g., publicizing the appeals process in posters describing the overall complaint process at county offices and improving consistency of determination letters.

### **1. Consider Re-framing Appeals as “Requests For Reconsideration.”**



To encourage more complainants to appeal initial determinations, CDSS should consider re-framing appeals as “requests for reconsideration.” North Carolina’s DHHS grievance procedure uses “reconsideration request” rather than appeals. (Appendix at 116-117; *see also* SSA procedure which includes a “request for reconsideration” stage.) This language is less intimidating to complainants who may be discouraged by the thought of navigating a formal appeal process. If this change in terminology is adopted, CDSS should update the regulations to reflect this change. Moreover, determination letters should include notifications of this right to a request for reconsideration and any public documents should also reflect this change.

## **2. Counties Should Publicize Reconsideration Requests Rights at the Outset of the Complaint Process including on Posters at County Offices and On Complaint Forms.**

*Notify Users of Reconsideration Requests Rights via Posters at County Offices:* CDSS and counties should inform users of their right to request reconsideration on posters visible at county offices. From a visit to a Santa Clara County welfare office, we learned that county offices do not mention reconsideration request rights on posters that notify users of the complaints process. In addition to further publicizing the complaint process through better positioning posters (*see Step Zero*), CDSS should add a notification of reconsideration request rights to the posters and counties should maintain copies of reconsideration request forms at greeters’ desks. A visible poster including appeals language could state:

“If you wish to file a civil rights complaint, please call \_\_\_\_ or pick up a complaint form at the greeter’s desk. If you have already filed a complaint and you disagree with the decision, you can file a request for reconsideration by calling \_\_\_\_ or picking up a reconsideration request form at the greeter’s desk.”

*Notify Users of Reconsideration Request Rights in the Complaint Form:* CDSS should add to the bottom of complaint forms a notification that complainants can request reconsideration of their complaint if they are dissatisfied with an initial decision.

Overall, notifying users of reconsideration request rights at the outset of the complaint process will prime users early-on with the knowledge that an initial determination is not the last chance for review or redress of their complaints.

## **3. To Improve Accessibility of Reconsideration Requests, Counties Should Be Required Both to Enclose Reconsideration Request Forms in Determination Letters and to Provide Accessible Instructions and Guidance for Filing a Reconsideration Request.**

*Enclose Reconsideration Request Form in Determination Letters:* To increase ease of filing appeals, counties should be required to enclose reconsideration request forms with determination letters. North Carolina attaches their reconsideration request form to the initial determination letter sent to complainants. (*Id.* at 116.) Also, for eligibility denials, the denial letter contains information

about applicants' appeals rights, the deadline, and the appeals form on the reverse side. This practice should be applied to the civil rights complaint denials. Attaching reconsideration request forms to determination letters removes the extra step for complainants of requesting the form. Moreover, it would enable complainants to learn immediately upon review of their determination letters what the reconsideration request process entails.

*Provide Accessible Instructions for Filing a Reconsideration Request:* CDSS should provide sample language that can be used in determination letters. Accessible instructions could include stating, "If you disagree [or are dissatisfied] with this decision, you can request reconsideration of your complaint. A reconsideration request form is enclosed with this letter."

*Provide Checkboxes or Examples of Grounds for Requesting Reconsideration:* Complainants likely struggle with not understanding the bases to file appeals. To address this ambiguity, forms should provide a list of potential bases for requesting reconsideration of a complaint. For example, forms could state: "What are your reasons for disagreeing with this decision? Reasons can include (*among others*): an insufficient investigation having been conducted, decision being based on wrong facts, missing information in the findings, etc." Forms should provide checkboxes of potential reasons along with a space in which complainants can explain the context for their reason. If the checkbox approach is used, it is critical that forms remind complainants that they can mark more than one reason and that they can provide a reason not listed.

*Maintain a Low Threshold for Filing a Reconsideration Request:* Given the extremely low number of appeals being filed and for procedural justice purposes, CDSS should enforce a low threshold (e.g., dissatisfaction with an initial finding) for a complainant filing a reconsideration request versus a higher standard that requires certain grounds for filing a reconsideration request.

*Notify Complainants that Accommodations Can Be Provided in Filing a Request for Reconsideration:* Reconsideration request forms should remind complainants in plain language that they can request accommodations in the process. The request form should incorporate "affirmative screening" language similar to Massachusetts' intake processes. (*Id.* at 20-21.) The notification could state: "If you have a physical, mental, and/or emotional health problem that may make it hard for you to file this reconsideration request, you can ask for help. For an accommodation in filing this request, please call \_\_\_\_\_, visit \_\_\_\_\_[county office], or fill out the questions below." (*Id.*) Below this notification, the reconsideration request form could include checkboxes of accommodations that could be provided including, but not limited to large print, a computer diskette, a language interpreter, Braille, someone to call and explain the appeals process, etc. There should also be blank space for complainants to request other accommodations that are not listed.

*List Resources for Help with Filing Appeals on the Request for Reconsideration Form:* Determination letters should provide a phone number for a complainant to call with questions

about the findings and filing a reconsideration request. Appeal forms could also contain a list of legal aid offices that complainants can turn to for help in filing reconsideration requests.

*Remind Complainants of Non-Retaliation Policy:* Complainants may be afraid to file appeals due to fear of retaliation by county workers, so reconsideration request forms should remind complainants of counties' non-retaliation policy. Minnesota notifies users of its non-retaliation policy and provides instructions for reporting retaliation in its instructions for filing a complaint. CDSS should incorporate this practice in reconsideration request forms. (*Id.* at 91.)

#### **4. To Facilitate Complainants Filing Requests for Reconsideration in a Timely Manner, Counties Should Develop Alternative Methods for Sending Determination Letters.**

*Provide Alternative Ways for a Complainant to Receive Notice that a Determination Letter Has Been Sent:* One issue with the appeal process is that complainants may receive their determination letters after the deadline or when there is insufficient time for them to adequately launch an appeal. For example, a complainant who is homeless may have listed a community service center as her mailing address and may have checked her mail days or weeks after receiving a determination letter, when the deadline for filing an appeal has already passed.

To address this issue, complaint forms should request complainants' back-up contacts and provide a list of opt-in methods through which the complainant can be contacted. (*See Step Four.*) Counties should email or text complainants that their determination letter is in the mail. According to advocates, many clients use text messaging as their primary mode of communication and have unstable physical addresses. Regardless of the communication method(s) used, counties should be required to attempt to notify a complainant that her determination letter has been sent at least three times and should record each attempt. If this recommendation is adopted, CDSS should add these communication requirements to the regulations and also incorporate them in an ACL.

*Inform Complainants of New Deadline for Reconsideration Requests:* Another issue with appeals is the strict 30-day deadline. Currently, complainants must file appeals 30 days from when the CWD mails the determination letter. But complainants may not access the mailed letter until weeks after it is sent, for reasons ranging from memory issues to being homeless and lacking consistent access to the mail. After receiving the notice, complainants may need to seek assistance from legal aid organizations regarding the request for reconsideration procedure. CDSS should change the regulations to (i) extend the 30-day deadline and (ii) allow complainants who give good cause to file a request for reconsideration past the deadline. CDSS should require counties to notify complainants of this new deadline and the "good cause" allowance in determination letters and reconsideration request forms.

**To Prevent the Appeals Process Duplicating the Original Investigation, Assign Appeal to CDSS Analyst Who Did not Conduct the Pre-Decision Review of the Complaint At Issue.**

*Assign Reconsideration Request Review to CDSS Analyst Who Has Not “Touched” the Initial Complaint Being Reconsidered:* One challenge to the appeal process is that CDSS both signs off on the local determination of an initial complaint and then conducts appellate review of that same complaint. One way to address this issue and foster trust in the accuracy and integrity of the reconsideration request process is to assign a reconsideration request to a CDSS analyst who did not review the initial complaint. CDSS analysts are assigned to complaints by county. An analyst from a different county, who did not conduct the pre-closure review of the complaint being reconsidered, should be assigned the appeal. This practice would ensure a fresh set of eyes on the complaint and decrease duplication of the original analysis. Salesforce could help in assigning reconsideration requests to a team member who has not engaged with the initial complaint. An alternative recommendation is to designate one team member to be a “reconsideration request specialist,” whose job is to analyze reconsideration requests and initial complaints for a handful small counties unlikely to generate a large number of requests for reconsideration. Reconsideration requests from that analysts’ counties could be assigned to other team members. Notably, this problem of duplicating the original investigation and findings is partially resolved if our earlier recommendation to review only a sampling of resolutions is adopted. (See Step Four for more context.)

**6. In the Long Term, Leveraging Appeals Data Could Help CDSS Gauge Patterns in Counties and Common Areas of Weakness in Investigation.**

*Assess Appeals Data to Ascertain Common Problem-Areas in the Complaint Process:* Upon receiving a request for reconsideration, a CDSS analyst should input the following data into Salesforce: the type of complaint, the county and office of the original incident, the resolution requested, the reasons for the denial, the grounds for the request, and the outcome of the request. (For a deeper discussion of data tracking, see Section III, Data Tracking.) Tracking this data (using Salesforce reporting functions) can inform CDSS as to common grounds for requests for reconsideration, counties with high percentages of both total requests and successful requests for reconsideration, and the overall success rate of reconsideration requests. CDSS should then apply this data in tailoring trainings to address gaps in investigation, addressing problem-counties, and improving the reconsideration request process to avoid denials of meritorious reconsideration requests. An additional data-tracking practice should be using Salesforce as a ticketing system to track status of reconsideration requests and ensure they are resolved in a timely manner, similar to Ohio’s ticketing system of customer service complaints discussed in Section VI, Other States Memo.

## **II. PARALLEL PROCESS (REASONABLE) ACCOMMODATION/AUXILIARY AID GRIEVANCE)**

### **Alternative Grievance Process for Accommodation/Auxiliary Aid Complaint (Based on Recommendations by National Advocates And Massachusetts Model)**

We recommend that CDSS implement a parallel process that allows for expedited action on grievances regarding requests for reasonable accommodations and auxiliary aids for users with disabilities. This process has been strongly recommended by national advocacy organizations as a way to ensure that users with disabilities are provided full access to services by providing them with required accommodations and auxiliary aids without delay. This process has been implemented in Massachusetts, and other states, including Minnesota and Georgia, and some counties in New York are also working towards implementation of this process. This section outlines this parallel disability grievance process.

#### **Screening Every Applicant**

The first step in this parallel process to ensure full and fair access for users with disabilities is screening every benefits applicant for disabilities. We recommend adopting similar language to that which is used in Massachusetts:

“There are things [CDSS] will ask you to do in order to get or keep your benefits. If you have a health problem that makes it hard for you to do something [CDSS] asks, you can ask for help. This is called an accommodation. This could be because of a physical or mental or emotional health problem. Some of the things we’ll ask you to do are:

- Read notices we send and follow instructions in them
- Fill out forms
- Come to the office for appointments
- Get and give us documents to prove whether you can get benefits
- Tell us about changes in your household/case
- Meet deadlines

Do you think you might need help with any of these things, or something else, because of a health problem?”

CWDs should track when users ask for support in response to the screening. Upon a request for support, counties should engage in an interactive process to determine the appropriate reasonable accommodation. CWDs cannot force someone to accept a specific accommodation. Primary consideration should be given to the requests of the person seeking an accommodation or auxiliary aid. CWDs should provide a formal accommodation communication that explains what the accommodation is and gives the contact information for the disability coordinator in case the individual wants to file a grievance regarding their accommodation/auxiliary aid.

## **Conciliation**

When an adverse action is pending against a user who has been identified as a person with a disability and who has received an accommodation, CWDs should be required to contact the users to ensure that her disability was not the reason for her triggering the adverse action. This conciliation process is used in Massachusetts and stakeholders report that it improves efficiency and conserves resources by preventing time consuming closure and reopening of cases and issues, which has happened frequently in cases of users with disabilities.

## **Grievance**

Users who request accommodations or auxiliary aids should be notified in writing that they have the right to complain if they are dissatisfied with the support offered. Users should be provided with a form that asks the following:

1. What accommodation/auxiliary aid did you ask for? (with examples of common ones)
2. What support did you receive instead?
3. What do you need to make this right?

## **Review/Investigation**

Grievances should be reviewed by the disability coordinator who should attempt to seek quick resolution. Disability coordinators should be armed with additional knowledge about what kinds of accommodations may help and research options. Disability coordinators can require workers to implement the accommodation that the coordinator comes up with the client's input

## **Resolution**

Once a decision is made by the disability coordinator, the client would receive an accommodation/auxiliary aid communication explaining the accommodation/aid they will be receiving. This letter could also notify the user of appeal rights, as in the civil rights complaint process.

## **Appeal to CDSS**

Users dissatisfied with the resolution proposed by the disability coordinator should have the right to appeal the decision to CDSS.

### **III. DATA TRACKING**

As all parties interviewed as part of this project have made clear, the dearth of consistent, actionable data renders nearly impossible the task of tracking broad trends in the civil rights complaint process. This makes the system opaque, leaving anecdotal evidence from advocates, CRU analysts, and county workers as the primary source of information about compliance and the effectiveness of the complaint process. To increase understanding of the civil rights complaint process and civil rights compliance among CDSS, county staff, and advocates, this section lays out recommended data collection and tracking practices.

#### **Goals and Challenges**

One major goal in this area is to consistently track data across as many indicators as possible regarding the civil rights complaint process. Doing so will allow CDSS to assess how to best allocate training and compliance monitoring resources: the data may demonstrate that specific county offices receive a higher share of complaints, or that intellectual disabilities take up far more county resources than realized. The ability to analyze both macro and micro trends will help CDSS better identify issues and target resources.

Of course, the current challenges to achieve this goal are numerous. County data tracking practices vary tremendously, as a barebones complaint log is all the regulations currently require and some counties may not accurately implement this requirement. The regulations do not specify format, so, in the best case, these complaint logs are in Excel (others are handwritten). This lack of consistency across counties makes comparing data difficult, if not impossible. Without regular communication and oversight from the state, counties often fall behind on data collection. Moreover, the data currently tracked by counties is very limited. Sample Excel complaint logs from two counties only included a complainant's name, the date the complaint was received, the benefit program involved, the basis of the complaint, the "nature of complaint," the resolution, decision, and resolution date. Also, the counties used these complaint logs in very different ways: one county understood "basis of complaint" to constitute a description of the incident, while the other interpreted it to mean type of discrimination (e.g., by race, sex, intellectual disability). These limited, inconsistent logs, which represent the best version of civil rights complaint data tracked by counties, are a major obstacle to operationalizing data collection and analysis. A final, notable challenge is that, due to low rates of engagement with the civil rights process, whatever data is collected will almost certainly reflect a severe undercount of users' actual experiences.

The second goal for data tracking is to analyze and operationalize the data that counties collect. This goal encompasses not just the state's use of the data, but also sharing of that data, to the extent possible, with counties and advocates to ensure that parties using the complaint process can improve the user experience. The biggest challenge here, of course, is that no system currently

exists to share information. Once a more robust data collection process is put in place, CDSS will need to determine what data it can provide counties and advocates, and how often.

## **Solutions**

### **1. Require All Counties to Track a Wide Variety of Indicators for All Civil Rights Complaints.**

*Complainant Demographics.* Demographic data would help CDSS flesh out patterns in who accesses the complaint process that might be lost by simply collecting information about the type of discrimination that forms the basis of a complaint. One advocate explained that breaking down data by demographic lines would help him better target his advocacy to those users who most often utilize the process. Potential demographic information to collect includes: age, race(s), ethnic group identification, gender identity, sexual orientation, immigration status, national origin, language, disability status (including both mental and physical disabilities), participant status, and whether a user is currently experiencing homelessness.

*Discrimination Type (list ALL implicated protected classes).* This indicator should capture the bases on which the complainant believes they were discriminated. As one expert explained, it is critical that this indicator captures discrimination across multiple dimensions. For example, a black indigent woman facing discrimination by a county worker could file a complaint on any or all of those three bases. For ease of recording and to account for the complex ways bases of discrimination can intersect, we advise using checkboxes for this indicator.

*Complaint Details.* This indicator should capture, as described by the complainant, the incident(s) that led to the complaint being filed in narrative form.

*Date.* This indicator should capture when the incident(s) at issue occurred.

*Location.* This indicator should capture where the complaint occurred, on the county office level. As one advocate suggested, this would help all parties target resources to particular offices that are posing challenges in counties with multiple offices.

*Type of Complaint Filed.* This indicator should capture how the complaint is originally made (e.g., by phone, in person, etc.), to track trends in which types of complaints on which bases are made through which avenues. As one advocate explained, this would help both CDSS and advocates tailor outreach and resources.

*Employee(s) Involved.* This indicator should be considered for CDSS internal purposes only, to help with internal monitoring of, for example, employees who face repeated complaints regarding certain types of discrimination.



*Case Updates (initial response, communication with complainant, investigation, languages used by complainants, resolution).* This indicator should track each case update by date, with a new entry for each additional step taken. This indicator should include: civil rights coordinators' initial response; whether users respond to a letter (or not, after a set period of time); the method and language of *each* user contact initiated; the investigative steps taken; and the ultimate resolution of the case.

*Resolution Date.* This indicator should track the date a complaint is resolved.

*Type of Resolution (Both Resolution Requested and Resolution Granted).* This indicator should capture the type of resolution that the complainant requested. There should also be an indicator for whether a resolution was granted and if so, what type of resolution was granted. CDSS could track this data to assess if certain types of resolution requests are disproportionately denied compared to others, as well as patterns in types of resolutions granted by county.

*Reason(s) For the Denial of a Complaint.* This indicator should capture why a complaint a denied. It should include checkboxes with general reasons for denial followed by a text box in which the CRC could specify the grounds for the denial of the complaint.

*Grounds for Requests for Reconsideration (Appeal).* This indicator applies to requests for reconsideration (appeals) and should capture why a complainant appealed the decision. This data could be leveraged to assess common reasons for complainants filing reconsideration requests (e.g., insufficient investigation, lack of clarity in findings letters, etc.).

*Outcome of Requests for Reconsideration.* This indicator should capture the date a request for reconsideration is resolved and whether the request for reconsideration was granted or denied. If a reconsideration request is denied, there should be checkboxes for general reasons for denials followed by a text box in which the reconsideration request specialist at CDSS could explain why the request was denied.

## **2. Standardize and Integrate Data Collection to Ensure Ease of Analysis.**

First, requiring all counties to collect the same data in the same format, ideally in Salesforce, but perhaps in Excel for the time being, would be a substantial step in achieving these data tracking goals. Second, it is critical that counties receive more guidance about precisely what each indicator should entail to avoid repeating the current situation, in which counties interpret their data collection requirements in dramatically different fashions. Third, and relatedly, guidance to counties should ensure that whatever data is received is relatively easy to code for analysis through using checkboxes or other binary data collection tools.

### **3. Regularly Analyze and Share Data to More Efficiently Allocate Resources and Provide Greater Transparency.**

A quarterly analysis of county data across each of the indicators mentioned above would assist CDSS in discovering patterns and targeting particular issues. Sharing these analyses with counties and advocates to the extent possible (given legal and political concerns) would allow counties to better inform their work serving users by highlighting areas for improvement, and assist advocates serving users accessing benefits. This level of transparency would also build greater trust in the process among advocates, promoting greater cooperation and buy-in.

### **4. Consider Bolstering Civil Rights Complaint Process with Anonymous System to Address Under-Counting Concerns.**

While undercounting concerns were addressed in “Step Zero” above, one of the solutions suggested, considering an anonymous complaint process to ensure users who fear retaliation will still register their civil rights complaints, would help address the ever-present concern about undercounting complaints. Collecting data in an anonymous complaint system would also help CDSS understand precisely who is using the system, and may assist with identifying patterns with the type of users who decide to complain anonymously.

### **5. Track Disability Status and Reasonable Accommodation Requests and Status of Eligibility Decisions to Determine Impact of Disabilities on Eligibility Determinations.**

CDSS should track data about users with disabilities including: (i) whether a user’s disability is mental and/or physical, (ii) the type of reasonable accommodation or auxiliary aid requested, (iii) whether the accommodation request was granted or denied, (iv) whether a user’s eligibility case was granted or denied, and (v) the reason for the denial of her eligibility. We advise checkboxes for each of these indicators, as well as text boxes in which county workers can further specify why the accommodation request was denied, why the eligibility case was denied, etc. For example, checkboxes for reasons why eligibility was denied should include failure to return forms in a timely manner, failure to satisfy technical requirements, missed appointments, loss of contact. This practice could help collect data to determine what changes are necessary in disability screening and accommodation procedures.

A key reason for the outcome of the *Harper* suit and settlement in Massachusetts was that from 2006-2009, Massachusetts’ Department of Transitional Assistance gathered this disability-related data and determined that approximately 27, 289 eligibility applications were denied for users known to be disabled due to technical reasons, such as missed appointments or incomplete paperwork. (Appendix at 68.) Also, Massachusetts’ data collection uncovered 118,816 eligibility cases that were terminated for clients known to be disabled due to technical reasons such as missed appointments or incomplete paperwork. (*Id.*) Similar to Massachusetts, CDSS should adopt this

practice of collecting data on barriers to the eligibility process for users with disabilities and leverage this data to determine what reforms are necessary in screening and the reasonable accommodation process.

## **IV. CHILD PROTECTIVE SERVICES**

### **Child Welfare System**

Because of the unique nature of the child welfare system, civil rights complaints regarding this system confront different challenges than complaints regarding public benefits. The civil rights complaint process plays a critical role in the child welfare space. In this memorandum, we identify the unique challenges of these types of complaints, recommend solutions to those challenges, and note areas ripe for legislative advocacy or policy change.

### **Structure**

Advocates and county workers alike observed that people involved with the child welfare system have many places to turn for relief, and they rarely see them use the civil rights complaint process.<sup>10</sup> Like most states, California has established a special office to handle and investigate complaints from families involved in the child welfare system.<sup>11</sup> The office of the Ombudsman operates within CDSS, but maintains some autonomy from the department's normal processes. Cal. Welfare And Institutions Code § 16160-16167 established the California Ombudsman for Foster Care and the Office of the Foster Case Ombudsman (FCO).<sup>12</sup> CDSS's public communications indicate that FCO is the proper forum for complaints regarding the child welfare system: CDSS directs complainants with issues regarding county agencies that provide child welfare services to the FCO<sup>13</sup> while pointing non-child welfare complaints to the public assistance program complaint process. Advocates also direct parents experiencing discrimination within the child welfare system to contact FCO for guidance in navigating the complaint process.<sup>14</sup>

Beyond FCO, parents and other people involved in the child welfare system often use other forums to air complaints. Because most of their grievances stem from child dependency and

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<sup>10</sup> Based on our meeting with CDSS CRU specialists, we know that complaints *are* coming to CDSS regarding the child welfare system. However, the advocates and county workers we spoke to were largely unaware of them, potentially indicating complainants are filing these complaints without representation.

<sup>11</sup> Children' Ombudsperson Office FAQs. <http://www.ncsl.org/research/human-services/childrens-ombudsman-offices.aspx> (last visited March 12, 2019).

<sup>12</sup> Office of the Foster Care Ombudsman. <http://www.fosteryouthhelp.ca.gov/OMBprog.html> (last visited Mar. 12, 2019).

<sup>13</sup> CDSS Complaint Instructions. <http://www.cdss.ca.gov/Reporting/File-a-Complaint/County-Complaints>

<sup>14</sup> AdvoKids, Legal Tools, <https://www.advokids.org/legal-tools/discrimination/>; advocates in interviews mentioned these affirmative processes.

removal proceedings in which all parties are represented, many people raise their discrimination and civil rights issues through the Office of Administrative Hearings.<sup>15</sup>

## Goals

The CDSS civil rights complaint process and CRU oversight of child welfare issues remain critical to children, parents, family members, and foster parents involved with Child Protective Services (CPS). Dependency court hearings may offer representation to families and a forum to lodge their civil rights grievances, but these grievances are useful to them only in their ultimate goal of getting their child back. Dependency hearings are not built to solve broader civil rights problems; they can only remedy specific placement issues.

CDSS's civil rights complaint process allows state intervention into systemic threats and broader solutions to families' civil rights challenges. It also offers an additional forum to meet the access and accommodation needs of disabled parents. The challenges and solutions recommended below are meant to provide context to CDSS on the particularized needs of child welfare complainants. Ultimately, we believe CDSS can best serve these clients by meeting civil rights training needs of county child welfare workers, addressing personnel problems based on complaints, and using compliance monitoring to assess current discrimination and prevent future discrimination.

## Challenges

The length of the process is the major challenge of the CDSS complaint process in the child welfare context. When the custody of a child is at stake, parents are reticent to engage in a protracted complaint process. Advocates explained that many clients prefer the quickest resolution to getting their children back, and they fear how filing a complaint might disrupt that process. Many of the people in the dependency process rarely ascribe an issue they are experiencing to a civil rights violation. Most clients would not identify their complaints as civil rights issues, but rather as interpersonal issues with their social worker or attorney. Child welfare advocates "don't even think about the complaint process"<sup>16</sup> while in the midst of a removal proceeding.

The area where people most need the CDSS civil rights complaint process arises outside of the court hearings in which parents are so engrossed. In dependency hearings, all parties are represented and civil rights grievances become part of the determination: dependency courts decide discrimination claims as part of their assessment of removal.<sup>17</sup> Theoretically, parents'

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<sup>15</sup> Office of Administrative Hearings, <https://www.dgs.ca.gov/OAH> (last visited March 12, 2019).

<sup>16</sup> Conversation with child legal advocate, February 5, 2019.

<sup>17</sup> Welf. and Inst. Code § 303, [http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=WIC&sectionNum=303](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=WIC&sectionNum=303) (last visited March 12, 2019).

lawyers would raise issues of discrimination when arguing against removal or negotiating class and counseling mandates. Once an investigation is started or a child is removed, parents face a series of hurdles, including but not limited to parenting classes and drug rehabilitation. Very little consideration is given to barriers faced by parents to successfully clear those hurdles. The attorneys that represent parents during hearings are there for court appearances, but they rarely speak with the parents outside of court.

Despite these circumstances, County Civil Rights Coordinators (CRCs) may be unable to fully consider civil rights complaints regarding child welfare because of the challenges they face in investigation. Child Protective Services is “tight with their information,”<sup>18</sup> refusing to allow CRCs access to documentation of home visits. Records from dependency hearings are also sealed. Because CRCs cannot follow their usual methods of investigation, they rely on the accounts of CPS managers and workers, rendering their investigations incomplete.

## **Potential Solutions**

Some solutions to these challenges dovetail with the solutions we recommended for complaints regarding public benefits.<sup>19</sup> Advocates note their clients need some indication that the system is responsive to them, that their complaints are being heard. Complainants also want faster response times to their complaints, particularly due to the unique challenges of child removal. We reiterate here the communication practices and structural changes we provide in our main memorandum.

Other challenges of child welfare complaints require more targeted solutions. A major problem with these complaints is whether parents or others involved in child welfare proceedings know to file them or have the bandwidth to do so. While we recommend the same procedures we list in Step Zero of our Complaint Process Memorandum, we also encourage CDSS and CRU to create more resources for advocates who are positioned to refer clients with these complaints. We also recommend basic training for both advocates and county workers to keep the civil rights complaint process in mind as they serve clients.

CDSS should also consider policy measures and communications that protect the complainants from jeopardizing their dependency cases by filing these complaints. Several advocates expressed concern that CRU as a part of CDSS would receive complaints from people currently in child welfare proceedings. These advocates expressed a preference for complaints to

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<sup>18</sup> Conversation with County Civil Rights Coordinator, February 13, 2019.

<sup>19</sup> See Complaint Process Design Memorandum, Step Four: Resolution.

go to FCO rather than CRU to preserve independence. We see that CRU could provide a critical service to parents and others who have nowhere else to turn for civil rights remedies, so we encourage CRU to make clear in their communications to advocates and potential complainants that the office is a separate entity from the child welfare agency.

## **Further Research and Advocacy**

Throughout this research, we identified several areas in the nexus between civil rights and child welfare that extend beyond the civil rights complaint process. We identify and discuss those issues here as well as recommend contacts for future consideration.

### **1. Investigation of Child Welfare Complaints**

Proper investigation of civil rights complaints relating to the child welfare system may require legislative change. County CRCs reported to us that Child Protective Services does not disclose records relating to removal, and dependency court records are similarly sealed. Federal law requires that states receiving federal funding for child protective services keep investigative information confidential, except in limited circumstances.<sup>20</sup> California law seems to allow some record access to state employees of CDSS in a limited set of roles.<sup>21</sup> Further research is required to assess whether CDSS must seek legislative change to access these records.

### **2. Vulnerable Groups: Foster Care and Diversion**

When asked where they see the most civil rights violations in the child welfare system, advocates repeatedly pointed to foster parents. While parents and children all have representation in dependency hearings, foster parents often struggle to assert their entitlements to benefits and services for themselves or their foster child.

This problem is especially acute in diversion cases, where child welfare employees informally place children with family members outside of the procedures of the foster care system in an effort to avoid dependency proceedings. Because these placements do not have the protections of a formal placement, family members and the children they house are left without stability: they cannot receive benefits for the child, the child may not be able to enroll in school, the child cannot claim financial independence for purposes of college tuition, reunification services are limited, and the biological parent may be able to take the child away at any time.

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<sup>20</sup> Children's Bureau, Disclosure of Confidential Child Abuse and Neglect Records.  
<https://www.childwelfare.gov/pubpdfs/confide.pdf>. Current through 2017.

<sup>21</sup> Welf. and Inst. Code § 827,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=827.&lawCode=WIC](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=827.&lawCode=WIC).

Diversion cases are ripe for several civil rights abuses, including coercion of the placement relative and ensuing degradation of the civil rights of the child, the foster parent, and the biological parent. We recommend further research into whether or how the CDSS civil rights complaint process could serve as a refuge for people facing these abuses.

### **3. Racial Disparity and Disproportionality Initiatives**

Washington State has developed a promising model for tracking, addressing, and attempting to remedy disparity and disproportionality in their child welfare system. Beginning with a report in 2008 on racial disparity and disproportionality, they have launched a taskforce charged with tracking data, implementing outcome-based initiatives, and reporting on progress. (See Appendix at 154-67.)

### **4. Future Research**

*Follow up with California's parents' advocates:* Most of the advocates we spoke to were children's advocates who had never filed a civil rights complaint before. Some of them recommended we locate parents' advocates but during the timeframe of this policy lab, we were not able to connect with any parents' advocates. Based upon the experiences parents endure in these processes, they are likely to have important insights into how the complaint process could improve for people involved with the child welfare system.

## **V. ALTERNATIVE DISPUTE RESOLUTION**

### **Alternative Dispute Resolution: "Remedies First" and Mediation**

We have identified two ways in which CDSS could potentially incorporate alternative dispute resolution (ADR) into its civil rights complaint process. First, CDSS could require counties to expand on existing informal resolution practices, through which some CRCs attempt to promptly address a complainant's programmatic or personnel issue separate from the civil rights complaint process. For example, a CRC could reassign a user to a different caseworker or provide a disability accommodation immediately after receiving a complaint, while the civil rights process is ongoing. Second, CDSS could incorporate a formal mediation option into its main civil rights complaint process. Unlike with the informal fixes described above, CDSS would likely want to design a mediation program as a full alternative that can formally close a civil rights complaint if successful. This memo describes the insights that we have gathered from research into other agencies' practices, as well as interviews with California county Civil Rights Coordinators (CRCs), advocates, and mediation experts.

## **A. “Remedies First”: Informal Resolutions of Claims**

Many of the CRCs whom we interviewed shared that they try to resolve problems such as a lack of accommodations or need for translation immediately, separate from the complainant’s decision to proceed with the civil rights complaint process. Likewise, disability advocates expressed that, in counties where they have a good relationship with the social services agency, they often negotiate accommodations for their clients through informal discussion with county workers. However, other advocates indicated that workers in the counties where they have the most clients were not amenable to such informal resolution. Expanding and formalizing the practice of “remedies-first” resolutions of civil rights complaints could help improve outcomes for users.

To implement this suggestion, CDSS could direct all CRCs to attempt to fix a complainant’s underlying problem first, regardless of the formal legal merits of their complaint. This approach would include both a process change (to focus on remedies first) and, ideally, an attitude change (to see the user’s needs as paramount). To help CRCs problem-solve, CDSS could provide examples of remedies that CRCs can provide before the civil rights complaint is resolved, such as switching a caseworker, providing an accommodation, or providing an interpreter or translator. However, the only real way to reorient CRCs toward user needs is through comprehensive training. Advocates identified changing the approach and attitude of county workers generally as one of the most important goals for improving their clients’ experience with public benefits in California. In the meantime, directing CRCs to focus on client needs can help to encourage change where it is needed and reinforce existing good practices.

To ensure full data for tracking purposes, CDSS should require that all complaints resolved informally be tracked in the main complaint system. To avoid the potential for informal resolution to coerce users into dropping a formal civil rights complaint, CDSS should require that county workers clearly inform users that they can still pursue a formal complaint. If counties comply with CDSS’s directives, informal resolution could help users get the relief they need promptly and efficiently.

## **B. Formal Mediation**

Incorporating formal mediation into CDSS’s civil rights complaint process would be a far more ambitious project than expanding informal resolution. As a first step to investigating that possibility, this part of the memo describes (1) current mediation practices at the San Francisco Human Rights Commission (HRC) and the California Department of Fair Employment and Housing (DFEH) and (2) some potential advantages and disadvantages of using mediation in CDSS’s civil rights complaint process. The analysis in this section is based on interviews with mediation experts and a disability advocate.

### **1. Mediation at San Francisco HRC and California DFEH**



San Francisco HRC and DFEH both use voluntary mediation programs to resolve civil rights complaints, and both leverage community partners, such as law school clinics, to provide mediation services. HRC's process is the less formal of the two and is used mostly by pro se complainants. Complainants typically challenge housing and employment issues such as denial of a rental or firing. The mediation process begins when a staff screener identifies a case as a good candidate for mediation, either during intake or later in the process. If the complainant agrees, the matter can be mediated in-house by staff trained in mediation or by outside parties such as law school clinics. If mediation resolves the issue, the case is considered closed. If not, traditional investigation proceeds. Remedies include a public finding of discrimination, which has serious consequences for respondents who have city contracts.

DFEH's system is similar to HRC's, but it includes more formal safeguards, such as complete separation between the investigation and mediation divisions. DFEH's system is used by represented complainants in addition to pro se complainants. For example, an advocate described doing a lawyer-to-lawyer DFEH mediation in which he negotiated with a county counsel and CDSS staff counsel. He described the process as lengthy but ultimately satisfactory, and he thought the DFEH staff mediators were competent and fair. The complaint concluded with a written agreement for an ongoing disability accommodation. Like HRC, DFEH will proceed with a traditional investigation if mediation fails. If DFEH finds discrimination, its enforcement division can bring suit against the county.

Both HRC and DFEH use phone mediation at least some of the time. Advocates described finding phone mediation acceptable as an alternative to in-person meetings. They noted that, although it poses challenges by cutting off nonverbal communication, it can also be preferable for clients who are intimidated by facing the respondent in person.

Based on our limited interviews, the mediation systems at HRC and DFEH appear to be working reasonably well from a logistical standpoint. However, we do not know how pro se complainants are faring in these systems. Moreover, information from advocates about delays and the length of mediations indicate that there may be significant delays for users.

## **2. Incorporating Mediation into CDSS's Civil Rights Complaint Process**

A full evaluation of mediation as an alternative track in CDSS's new civil rights complaint process is beyond the scope of this memo. However, our research has suggested some considerations that CDSS can use as a starting point for evaluating and designing a potential mediation option.

The main advantage of mediation, according to a mediation expert, is the control and sense of agency that it allows the parties. She also mentioned that it could potentially speed claim resolution, although our other interviews suggested that might not be true in practice.

The most serious disadvantage that several interviewees raised was the potential for coercion given power imbalances between the mediators, the county, and the complainant. A mediation expert noted that mediators are trained to reach agreement first and foremost, so they need special training to avoid inadvertently coercing the complainant's agreement. She also mentioned a potential for cultural miscommunication. An advocate noted that mediation can potentially be more intrusive than traditional investigations, because the scope of the conversation typically expands beyond a single incident.

From the agency perspective, training or hiring mediators would likely require significant expenditures, although phone mediation could reduce costs. A mediation expert indicated that noncoercive mediation requires a government agency to provide counsel, which would represent another significant expense. Finally, mediation is potentially less transparent and more difficult to monitor than traditional investigation. Because both parties agree to any resolution, it is difficult to assess the quality of outcomes for users and may be harder to uncover patterns of disparate outcomes based on protected classes. The decentralized structure of CDSS's complaints process potentially exacerbates oversight problems. If CDSS decides to pursue a formal ADR option, it should consider a centralized mediation program so that it more directly controls the quality of the user experience.

In deciding whether to invest in mediation, CDSS should also consider that the advocates we interviewed seemed to universally prioritize compliance over improving the complaint process in their suggestions. That suggests that adding a mediation system might not be the best way to meet the needs of represented benefits users. However, the experience and priorities of pro se applicants might be different. Pro se applicants are also the most vulnerable to the potential coercive effects of mediation. CDSS should therefore prioritize understanding their needs and interests as it gathers further information to evaluate a mediation option for its complaint process.

## **VI. PROMISING PRACTICES FROM OTHER STATES' CIVIL RIGHTS COMPLAINT PROCESSES**

### **A. MASSACHUSETTS**

In 2013, Greater Boston Legal Services (GBLS) settled a federal class-action lawsuit (*Harper et al. v. Massachusetts Department of Transitional Assistance (DTA)*) regarding DTA's and county offices' ADA violations. (Appendix at 66-83.) Specifically, the suit centered on disabled clients "repeatedly losing or being denied DTA benefits, often because their disabilities prevented them from following DTA processes, and DTA not having a system to accommodating clients with disabilities." (*Id.* at 62.) These findings were based on the extremely high number of applications that were denied for clients known to be disabled due to procedural issues such as

missed appointments, as well as the high number of terminated cases for disabled clients due to procedural reasons. (*Id.* at 66.)

The settlement led to multiple initiatives aimed at decreasing discrimination at county welfare offices, and improving access and quality of services for those with disabilities. These initiatives included: (i) affirmative screening for disability; (ii) on-site client assistance coordinators; (iii) recording information about disabilities and accommodations; (iv) readability of written materials; (v) improvements to RA system; and (vi) auxiliary aids. (*Id.* at 71-72.)

### **1. On-the-Ground Client Assistance Coordinators at Local County Welfare Offices**

As part of its ADA settlement, Massachusetts DTA has 1 to 3 ADA coordinators at local county welfare offices. (*Id.* at 85.) These coordinators assist both clients and county workers, including supervisors. On the client-side, coordinators answer questions and provide immediate assistance in filling out forms. (*Id.*) Clients can opt to speak with these coordinators rather than a worker about their disability-related issues. (*Id.*) On the worker-side, coordinators advise workers and supervisors when they have ADA and reasonable accommodation (RA) questions. (*Id.*) To offset costs, these coordinators are often SNAP supervisors with reduced caseloads. (*Id.*) According to one Massachusetts advocate, ADA coordinators being located in county offices is critical, as it allows coordinators to more readily assist with individual disputes, as well as identify patterns of non-compliance and address these patterns systematically.

### **2. Mandatory Affirmative Screenings to Identify Clients with Disability and Facilitate the Accommodations Process**

Another settlement-related implementation has been mandatory affirmative screening. (*Id.* at 75-77.) Under the affirmative screening process, workers explain and public benefits applications list the tasks associated with applications, as well as potential accommodations. (*Id.*) For example, an application will state:

“There are things DTA will ask you to do in order to get or keep your benefits. If you have a health problem that makes it hard for you to do something DTA asks, you can ask for help. This is called an accommodation. This could be because of a physical or mental or emotional health problem. Some of the things we’ll ask you to do are:

- Read notices we send and follow instructions in them
- Fill out forms
- Come to the office for appointments
- Get and give us documents to prove whether you can get benefits
- Tell us about changes in your household/case
- Meet deadlines

Do you think you might need help with any of these things, or something else, because of a health problem?” (*Id.* at 76.)

Affirmative screening is a mandatory policy. (*Id.* at 75.) County workers are required to orally explain the tasks involved in applications, as well as the availability of reasonable accommodations. (*Id.* at 75-77.) An affirmative screening statement is included on all applications for public benefits. (*Id.* at 19-21.)

The screening is framed around tasks. (*Id.* at 76.) That is, rather than immediately requesting persons to identify their disabilities, the statement lists tasks required in the application process. (*Id.*) This approach enables persons to more easily identify if their disabilities may impair their ability to apply for benefits and also aids in screening for mental disabilities. Moreover, the language of the statement (e.g. “This [impaired ability to apply] could be because of a physical or mental or emotional health problem”) helps clarify that accommodations at county offices encompass mental disabilities in addition to physical disabilities. (*Id.* at 76.)

In addition to increasing identification and accommodations of users with disabilities, the screening process also aims to improve data tracking. The more easily counties can report the number of clients with disabilities, the more easily the state can identify areas of need, tailor trainings, and identify patterns of disparate outcomes.

### 3. Accommodations Chart for County Workers

Massachusetts DTA provides guides (in chart form) to county workers listing commonly-needed accommodations for users with disabilities. (*Id.* at 59-60.) These charts list examples of barriers disabled users encounter in accessing benefits e.g. “difficulty meeting deadlines, difficulty coming into the DTA office.” (*Id.*) They then list possible disability-related reasons for these difficulties such as “mobility or other physical issue [and/or] psychiatric issue e.g. anxiety, agoraphobia.” (*Id.*) Lastly, the chart lists corresponding accommodations for these barriers. (*Id.*) For example, listed accommodations for agoraphobia include handling the case by phone, priority handling of the case to ensure a short waiting time at the office, or a home visit. (*Id.*) In addition to being remedy-oriented and reader-friendly, the accommodations guides are helpful in improving county workers’ knowledge of mental disabilities and accommodations, as well as improving users’ experiences by streamlining the accommodations process. (*Id.*)

Difficulty meeting deadlines	<ul style="list-style-type: none"> <li>• Psychiatric issue</li> <li>• Cognitive issue</li> </ul>	DTA calls client to remind of deadlines
Difficulty coming into the DTA office	<ul style="list-style-type: none"> <li>• Mobility or other physical issue (eg walking, length of time sitting)</li> <li>• Psychiatric issue (eg anxiety, agoraphobia)</li> </ul>	<ul style="list-style-type: none"> <li>• Handle case by phone/fax/email</li> <li>• Priority handling of case to ensure short waiting time in local office</li> <li>• Home visit</li> </ul>

Table C1: Excerpt of “Commonly Needed Accommodations For Clients Working with

#### **4. Department of Transitional Assistance (DTA) Monthly Scorecards**

Massachusetts DTA produces monthly score cards for their program that lists: (i) the average caller wait time; (ii) the number of households on TAFDC; (iii) the number of monthly SNAP and TAFDC applications received; (iv) the percentage of SNAP applications processed timely; (v) the average number of processing days for SNAP applications; and (vi) the average lobby wait time. (*Id.* at 91-99.) These score cards are publicly available online on the state website. (*Id.*) The score cards initiative was not required by the settlement but rather the product of a collaboration between legal advocates and the director of the SNAP program in an effort to increase data collection and transparency.

#### **5. General Advice from Massachusetts Advocate**

According to one Massachusetts advocate, the key to improving the civil rights complaint process is analyzing the current process at every stage from how users learn about complaints to resolutions of such complaints. With respect to spreading awareness, she recommended displaying visible posters in offices, as well as plain language in large font concerning the complaint process of the state website. She also emphasized clearly communicating scaling back as much as possible what is required to file a complaint to reduce barriers to the process. Lastly, a Massachusetts advocate stated that if complainants are going to be contacted by an investigator, then the state must ensure they have accommodations throughout these communications.

### **B. NEW YORK STATE**

New York State has a complaint form just for ADA complaints. (*Id.* at 100-101.) This complaint form can likely be used by CDSS as a template for civil rights complaints with respect to its user-friendliness and formatting. The top of the form immediately explains the four ways to file a complaint—phone, fax, email, mail. (*Id.* at 100.) It also provides plenty of writing space on which a complainant can describe the conduct at issue. (*Id.* at 100-101.) Ways this form can be improved would be expanding the form to cover other kinds of discrimination, providing a checklist of bases of discrimination, and requesting a back-up contact.

New York State can be instructive for CDSS’s re-design of the complaint process in not only its complaint form but also its publicly available “library” of accessible public benefits documents and its publicizing of the appeal process. (*Id.* at 105.) We describe these measures below:

### **1. The ADA Complaint Form Asks if the Discriminating Conduct is Ongoing**

The New York State discrimination complaint form asks users if the “circumstances of [their] complaint is continuing.” (*Id.* at 100.) This question could be a valuable addition to CDSS’s revised complaint intake form, as it captures users who may struggle pinpointing one date for the conduct at issue because the conduct is ongoing. Moreover, this inquiry better frames the investigation if the conduct is a pattern of repeated civil rights violations, rather than one discrete event.

### **2. Hiring Third-Party Vendors to Provide Accessible Documents**

New York advocates secured accessible documents for users (audio, braille, large font) by negotiating with the state to have contracted vendors establish a library of public-benefits documents in accessible formats. According to one national advocate, in a lawsuit concerning ADA non-compliance for public benefits lawsuits, the state did not fight back on the merits but rather the practicability of offering documents in Braille. Specific arguments were that few workers were literate in Braille and that it was too expensive to offer documents in Braille. Ultimately, part of the settlement agreement was to hire third-party vendors to build up a library of accessible documents to accommodate users with disabilities, while at the same time minimizing the cost of converting documents from scratch with each accommodation request. Now, users can (i) click the disability accommodations indicator on the state website, (ii) request documents in alternative forms (audio disc, data disc, large print, Braille), and (iii) either access the documents on-the-spot from the library or request such documents be mailed to them.

### **3. Notifying Users of Appeals in the Grievance Procedure Notice**

The state provides instructions online for filing a complaint and in doing so, incorporates language regarding resolutions, accommodations for filing complaints, and appeals for complaints. (*Id.* at 105-106.) First, the instructions seem more geared to the “remedy-first” model discussed in our general complaints process memo. Indeed, the instructions state that within 15 calendar days of receiving the complaint, the ADA coordinator will “meet with the complainant to discuss the complaint and the possible resolution.” (*Id.*) And the initial determination letter both explains OTDA’s position and “offer options for substantive resolution of the complaint.” (*Id.*) Second, the instructions expressly state that the initial determination letter may be in an accessible format and lists such accommodations (e.g., large print, Braille, or audio tape). (*Id.*) Third, the instructions emphasize that if the ADA Coordinator “does not satisfactorily resolve the issue,” the complainant may appeal the decision. (*Id.*)

The framing of these instructions emphasizes a remedy-oriented approach in that it requires that the determination letters not just explain OTDA’s position but also list options for “substantive resolution[s].” (*Id.*) Moreover, the investigations call seems to contemplate both discussion of the

complaint and possible resolutions. (*Id.*) With respect to accommodations, the benefits of these instructions are that they provide tangible examples of accommodations that could be provided for the complaint process, albeit these instructions could be improved by expanding this list and emphasizing that it is not an exhaustive list. (*Id.*) Lastly, the complaint instructions notifying users of appeals rights could also be instructive for CDSS. (*Id.*)

#### **4. General Advice from New York State Advocate**

According to one New York advocate, training geared toward the nuts and bolts of what county workers will encounter on the ground is critical to combatting discrimination in county offices. Indeed, this advocate stated that trainings should cover not just ADA basics but also day to day examples of reasonable accommodations that could be provided. The training should cover the following questions: What do accommodations look like? What are the mechanics for users obtaining accommodation? What are the timelines for reasonable accommodation decisions?

Additionally, according to one national advocate who specializes in disability-related discrimination in the public benefits space, annual trainings are insufficient. Trainings must be offered throughout the year and integrated into staff and supervisor meetings. One recommendation is to break trainings into modules such as an introduction module for new workers, a reasonable accommodations module, a module on invisible disabilities, etc.

#### **C. NEW YORK CITY**

New York City has a city agency that enforces human rights law called the Commission on Human Rights (CHR). This agency manages a civil rights complaint process that is mostly aimed at private parties but includes some complaints against welfare offices. Users learn of this complaint option primarily through community groups and organizers, as well as legal services providers. Upon receiving a complaint, CHR follows up with the county office and gives them a warning regarding the discriminatory conduct. If the worker continues discriminating after this warning, then the penalties for such conduct escalate. In addition to executing informal measures of resolution such as warnings, CHR also conducts investigations and tracks complaints to assess patterns by office and/or worker.

According to one CHR attorney, CHR has multiple promising practices that could potentially be applied at CDSS. Such practices include: (i) partnering with legal and community organizations to spread knowledge about the complaint process; (ii) “triaging” complaints to ensure immediate resolutions; (iii) posting a frequently asked questions (FAQ) sheet to help users navigate complaints; and (iv) continuing investigation/resolutions of discriminatory conduct after a complaint has been dropped.

## **1. Partnerships with Legal Service Providers and Community Groups**

According to a CHR attorney we interviewed, partnering with legal service providers and community groups has been by the far the most helpful way to spread awareness of the civil rights complaint process. This method has been effective because these groups are the ones that have regular interactions with users and can inform users about the complaint process via their staff and through flyers posted around their offices. Additionally, CHR has been able to train community groups, including independent living centers and P&A groups, about how to file a complaint on behalf of a client and how to alert welfare offices about problematic incidents.

CHR also has posted on YouTube a 2-minute how-to guide for filing complaints.<sup>22</sup> The video instructions are easy to follow and user-intuitive. Moreover, legal advocates and community organizers can use the video as a resource for explaining the complaint process.

## **2. “Triaging a Complaint”: Finding More Immediate Fixes**

The first thing CHR does with a complaint is to try to find an immediate resolution to the issue. The investigation process takes a long time (years in some cases). To avoid a protracted process for complainants in need of short-term fixes, CHR “triages” complaints. According to a CHR lawyer, many complainants are individuals who are homeless and often face extremely time-sensitive, physical security issues that need to be dealt with immediately. To accommodate these needs, CHR has a 24-hour response time; that is, every complaint gets some type of response within 24 hours by a dedicated response unit. This quick turn-around is one of the strongest features of this process, according to the advocate. Short-term measures include calling the discriminating party and warning them to cease the conduct at issue, as well as calling and working out an accommodation on behalf of a complainant.

## **3. The Complaint Intake Forms Request an Emergency Contact and How the Complainant Learned of the Complaint Process.**

*Emergency Contact:* The complaint intake form requests complainants’ emergency contacts. (*Id.* at 109.) Given the fact that many complainants are homeless and lack consistent access to a mailbox or phone, we recommend that CDSS include a similar request on the complaint intake form. That way, county workers and/or the ADA coordinator can more easily reach complainants to follow up on complaints. Rather than requesting an “emergency contact,” perhaps use the language “back-up contact.”

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<sup>22</sup> NYC Human Rights, *How To File A Discrimination Complaint in New York City - Explained In 2.5 Minutes*, YouTube (June 7, 2017), <https://www.youtube.com/watch?v=-iv8Dwfr0w>.



*How the Complainants Learned of the Commission:* The New York City CHR complaint intake form asks complainants how they became aware of the Commission. (*Id.* at 109.) This information can be helpful for learning what methods of spreading awareness are most effective. In the early stages of redesigning the complaint process, CDSS should consider asking complainants how they learned of the complaint process on the complaint intake form. Doing so could help CDSS track how complainants most commonly learn about the process, so that CDSS could accordingly dedicate resources toward those methods and further increase awareness of complaints.

#### **4. New York City Provides a User-Friendly Frequently Asked Questions (FAQ) Sheet Online About the Complaint Process.**

Another promising practice is that New York City provides providing a user-friendly frequently asked questions (“FAQ”) sheet online. (*Id.* at 108-109). The FAQ sheet includes answers to the following questions:

- What is the first step for filing a complaint?
- I am a lawyer and I would like to file a complaint on behalf of my client: what do I do?
- What happens after the complaint is filed?
- What are the possible results of the investigation?
- Can I file a complaint if I am undocumented?
- Can I remain anonymous while filing a complaint?
- Is my complaint available in the public record?
- Are there any costs or fees connected to filing a complaint with the NYC Commission on Human Rights?
- I need an accommodation for a disability in filing a complaint or attending an
- appointment or hearing, what should I do?

The FAQ sheet can serve as a model for a CDSS FAQ sheet. (*Id.*) The FAQ sheet lists these questions, among others, on which the user can click one of these questions and a drop down answer will appear. (*Id.*) This format is more user-friendly than listing all the questions and answers online; this way, users can see all the inquiries on one page and then click only on those questions that are applicable to them. Moreover, the questions are both general educational explanations on the process and questions specific to certain complainants e.g. accommodations for complainants with disabilities and interpreters for LEP complainants. (*Id.*)

## **5. CHR Continues Working on A Discrimination Complaint Even If The Complainant Drops the Complaint.**

If a complainant does not want to proceed with the complaint process anymore, CHS has the independent power to bring a suit. This authority is useful if CHS sees a pattern of discrimination by a certain party, but no complainants want to continue their complaints. This avenue is also useful if a complainant wants to report discrimination but does not want to be involved further than that e.g. due to fear of retaliation, limited time, fear due to undocumented status, etc.

This practice could be instructive for CDSS in addressing patterns of discriminations by certain parties or offices. Based on our review of the complaint spreadsheet, multiple complaints are dropped due to “no response” from the complainant. If CDSS or individual counties were empowered to continue following up on a complaint, then counties losing touch with an individual complainant would not preclude a more generalized remedy that could reduce discrimination against both the complainants and individuals similarly situated to the complainant. Additionally, this practice would facilitate CDSS addressing systematic instances of discrimination by offices and could help inform trainings.

## **D. OHIO**

### **1. The State Conducts the Investigation and Outsources Specific Tasks to Counties**

In Ohio, even though benefits and welfare programs are administered at the county level, investigations of civil rights complaints are centralized in a state civil rights department. The state determines the scope of the investigation, conducts interviews, and monitors each step, while outsourcing specific parts of the investigation process (typically administrative-type work) to county CRCs. (Interview with Ohio CRC; *see also* Appendix at 138.) Specifically, the state sends discrete tasks and/or questions to CRCs and the CRCs are required to complete these tasks/respond to these questions within 14 days. (Interview with Ohio CRC.) Such tasks include reviewing internal information such as case notes and application records. (*Id.*) The CRC then sends their review of these items to the state, who completes the investigation and makes the complaint determination. (*Id.*) Centralizing investigation and resolution at the state-level helps ensure consistency in the quality of complaint investigation, while offloading some work to counties.

### **2. Using a Cloud-Based Ticket System to Track Complaints**

According to an Ohio CRC, her county uses a cloud-based customer relationship management (“CRM”) system that tracks every complaint. This system creates tickets for each

complaint that enables her and her team of specialists to monitor the status of complaints and follow up as necessary.

### **3. Notifying Users of the Complaint Process on Each Benefits Application**

The last page of every applications for benefits in Ohio notifies users of the civil rights complaint process and instructs them on how to file a complaint. (*Id.* at 135.) Incorporating this practice in California could help spread awareness of the complaint process.

### **4. Complaint Specialists at County Offices**

Ohio has a “complaint specialist” at every local office. According to an Ohio CRC, these specialists conduct intakes for all types of complaints including civil rights, customer service, and programmatic complaints. One idea would be to train one person at local offices in California to be complaint specialists, on top of their other duties, given the limited budget and staffing capacities in many counties. One consideration, however, is actively working to prevent such a measure from being coercive to address a user being afraid to be candid with a specialist, who is also the co-worker of the party being complained about or a specialist pressuring users not to file a complaint against a coworker.

### **5. Affirmation Statements**

At the end of trainings, one CRC requires that county workers sign affirmation statements that confirm they have completed training on LEP accommodations. (*Id.* at 80.) Workers signing the document confirm that they will “provide Limited English Proficiency customers access to all services provided. . . through agency bilingual staff and/or our contracted provider for interpretation services in a timely manner at no cost to the customer.” (*Id.*) The statement also confirms that they will contact a supervisor if they have any questions or need help providing these services. (*Id.*) The Ohio CRC said that these affirmation statements help inform county workers of their legally-mandated responsibility regarding LEP accommodations and help holding them accountable to these obligations.

## **E. MISCELLANEOUS PROMISING STATE PRACTICES**

### **1. Washington Anti-Discrimination Notice**

Washington’s poster notifying users of county offices’ anti-discrimination policy is a solid example of an eye-catching, clear notice that is language-inclusive. (*Id.* at 57.) In addition to specifying the anti-discrimination policy in numerous languages, the poster briefly describes the non-discrimination policy, informs readers that they can file a civil rights complaint, and provides

a phone number to do so. (*Id.*). One addition we would include is notifying users that they can also pick up a complaint form at the greeter's desk.

## **2. North Carolina Complaint Intake Form and Appeals Language**

North Carolina's complaint intake form expressly asks complainants if they will need accommodations for communicating with the county about the complaints. (*Id.* at 122.) It then lists accommodations including Braille, email, language interpreter, TDD, etc. (*Id.*) This practice of asking if complainants will need accommodations and listing examples could make California's complaint process more accessible to complainants with disabilities or whose primary language is not English. Moreover, this practice could reduce the number of times counties lose touch with complainants. Recommendations for CDSS would be to: (1) emphasize that the list of accommodations is not exhaustive and provide an "other" option and (2) incorporate the "affirmative screening" language from Massachusetts by listing tasks involved in filing complaints and then asking if the complainant foresees any difficulties meeting these tasks due to physical, mental, or emotional health issues. (*See id.* at 76.)

North Carolina also uses the term "request for reconsideration" for an appeal. (*Id.* at 116-117.) This practice seems more informal and accessible to complainants, many of whom may associate appeals with a formal, distant process of which they have had minimal success in other contexts. Additionally, request for reconsideration seems more explanatory of what the appeals process entails than the general term, "appeal." In addition to using this language, the state encloses a request for reconsideration form with their determination letters. (*Id.* at 116.)

## **3. North Dakota Complaint Form Language: Informing Complainants of Right to Cite More than One Basis of Discrimination and Inclusive List of Bases of Discrimination**

North Dakota's complaint intake form instructs complainants to "check all [the bases of the discrimination] that apply." (*Id.* at 126.) This instruction is a promising practice for California's complaint process, as it captures intersectional forms of discrimination and prevents complainants from having to choose just one basis when the discrimination was actually rooted in multiple bases.

Additionally, North Dakota lists "status with respect to marriage or public assistance," as a basis of discrimination. (*Id.*) Multiple advocates cited their clients' statuses regarding public benefits as a ground for discrimination. Including this checkbox could help capture such instances of discrimination.

#### **4. Minnesota Non-Retaliation Notification**

Minnesota’s Department of Human Services notifies users of its non-retaliation policy (and how to report retaliation) in its instructions for filing a civil rights complaints. (*Id.* at 146.) Also, Minnesota notifies users that it can provide reasonable accommodations and interpreters for users who want to submit complaints. (*Id.*) Specifically, the instructions provide that MN DHS can “provide a reasonable modification, auxiliary aids/services, or provide accessible formats for a disability, such as a sign language interpreter, Braille or large print materials.” (*Id.*)

## **VII. UPDATE OF DIVISION 21 REGULATIONS**

### **Introduction**

The focus of the regulations updating project was to ensure that the regulations comport with current federal and state civil rights laws. Attached as Appendix G is a redlined version of Division 21, *Nondiscrimination in Federally Assisted Programs*, which reflects these updates, incorporating language from relevant statutes, regulations, and law. (Appendix at 170.) This section describes the proposed changes contained in Appendix G and also highlights additional changes that could be adopted to strengthen the effectiveness of the regulations for a variety of stakeholders, including state and county employees, users of CDSS programs, and advocates, with particular attention to users with disabilities and those who are limited-English proficient.

### **Goals and Challenges**

The primary goals of this aspect of the policy lab were to: (1) update the regulations interpreting and guiding implementation of Division 21 to reflect current law, (2) create cohesion and clarification regarding the overall reach of the regulations, including which government employees are and (3) clarify the meaning and impact of the definitions of what constitutes discrimination.

In drafting the updated regulations, we faced challenges in balancing being too specific against not being specific enough, or too general. This aligned with our concerns about the different roles as well as force of regulations and All County letters. In addition, we acted from the understanding that many county workers use the regulations as a guide to what is required within their job duties.

### **Solutions**

#### **General Updates and Revisions**

### *Scope of Division 21 Coverage*

The Division applies to “county welfare departments, and all other agencies receiving federal or state financial assistance through CDSS for the administration of public assistance, food stamps, child support enforcement, fraud investigation and social services.” (Section 21-102) This statement of scope should also state that the civil rights obligations apply to the Special Investigation Unit (SIU), specifically, even though fraud investigations are listed. Based upon our interviews, it appears that SIU investigators have failed to comply with Division 21 (such as by refusing to accommodate disabilities and provide interpreters), telling benefits recipients during interviews that civil rights obligations do not apply to them.

### *More Comprehensive Regulations*

County workers do not consistently understand the scope of federal laws such as the ADA. More comprehensive regulations that make direct references to and incorporate federal regulations and guidances would allow county workers to more faithfully apply the law. Relatedly, providing federal resources such as the ADA Title II handbook<sup>23</sup> would provide concrete suggestions to county workers implementing nondiscrimination laws.

In the attached redlined regulations document, we have proposed updates to the definition section to track current federal and state law regarding protected classes, definitions of physical and mental disability, definitions and types of accommodations and auxiliary aids, and definitions related to language access. This update also incorporates the updated definitions in the current draft of the 11135 regulations being drafted by the FEHC, paying particular attention to definitions of disability, gender identity and sexual orientation, LEP-related definitions. We have also proposed updates to the description of prohibited discriminatory practices based on the current draft of 1135 regulations.

### *Page Numbers*

Several interviewees requested that CDSS add page numbers to the Division 21 handbook to make it easier to refer to and locate specific regulations. Currently, the table of contents contains sections but no page numbers.

## **Miscellaneous Issues Related to the Complaint Process**

### *Conflicts of Interest*

When an individual files a complaint against a CRC, some counties are confused about potential conflict of interest issues related to assignment of an employee to conduct investigations. Section 21-203.31 should be clarified to address this confusion. This circumstance is particularly salient

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<sup>23</sup> <https://www.ada.gov/taman2.html>

where there are small county offices. If feasible, the regulations could ask that an employee from a different CWD be assigned to conduct an investigation of an allegation of discrimination.

### *Investigation of Complaints*

Incorporating additional, specific investigation requirements and investigator training guidelines to the regulations or in an All County Letter is essential to improving the quality and effectiveness of county complaint investigations. We recommend that CRCs be required to review the complainant's entire county record to look for information that points to different treatment or sheds light on the subject of the complaint. In addition, we recommend that CDSS develop training guidelines for core competencies of investigation (e.g., understanding what constitutes a "nexus," interviewing skills) in order to ensure consistency and quality of investigations.

### *Contact with Complainant*

Accounts from advocates and county workers alike indicate that communication between counties and complainants during the complaint process is severely lacking under the current system. Complainants receive little contact and many fall out of touch during the process. We recommend revising Section 21-203.224 to require county workers to contact complainants a minimum number of times and at specific intervals. In addition, the regulations should require counties to change their contact practices to include more varied forms and methods of communication in order to ensure complainants are not dismissed from the complaint process unnecessarily. Specifically, we recommend the following for communication with claimants during investigation as well as when communicating resolution notices:

- a. County workers must attempt to contact the complainant a minimum number of times.
- b. These efforts should occur at different times of the day and week.
- c. Communication should be attempted through different methods, beginning with the method the complainant notes as preferable and followed by other methods, such as: text, email, phone call, written mail, contact with designated alternative contact.

### *Time Limit for an Appeal*

Several advocates mentioned that the 30 day time limit to appeal a CWD decision to CDSS is too short (see Section 21-203.261), especially for individuals who are displaced or whose disabilities impede them from filing an appeal on time. We recommend extending the 30 day deadline to 60 days and recommend including a good-cause clause that allows an individual to appeal after 30 days if the individual shows good cause for missing the 30-day deadline.

### *State Hearing Jurisdiction*

Division 21, Section 21-203.1 addresses the right of a complainant to request a state hearing involving program issues *in addition to* discriminatory treatment. We recommend that the language should clarify that administrative law judges (ALJs) have jurisdiction to resolve allegations regarding civil rights violations, limited to their effect on the adjudication of the eligibility, benefits or services issue that is the subject of the state hearing. During a state hearing

that challenges a county welfare department's denial of a benefits application, ALJs have ruled that they lack jurisdiction over civil rights claims, such as reasonable accommodation claims, thus forcing recipients to separately address the issue through the civil rights complaint process when the accommodation itself could have resolved the problems leading to denial.

This change would also require modifying the language of Division 22, Section 22-062.5, which requires ALJs to remand complaints that arise during state hearings to CWDs for investigation and resolution. We recommend that this Division 22 language be changed to clarify that in addition to reporting complaints to CWDs, ALJs have jurisdiction to resolve allegations of discrimination and denial of reasonable accommodations as they relate to the determination of eligibility issues that are the subject of state fair hearings.

In addition, the current language of Division 21, Section 21-203.1 and Division 22, Section 22-062.5 give inconsistent instructions regarding the procedure for ALJs remanding civil rights complaints. These sections should be modified to agree with each other. Currently, Division 21, Section 21-203.1 instructs ALJs to remand discrimination complaints to CDSS civil rights bureau (CRB), while Division 22, Section 22-062.5 instruct ALJs to remand complaints to the CWD. We recommend that Division 21, Section 21-203.1 be modified so that complaints are remanded to CWDs for investigation and resolution.

#### *Complaint Logs*

In addition to Division 21's current minimum requirements for discrimination complaint logs (Section 21-203.2), Ohio and Washington require the complainant's telephone number and address. CDSS should also require that these logs include the date that the alleged discrimination occurred (currently, regulations require only logging the date a complaint was *received*).

#### *Types of Evidence in Intentional Discrimination Complaints*

The current draft of the Section 11135 regulations contains detailed guidance regarding the type of evidence and standards of proof necessary to prove intentional discrimination complaints. These standards should be used to develop trainings for county workers who are receiving and investigating discrimination complaints. These standards could also be included in an All County Letter related to intake and investigation of complaints. In particular, trainings should include explanation of the following evidence related standards: 1) While admissions, expressions of bias or other direct evidence of discrimination often are probative of discriminatory purpose or intent, they are not necessary to prove intentional discrimination; 2) Circumstantial evidence may be relied upon to demonstrate intentional discrimination (e.g., information concerning the disproportionate or adverse effect of a practice on a protected class or decisions on comparable matters, departures from normal procedures, and the use of presumptions and comparisons between a protected class and other individuals).



## **Issues Related to Applicants and Recipients with Disabilities**

### *Timing of Reasonable Accommodation Claim*

The regulations should clarify that an individual can make a reasonable accommodation request at any time, including during an administrative hearing, *and* that an ALJ can adjudicate the issue. In one reported example, an individual made a reasonable accommodation request at a benefits hearing, and the ALJ said that she would not adjudicate the issue because the request was made too late; the judge did not provide a statutory or regulatory basis for this time limit. The following cases from the housing context hold that accommodation requests may be made at any time and we recommend that the same principle should apply to administrative hearings: (1) *Douglas v. Kriegsfeld Corp.*, 884 A.2d 1109 (D.C. App. 2005) (see footnote 14 for caselaw support) and (2) *Sinisgallo v. Town of Islip Housing Authority*, 865 F.Supp.2d 307 (E.D.N.Y. 2012).

### *Screening All Clients for Potential Disabilities at Intake*

Advocates in other states strongly urged that, in order to comply with the ADA's nondiscrimination mandate, all individuals interacting with state benefits services be screened to identify whether they need accommodations in their interactions with the agencies. This dovetails with the tracking requirements discussed in the other memorandum regarding the complaint process. We include recommended language in Section 21-109.2.

### *Plain Language*

Section 21-203.32 provides guidance regarding interviewing a complainant. The information sought in an interview with a complainant in accordance should be gained through questions asked in plain language. Based upon our interviews and feedback from advocates, we are told that, at times, interviewers read verbatim off a form with language from the regulations. This legalistic and generic language can be difficult for complainants to understand, especially without proper context. The regulations can be clarified to encourage a plain language interview and to explain that the regulatory language simply includes categories of information to discuss, not the exact questions to ask. Additionally, we recommend distribution of an All County Letter that includes interview questions in clear, plain language that can be used for interviewing complainants.

### *Pamphlets/Notice of Rights and Disability*

Notices of rights should also be accessible to individuals with disabilities. Any auxiliary aid or communication accommodation identified for a person with a disability should also be applied in this context. This may require that benefits workers orally provide information about anti-discrimination rights to most/all clients similar to the screening process we recommend. Clarity surrounding notice requirements would improve county workers' knowledge of client's rights as well. We recommend that an All County Letter provide a script of how to give notice in plain

language and explain what it would look like to use an accommodation or auxiliary aid to give notice.

#### *Relationships between disability coordinators and county benefits offices*

Disability Coordinators should be playing a more robust role in ensuring that applicants and recipients with disabilities are able to access benefits. This may be outside the scope of the regulations, but might help alleviate the strain on CRCs while increasing meaningful access for people with disabilities. The parallel process outlined in Section II for users with grievances regarding disability accommodations and auxiliary aids describes the role disability coordinators can play in addressing grievances by users with disabilities.

### **Language Access, Division 21, Section 21-115**

#### *Individuals with Limited English Proficiency (“LEP”)*

The regulations should refer to “non-English speaking individuals” as “individuals with limited English proficiency.”<sup>24</sup> We have edited the regulations to include the most comprehensive definition of LEP from the Fair Employment and Housing Council’s draft of changes to Section 1135. The definition for LEP includes non-English speakers.

#### *Meaningful Access*<sup>25</sup>

Most model language access plans and federal guidance stress providing LEP individuals with “meaningful access” to programs and activities. CDSS should incorporate this language into Section 21-115.<sup>26</sup>

#### *Identifying LEP Individuals*

Division 21 or an All County Letter should provide guidance on how to identify LEP individuals. For example, the U.S. Department of Veteran Affairs’ 2016 Language Access Plan provides: “At the point of first contact with an LEP individual, VA staff should make reasonable efforts to conduct or arrange for an initial assessment of the need for language assistance services and make reasonable efforts to obtain such services if they are needed to effectively communicate with the individual.

- Inquiring if the individual identifies him/herself as a non-English speaker, LEP individual, or companion thereof;

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<sup>24</sup> “LEP individuals” or “LEP persons” is also appropriate.

<sup>25</sup> The definition of “meaningful access” in the redlined version of Division 21 comes from a April 2015 U.S. Department of Justice Civil Rights Division Language Access Plan Memo, <https://www.justice.gov/sites/default/files/crt/legacy/2015/05/04/crtlapp.pdf>, at 3.

<sup>26</sup> See The Department of Health and Human Services, *Language Access Plan*, (2013), <https://www.hhs.gov/sites/default/files/hhs-language-access-plan2013.pdf>, at 9 (“HHS agencies must provide oral language assistance services to ensure meaningful access to and an equal opportunity to participate fully in the services, activities, program. . . .”)

- Inquiring as to the primary language of the individual who identified him/herself as needing language assistance services;
- Asking a multilingual staff or qualified interpreter to verify an individual's primary language;
- Observing the individual's use of an 'I speak ... [language]' identification card or poster."<sup>27</sup>
  - HHS guidance explains: "To be effective, the cards<sup>28</sup> . . . must invite the LEP person to identify the language he/she speaks. This identification must be recorded in the LEP person's file."<sup>29</sup>

### *Designating the Primary Language*

Section 21-115 should clarify that LEP applicants/recipients have the right to designate their primary language, such as with an "I speak" card.

### *Notice of No Cost*

The regulations should explain that CWD employees must convey to LEP persons that language assistance is available at no cost. HHS guidance explains: "A vital part of a well-functioning compliance program includes having effective methods for notifying LEP persons regarding their right to language assistance and the availability of such assistance free of charge."<sup>30</sup>

Similarly, CWDs should provide notice about its language assistance services in languages LEP persons will understand, free of charge.

### *Relatives/Friends as Interpreters*

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<sup>27</sup> U.S. Department of Veteran Affairs, *Language Access Plan*, (2016), [https://www.lep.gov/guidance/2016\\_VA\\_Limited\\_English\\_Proficiency\\_Statement\\_and\\_Language\\_Access\\_Plan\\_508.pdf](https://www.lep.gov/guidance/2016_VA_Limited_English_Proficiency_Statement_and_Language_Access_Plan_508.pdf), at 7-8.

<sup>28</sup> See e.g., Office of Criminal Justice Services, *Language Identification Guide: I speak . . .* <https://publicsafety.ohio.gov/links/CJS0007.pdf>.

<sup>29</sup> Office for Civil Rights Policy Guidance, 65 Fed. Reg 52762 (2000), Department of Health and Human Services, Office for Civil Rights, *Policy Guidance on the Prohibition Against National Origin Discrimination As It Affects Persons With Limited English Proficiency*, (August 30, 2000), <https://www.govinfo.gov/content/pkg/FR-2000-08-30/pdf/00-22140.pdf>, at 52768; See Ramsey County Health and Wellness Administrative Division, Comprehensive Civil Rights Plan (2017), [https://www.ramseycounty.us/sites/default/files/Departments/Community%20Human%20Services/Civil%20Rights%20Plan%202009\\_11\\_17.pdf](https://www.ramseycounty.us/sites/default/files/Departments/Community%20Human%20Services/Civil%20Rights%20Plan%202009_11_17.pdf), at 18 ("Limited English proficient applicants and recipients can indicate their need for language assistance by pointing to their language on a 12-sided pop-up dome located at any reception or information/help desk in the Department. The pop-up dome says 'I need a [specific language] interpreter' in Hmong, Spanish, Khmer, Russian, Korean, Vietnamese, Arabic, Lao, Somali, Mandarin, Cantonese, and Amharic.")

<sup>30</sup> Office for Civil Rights Policy Guidance, 65 Fed. Reg 52762 (2000), Department of Health and Human Services, Office for Civil Rights, *Policy Guidance on the Prohibition Against National Origin Discrimination As It Affects Persons With Limited English Proficiency*, (August 30, 2000), <https://www.govinfo.gov/content/pkg/FR-2000-08-30/pdf/00-22140.pdf>, at 52768

Section 21-115.16 should clarify that CWDs should not encourage the use of friends, family, and minor children as interpreters.<sup>31</sup>

- HHS OCR guidance explains: “A recipient/covered entity may expose itself to liability under Title VI if it requires, suggests, or encourages an LEP person to use friends, minor children, or family members as interpreters, as this could compromise the effectiveness of the service. . . .
  - “If after a recipient/covered entity informs an LEP person of the right to free interpreter services, the person declines such services and requests the use of a family member or friend, the recipient/covered entity may use the family member or friend, if the use of such a person would not compromise the effectiveness of services or violate the LEP person’s confidentiality.”
  - The recipient/covered entity should document the offer and declination in the LEP person’s file. Even if an LEP person elects to use a family member or friend, the recipient/covered entity should suggest that a trained interpreter sit in on the encounter to ensure accurate interpretation.”<sup>32</sup>

### *Translating Vital Documents*<sup>33</sup>

Model language access plans explain that departments should prioritize translating vital documents to ensure program’s most frequently encountered LEP communities have meaningful access to important written information.<sup>34</sup>

- **What’s Vital?** “A document will be considered vital if it contains information that is critical for accessing [] program[s] or activities, or is required by law.”<sup>35</sup>

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<sup>31</sup> U.S. Department of Veteran Affairs, *Language Access Plan*, (2016), [https://www.lep.gov/guidance/2016\\_VA\\_Limited\\_English\\_Proficiency\\_Statement\\_and\\_Language\\_Access\\_Plan\\_508.pdf](https://www.lep.gov/guidance/2016_VA_Limited_English_Proficiency_Statement_and_Language_Access_Plan_508.pdf), at 7-8. (“Strictly limit and do not encourage the use of friends or family as interpreters. Permit such use only after meeting all of the following conditions: The LEP person declines the right to free interpreter services and requests the use of a family member or friend; The use of such a person will not compromise the effectiveness of services or violate the LEP person’s confidentiality; and The LEP person’s file documents the offer and declination of free interpreter services.”)

<sup>32</sup> Office for Civil Rights Policy Guidance, 65 Fed. Reg 52762 (2000), Department of Health and Human Services, Office for Civil Rights, *Policy Guidance on the Prohibition Against National Origin Discrimination As It Affects Persons With Limited English Proficiency*, (August 30, 2000), <https://www.govinfo.gov/content/pkg/FR-2000-08-30/pdf/00-22140.pdf>, at 52769.

<sup>33</sup> Federal Coordination and Compliance Section of U.S. Department of Justice’s Civil Rights Division, *Common Language Access Questions, Technical Assistance, and Guidance for Federally Conducted and Federally Assisted Programs*, August 2011, [https://www.lep.gov/resources/081511\\_Language\\_Access\\_CAQ\\_TA\\_Guidance.pdf](https://www.lep.gov/resources/081511_Language_Access_CAQ_TA_Guidance.pdf), at 10.

<sup>34</sup> See LEP.gov, *Limited English Proficiency: A Federal Interagency Website*, <https://www.lep.gov/faqs/faqs.html#OneQ1>, at Question 9.

<sup>35</sup> Federal Coordination and Compliance Section of U.S. Department of Justice’s Civil Rights Division, *Common Language Access Questions, Technical Assistance, and Guidance for Federally Conducted and Federally Assisted Programs*, August 2011, [https://www.lep.gov/resources/081511\\_Language\\_Access\\_CAQ\\_TA\\_Guidance.pdf](https://www.lep.gov/resources/081511_Language_Access_CAQ_TA_Guidance.pdf), at 8, 12 (“Vital written documents include, but are not limited to, consent and complaint forms; intake and application forms with the potential for important consequences; written notices of rights; notices of denials, losses, or decreases in benefits or services; notice of disciplinary action; signs; and notices advising LEP individuals of free language assistance services.”)

- **When to Translate?** “Vital documents must be translated when a significant number or percentage of the population eligible to be served, or likely to be directly affected by the program/activity, needs services or information in a language other than English to communicate effectively.”<sup>36</sup>
- **Safe Harbor:** On the federal level, a ‘safe harbor’ provision creates a presumption of compliance with a recipient’s written-translation obligations under Title VI whenever a recipient “provides written translations of vital documents for each eligible LEP language group that constitutes five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered.”<sup>37</sup> Typically, according to HHS, “persons ‘eligible to be served, or likely to be directly affected, by’ a recipient’s program or activity are those who are served or encountered in the eligible service population.”<sup>38</sup>
- **Less Frequently Encountered Languages:** Federal guidance recommends that agencies “put in place processes for handling written communication with LEP individuals in less frequently encountered languages.”<sup>39</sup>

### *Bilingual Employee Requirement*

Section 21-115.1 explains that “[a] sufficient number of qualified bilingual employees shall be assigned to public contact positions in each program and/or location serving a substantial number of non-English-speaking persons.” And “substantial number” is defined as “five percent or more persons of a program/location who are non-English speaking, deaf, or hearing-impaired.” It is unclear whether or how this five percent threshold should be changed.<sup>40</sup> However, CDSS should

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<sup>36</sup> *Id.*

<sup>37</sup> Health Resources & Services Administration, *Written Translation* <https://www.hrsa.gov/sites/default/files/hrsa/grants/manage/technicalassistance/written-translation-LEP.pdf>, at 2; see also Office for Civil Rights Policy Guidance, Department of Health and Human Services, 68 Fed. Reg 153 (2003), *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*, <https://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/guidance-federal-financial-assistance-recipients-title-vi/index.html>

<sup>38</sup> Office for Civil Rights Policy Guidance, Department of Health and Human Services, 68 Fed. Reg 153 (2003), *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*, <https://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/guidance-federal-financial-assistance-recipients-title-vi/index.html>

<sup>39</sup> Federal Coordination and Compliance Section of U.S. Department of Justice’s Civil Rights Division, *Common Language Access Questions, Technical Assistance, and Guidance for Federally Conducted and Federally Assisted Programs*, August 2011, [https://www.lep.gov/resources/081511\\_Language\\_Access\\_CAQ\\_TA\\_Guidance.pdf](https://www.lep.gov/resources/081511_Language_Access_CAQ_TA_Guidance.pdf), at 9.

<sup>40</sup> A recently proposed bill in the New York State Assembly proposes using the same five percent threshold for defining a “substantial number,” [https://assembly.state.ny.us/leg/?default\\_fld=&bn=A06067&term=2019&Summary=Y&Actions=Y&Text=Y&Committee%26nbspVotes=Y&Floor%26nbspVotes=Y](https://assembly.state.ny.us/leg/?default_fld=&bn=A06067&term=2019&Summary=Y&Actions=Y&Text=Y&Committee%26nbspVotes=Y&Floor%26nbspVotes=Y); San Francisco’s Office of Civic Engagement & Immigrant Affairs defines a “substantial number” for the purposes of hiring bilingual employees as “either 10,000 City residents, or 5 percent of those persons who use the Department’s services,” <https://sfgov.org/oceia/sites/default/files/FileCenter/Documents/12824-SF%20LAO%202015%20FINAL2-edit-3-26-15.pdf>, at C2.

clarify the meaning of “five percent or more persons *of a program/location*” (emphasis added). In other words, what does “of a program and/or location” mean?

#### *Providing language assistance services in multiple languages*

On the federal level, most guidance explains: “The extent of an agency’s obligation to provide language assistance services in multiple languages is determined by the agency on a case-by-case basis, looking at the totality of the circumstances in light of four factors:

- the number or proportion of LEP persons served or encountered in the eligible service population;
- the frequency with which LEP individuals come in contact with the program;
- the nature and importance of the program, activity, or service provided by the program; and,
- the resources available to the agency and costs”<sup>41</sup>

#### *Additional Resources*

See California State Departments’ Bilingual Services Report.<sup>42</sup> The website *LEP.gov* provides the most comprehensive list of language access resources.

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<sup>41</sup> Federal Coordination and Compliance Section of U.S. Department of Justice’s Civil Rights Division, *Common Language Access Questions, Technical Assistance, and Guidance for Federally Conducted and Federally Assisted Programs*, August 2011, [https://www.lep.gov/resources/081511\\_Language\\_Access\\_CAQ\\_TA\\_Guidance.pdf](https://www.lep.gov/resources/081511_Language_Access_CAQ_TA_Guidance.pdf), at 10.

<sup>42</sup> <http://www.dot.ca.gov/hq/bep/downloads/pdf/bspreport42301.pdf>

## **APPENDIX**

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**APPENDIX A**  
**Complaint Process Poster:**  
**Santa Clara County Welfare**  
**Department Office**



- You cannot get your wheelchair into an elevator, interview rooms or restrooms.
- Men are referred to job training for better pay than women.
- The doctor does not want you to have training because they say you are "too old."
- You are not allowed to adopt a baby because you are of a different race.

## DISCRIMINATION COMPLAINTS

If you think you have been discriminated against, you may submit a complaint application separately to the County or the State, and the Federal Government. The Federal agency that you must complain to depends on which program your complaint is about.

You can file a discrimination complaint with:

### 1. FOR ALL PROGRAMS ADMINISTERED BY YOUR COUNTY WELFARE DEPARTMENT:

The County's Civil Rights Coordinator. Ask your county office for the name, address and phone number of their Civil Rights Coordinator. He/she will independently investigate your complaint.

2. Civil Rights Bureau  
California Department of Social Services  
744 P Street, MS 8-16-70  
Sacramento, CA 95814  
(916) 654-2107  
(866) 741-6241 (Toll-Free)

3. FOR THE CALFRESH PROGRAM:  
United States Department of Agriculture  
Director, Office of Civil Rights,  
Room 326-W, Whitten Bldg.,  
1400 Independence Avenue, S.W.,  
Washington, D.C. 20250-9410  
(202) 720-6382 (voice and TTY)

4. FOR ALL OTHER PROGRAMS:  
Health and Human Services  
Office of Civil Rights  
90 7th Street, Suite 4-100  
San Francisco, CA 94103  
(415) 437-8310 (voice)  
(415) 437-8311 (TDD)

## TIME LIMITS TO TAKE ACTION

If you suffer discrimination, you must submit your complaint within 180 days of the actual discrimination. If the discrimination also affected the level of your benefits and services, you must also ask for a state hearing within 90 days. A discrimination investigation cannot charge you benefits levels or services...only a state hearing can do that.

## LIMITS ON CERTAIN RIGHTS

Although you have the right to privacy and confidentiality, there are certain laws that allow limited exceptions. You can ask the county for the laws.

## QUESTIONS

If you have any questions about the rights listed here, call the Public Inquiry Unit toll free (800) 952-5253. The TDD toll-free telephone number is (800) 952-8349.

## PROGRAMS COVERED BY THIS PAMPHLET

- Adoption Assistance Program (AAP)
- Adult Protective Services
- Alcohol and Drug Program
- California Food Assistance Program (CEAP)
- Medi-Cal
- CalWORKs
- CalWORKs Child Care
- CalWORKs Welfare-to-Work Program/Services
- Cash Assistance Program for Immigrants (CAPI)
- Child Welfare Services
- Denti-Cal
- Early & Periodic Screening, Diagnosis, and Treatment (EPSDT)
- CalFresh (Food Stamps)
- Foster Care
- In-Home Support Services
- Kinship Guardian Assistance (Kin-GAP)
- Mental Health

- Multipurpose Senior Services Program (MSSP)
- Personal Care Services Program (PCSP)
- Refugee Cash Assistance
- Social Services



STATE OF CALIFORNIA  
HEALTH AND HUMAN  
SERVICES AGENCY  
DEPARTMENT OF  
SOCIAL SERVICES

This pamphlet is available from your Local County Welfare Office and at [www.cdss.ca.gov](http://www.cdss.ca.gov) in the following languages:

- Arabic
- Armenian
- Cambodian
- Chinese
- Farsi
- Hmong
- Japanese
- Korean
- Lao
- Mien
- Portuguese
- Punjabi
- Russian
- Spanish
- Spanish Large Print
- Tagalog
- Ukrainian
- Vietnamese

Also Available in large print, Braille, and Audio CD

# YOUR RIGHTS

## UNDER CALIFORNIA WELFARE PROGRAMS



... for people applying for or receiving public aid in California

- 6 Tell us if you need help because of a disability  
Page 2
- Ask for a free interpreter

**APPENDIX B**  
**Santa Clara County Commonplace**  
**Handbook : Section 36, Civil Rights**

## 36. Civil Rights

This handbook chapter contains policy on reasonable accommodations and on language access, including procedures for requesting interpreters and translations. Although some of the business processes may be more specific, as is the case for collecting language information at the point of benefits intake, or providing a reasonable accommodations for benefits appointments, the policy contained in this chapter applies to all workers, including Employment Counselors, Social Workers, Clerical, and all other staff who have contact with clients such as contractors.



### 36.1 Disability and Non-Discrimination Requirements

#### 36.1.1 Non Discrimination Statement

The Santa Clara County Social Services Agency (SSA), hereby agrees that it will comply pursuant to Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act; Title II of the Americans with Disabilities Act (ADA); the Age Discrimination Act; Title VII of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973 as amended; the Age Discrimination Act of 1975; the Food Stamp Act of 1977 - Section 272.6; the Americans with Disabilities Act of 1990; Section 1557 of the Patient Protection and Affordable Care Act; and other applicable federal and state laws, including Cal. Gov't. Code § 7290 et seq, and Cal. Gov't. Code §§ 11135 et seq; as well as their implementing regulations, including Parts 80, 84, and 91 of the 45 Code of Federal Regulations (CFR); 7 CFR Part 15, and 28 CFR Part 42. It is the policy of the SSA and the administration of public assistance and social services that programs are nondiscriminatory to the effect that no person shall, because of race, color, national origin, ethnicity, political affiliation, religion, marital status, sex, sexual orientation, gender identity, gender expression, age or disability [Refer to “Services to People with Disabilities,” page 36-2.], be excluded from participation in or be denied the benefits of, or be otherwise subject to discrimination under any program or activity receiving federal or state assistance; and HEREBY GIVE ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

THIS ASSURANCE is given in consideration of, and for the purpose of, obtaining any and all federal and state assistance; and THE SSA HEREBY GIVES ASSURANCE THAT administrative methods and procedures which have the effect

of subjecting the individuals to discrimination or defeating the objective of the California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) Chapter 21, is prohibited.

BY MAKING THIS ASSURANCE, the SSA agrees to compile data, including data on primary language; maintain records and submit reports as required; permit effective enforcement of the aforementioned laws and regulations; and permit authorized CDSS and/or federal government personnel, during normal working hours, to review such records, books and accounts as needed to ascertain compliance. If there are any violations of this Assurance, CDSS will have the right to invoke fiscal sanctions or other legal remedies in accordance with California's Welfare and Institutions Code Section (WIC) Section 10605, or Government Code Sections 11135 - 11139, or any other laws, or the issue may be referred to the appropriate federal agency for further compliance action and enforcement of this Assurance. This Assurance also applies to SSA contractors who help administer SSA programs to clients. The County has an obligation to ensure that contractors administering programs to clients comply with these policies and applicable civil rights laws. For information on filing complaints refer to "[Section 504/ADA Coordinator](#)" on page 36-13 and "[Disability/Special Accommodation Review Form](#)" on page 36-14.



## 36.2 Services to People with Disabilities

### 36.2.1 Accessibility

Pursuant to Section 504c of the Rehabilitation Act, Title II of the ADA, and California Government Code 11135, SSA is required to provide equal access to its programs, services and benefits for qualified applicants and recipients with disabilities.

All staff who have client contact, including Eligibility Workers, Employment Counselors, clerical, contractors, etc, are required to provide "reasonable accommodations" or program modifications, as needed, to assist people with disabilities in any way reasonably possible in order to help them establish eligibility or maintain public benefits so they have equal access to our services. These services should not be provided in a separate setting or different manner; unless doing so is required to ensure that the person with a disability gets services that are as effective as those provided to people without disabilities. Reasonable accommodations should be provided in the most integrated setting possible to meet the client's needs.

All SSA staff have an affirmative obligation to determine whether a beneficiary or applicant needs additional assistance due to a disability and to reach out to help them. If staff notice that a beneficiary or applicant is having difficulty doing something, such as filling out forms correctly or making it to appointments on time, staff should ask the client if there is anything that SSA can do to help them, and offer to help them complete the “Need Additional Assistance (SCD 2371) form [Refer to “Disability/Special Accommodation Review Form,” page 36-14 for additional information]. SSA staff are also obligated to provide reasonable accommodations to family members of clients as needed to allow the client access to SSA services.

The definition of a disability is broad and includes people who do not necessarily qualify for disability benefits. A disability includes conditions that limit one or more major life activities. Major life activities are basic activities that most people in the general population can perform with little or no difficulty. Examples of major life activities include: caring for oneself, performing manual tasks, seeing, hearing, thinking, standing, and communicating. Disabilities that impair the life activities include, but are not limited to, hearing impairments or deafness, vision impairments or blindness, learning disabilities including ones that may cause illiteracy, physical impairments such as conditions that limit one’s movement, and mental impairments such as mood disorders.

**Example:** A client walks in to the Agency’s lobby with required forms not filled out and states he/she needs help completing the forms because he/she is illiterate as a result of a learning disability and does not understand the forms. The worker will assist the individual to complete the forms at the time of the face-to-face interview.

It is the Agency’s policy to provide reasonable accommodations to any individual who identifies a need and requests accommodation for that need. A reasonable accommodation is a change in the agency’s policies or procedures that is necessary to help a person with a disability access our services or the programs we administer.

For various reasons, individuals with disabilities might not request special accommodations; however, staff must inquire of the need for such accommodations when the need is obvious or suspected, and if accepted, provide a reasonable accommodation. Staff should make it clear that people are not required to disclose whether they have a disability or what that disability is. When the need for a reasonable accommodation is obvious, staff should provide the reasonable accommodation without requesting documentation proving the need for one. However, during the application process, reasonable accommodations should be provided regardless of whether or not the applicant has documentation proving their need for a reasonable accommodation. When determining what reasonable

accommodation to provide, SSA must consider what the client expresses will best meet their needs and information from treating medical providers should be given consideration.

**Example:**

An 85-year-old woman who appears to have a visual impairment and is walking with the help of a walker, comes in to our office to apply for assistance. Staff should talk with her about what assistance she needs to expedite the application process. Examples of reasonable accommodations that staff can provide include assisting this woman so she does not have to wait in line, helping her complete her forms, and providing any other assistance deemed necessary and reasonable.

**Example:**

A CalWORKs applicant with a disability of quadriplegia has his redetermination due this month. Due to his disability, he is unable to complete or sign the forms. His disability and need for a reasonable accommodation are recorded in the case record. The EW may conduct a home visit to ensure applicant meets all program requirements. A mark, name stamp, or verbal assent may be accepted in place of a signature.

**Example:**

A General Assistance recipient fails to submit quarterly report or complete the Annual reinvestigation redetermination, and her benefits are going to be discontinued. After she receives her discontinuance notice, she calls and says that she was overwhelmed by the paperwork and forgot to turn it in. A “good cause” inquiry reveals the client has an anxiety disorder and a learning disability. The EW offers her an extension to finish the paperwork and ask if she needs help completing the forms.

## 36.2.2 General Tips

The following are general communications tips and examples of accommodations described in the proceeding head subsections (which are not exhaustive and can almost always be provided) to be used when communicating and working with people with disabilities:

- When offering assistance and the person declines, do not insist. If the person accepts, ask how you can best help him or her, and follow his or her directions.
- If someone with a disability is accompanied by another individual, address the person with a disability directly rather than speaking through the other person.



- Use people-first language: Avoid referring to people by their disability or diagnosis. For instance, do not call a person “an epileptic” or refer to “the blind.” Instead, say “a person with epilepsy” or “people who are blind.”

**Note:**

“Sample Reasonable Accommodations and Tips for Communicating with People with Disabilities” (SCD 2431) form has been created with Hints and Tips when working with individuals with disabilities and includes sample reasonable accommodations that can be provided.

### **36.2.3 Visual Impairments**

Should the worker become aware that an individual who has a visual impairment needs assistance, or requests assistance, to read or have SSA forms completed, the worker must assist as needed to complete the forms. Alternatively, the SSA can offer to provide auxiliary aids that will help the individual to complete the required forms if such aids are available and will meet the individual’s needs. The assistance provided must be effective for the individual. For instance, not all people with vision impairments read Braille. As needed, staff can work with Program staff to provide DEBS Form Library correspondence in larger font and/or double space (not italicized).

#### **Braille**

When a client requests services in Braille, refer client to Section 504/ADA Coordinator. [[Refer to “Section 504/ADA Coordinator,” page 36-13](#) for contact information.]

#### **Communication Tips**

- When greeting a person who has vision loss, identify yourself and others who are with you.
- Face the person and speak directly to him or her in a normal tone of voice. Let the person know if you will be moving from one place to another or leaving the area.
- Never pet or otherwise distract a guide dog unless the owner gives you permission.
- When offering directions, be as specific as possible and describe any obstacles in the path of travel, such as “the door is at 2 o'clock.”

## 36.2.4 Hearing Impairments

Should the worker become aware that an individual who has a hearing impairment needs assistance, or requests assistance, the worker must provide the client the necessary accommodation, such as providing a sign language interpreter, the use of auxiliary aids when available, and other required accommodations [Refer to “Interpreter and Translations Services,” page 36-24 for language access], or the use of TTY/ Video Relay: <http://ddtp.cpuc.ca.gov/default1.aspx?id=1484>. The worker is to document in the case file the use of these services.

Refer to Chapter 26 of this handbook for community services available for the hearing impaired. [Refer to “Confidential Post Office (P.O.) Box Process,” page 26-3] for additional information.]

### Communication Tips

- Talk the same way as you would with anyone else.
- Ask the person how he or she prefers to communicate.
- When speaking through an interpreter, remember the interpreter may lag a few words behind, so pause occasionally to allow him or her time to translate completely and accurately.
- Talk directly to the person who is deaf or who has difficulty hearing, not to the interpreter.
- Look directly at the person and speak clearly, naturally and slowly. Do not over-enunciate or exaggerate words. Unless requested, do not raise your voice.
- To facilitate speech-reading, place yourself facing the light source and keep hands, etc. away from your mouth when speaking. Face the person while you are speaking.

## 36.2.5 Auxiliary Aids

As per Code of Federal Regulations (CFR) Section 102.103, auxiliary aids include but are not limited to services or devices that enable persons with impaired sensory (example: visual or hearing impairment) or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of programs conducted by an agency. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, Telecommunication devices for deaf persons (TDD's), interpreters, note takers, written materials, and



other similar services and devices. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, and other similar services and devices to be used.

### 36.2.6 Assistance from Third Parties

If an applicant or beneficiary requests the assistance of a third party, the third party assistance can be provided as a reasonable accommodation. However, staff cannot assume that every client with special needs has a third party individual who can assist them. It is important to remember limitations associated with third parties. [Refer to “Interpreter Services,” page 36-27 for additional information.]

Sometimes it may be appropriate to provide referrals to other agencies for assistance. Referrals to another organization for assistance in, for example, in completing forms, is not a substitute for the SSA's responsibility to provide a reasonable accommodation.

### 36.2.7 Mental, Cognitive, Literacy or Learning Disability Impairments

Should the worker become aware of a mental, cognitive, or learning disability, the worker is to allow client to record conversation if requested by client. Other types of accommodations may include scheduling appointment after hours, reading documents out loud, providing oral explanations of written documents and allowing extra time for information to be fully understood, and repeating phrases as needed if worker is not sure if client understood.

Other accommodations for clients who have difficulty waiting in office lobbies may include scheduling appointment at client's preferred time; or for clients sensitive to noise and distractions, use appropriate meetings rooms; offer breaks during longer meetings.

#### Example:

Example of a SSA accommodation that was provided: A human trafficking victim who suffers from mental impairment (severe Post Traumatic Stress Disorder and anxiety) prevents her from being around large groups of people. Client applied for TCVAP and requested a reasonable accommodation. The assigned case worker scheduled the interview at an off site location, and since there is no available portable fingerprinting unit, the fingerprinting occurred after hours at the SSA office, during a time when the office is closed to the general public.

Use highlighters to color-code documents to facilitate client's understanding. As appropriate, divide complex tasks or instructions into shorter parts, and allow client to complete one at a time.

### Communication Tips

- Always respond in a calm and relaxed manner even if the person makes unusual statements.
- If someone is having trouble understanding you, use language that is concrete, not abstract.
- Allow time for information to be fully understood. Some people who have processing and mental health disabilities will need more time to process and respond to information.
- Check for understanding by asking questions such as, "Did I explain that clearly?" or "Do you have any questions about what I told you?"

## 36.2.8 Physical Impairments

For applicants who are not able to come to the office in person due to having a physical disability or being housebound, the worker is to accommodate the client by having the appointment in the client's home.

### Communication Tips

- Do not make assumptions about what a person can and cannot do. A person with a physical disability is the best judge of his or her own capabilities.
- Be aware that some people using wheelchairs may choose to transfer themselves out of their wheelchairs and into an office chair during an interview
- When speaking to a person in a wheelchair or on crutches for more than a few minutes, sit in a chair. Place yourself at the person's eye level to facilitate conversation.

## 36.2.9 Service Animals

A service animal is any animal trained to perform a task for an individual with a disability. The animal need not have a harness to be a service animal. Clients cannot be required to provide certification of the service animal. The ADA defines a

service animal as any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability. If the animal meets this definition, the animal is considered a service animals under the ADA, regardless of whether they have been licensed or certified by a state or local government.

Service animals perform some of the functions and tasks that the individual with a disability cannot perform for him or herself. Guide dogs are one type of service animal, which are used by some individuals who are blind. This is the type of service animal with which most people are familiar. But there are service animals that assist persons with other kinds of disabilities in their day-to-day activities.

If it is not obvious whether an animal is a service animal, SSA staff can ask if the animal is required because of a disability and what task the animal has been trained to perform.

### 36.2.10 Reasonable Accommodations Poster

A Reasonable Accommodations poster title “Need Additional Assistance” (SCD 2372) is required to be displayed at office lobbies. The poster informs clients of their rights to notify county staff of a disability such as hearing or speaking impairment; difficulty walking, sitting, or standing for a long time; the need for a sign language interpreter; the need for information in Braille; assistance with completing a form or understanding complicated instructions. Staff is required to work with the client to find a way to help and accommodate the client. The contact information for SSA’s Civil Rights Coordinator is included in the reasonable accommodations office poster. The poster is also available in the DEBS Form’s Library.

In addition to the SCD 2372 poster, the “Your Rights Under California Welfare Programs” is required to be at office lobbies and included in Intake/RRR packets. [\[Refer to “Intake/RRR Packets,” page 24-1 for additional information.\]](#)

### 36.2.11 Special Accommodation Indicators

At the point of contact with the client, SSA staff must identify individuals who may require a reasonable accommodation. This identification is done through the selection of Special Characteristics in CalWIN that are linked to Special Accommodation (SA) indicators, which ensures that SSA staff offer and continue to provide reasonable accommodations without the client having to re-request the accommodation, or the worker having to re-identify the client’s need for an accommodation. When the indicator is entered in the **Collect Special Characteristics Detail – Accommodation** window, a yellow color yield sign indicator is displayed on the window headers (Case, Individual, Application and Contact). The following are the SA indicators:

- Visual Accommodation  
(Examples: Requires large font, or braille services.)
- Audio Accommodation  
(Examples: Requires hearing devices and/or tape recorders, or is hearing impaired and needs other audio aids.)
- Physical Accommodation  
(Examples: Requires client be seen sooner when standing in line using crutches, or needs a home visit, or comes into office with service animal.)
- Literacy Accommodation  
(Examples: Due to cognitive, learning disability, requires reading out loud and/or repeating phrases; or due to inability to read/write in their primary language, needs an accommodation.)
- Language Accommodation  
(Examples: Requires language line or other interpreter services; or due to speech impediment, needs other accommodations.)

### **36.2.12 Sensitive Information Indicators**

Similar to how Special Accommodation Indicators are linked to Special Characteristics, Sensitive Information (SI) Indicators are used to help SSA staff identify other individuals with sensitive information. When the indicator is entered, a red color exclamation mark indicator is displayed on the window headers (Case, Individual, Application and Contact). The following are the SI indicators:

- Domestic Abuse  
(Used to identify present victims and survivors of Domestic Abuse/Domestic Violence)
- Household Awareness  
(Used to identify potentially disruptive individuals, or to become aware of other sensitive information about the case.)
- Mental Health Accommodation  
(Indicator is associated with both Special Accommodation and Sensitive Information, to identify individuals requiring special accommodation, such as offering appropriate meeting rooms for clients sensitive to noises or other distractions)

**Note:**

When there is no indicator associated to a SA or SI type, a gray color check mark displays on the window headers.

### 36.2.13 Documentation

SSA staff must document in the **Maintain Case Comments** window, using **Special Accommod/Sensitive Info** Case Comments Type, the following information:

- The client's disability (if disclosed by the applicant/recipient, other wise, not required to be disclosed);
- The client's requests for special accommodations;  
**Reminder:** Under the ADA, for a Reasonable Accommodation, the client only needs to disclose that they are disabled; they are not required to disclose the specific disability. They only need to mention they need an accommodation. For example, they can say, "I have a disability that makes it hard for me to read small print." They cannot be asked what the disabling condition is, whether dyslexia, a brain tumor or glaucoma, etc.
- The specific accommodations provided, such as auxiliary aids, special language needs, and other services to meet the request;
- When selecting a Sensitive Information Indicator, document pertinent information.

[Refer to "Special Accommodation Indicators," page 36-9 and "Sensitive Information Indicators" on page 36-10], for entering Special Indicators in addition to documenting through Case Comment type.]

**Reminder:**

CalWIN has functionality to search for case comments by sorting by Case Comments Type.

### 36.2.14 Staff Training

The SSA will:

- Provide Civil Rights training, and assistance to staff to evaluate practices and policies in order to ensure that discrimination does not occur on the basis of disability. Trainings, including ones in Reasonable Accommodations, are provided to all new staff who will have client contact. Refresher trainings are also provided every two years.

- Ensure that each program is readily accessible to people with disabilities.

In choosing available methods for meeting the requirements of this section, the SSA will give priority to those methods that offer programs and activities to people with disabilities in the most integrated setting appropriate.

### 36.2.15 Physical Facilities

In the event that structural modifications are required to provide program accessibility, the agency will conform to accessibility standards approved by the Office of the State Architect, pursuant to Title XXIV of the California Administrative Code. Where structural modifications are not practical, the SSA will provide services at an alternate accessible site.

When a face-to-face interview is required, staff is to conduct home visits as part of the Intake business process. Where appropriate, clients also have option for applying on-line and contacting staff by phone as an alternative to coming to an office.

As part of the process for alternative site accommodations for Intake Process, the "Identification and Intake Record" (SCD 41) form, Part II is completed to indicate need for "Home Visit."

All SSA office sites work to maintain compliance with relevant building codes and statutes.



## 36.3 Civil Rights Compliance/Complaints

Section 504 of the Rehabilitation Act requires public agencies, such as SSA have a Civil Rights Compliance Plan.

### 36.3.1 General Client Complaints

General client complaints that are related to business process or program policy are directed to an ESI management analyst who coordinates with district offices, as needed, to address the complaint. For general community related complaints/inquiries [Refer to "Complaints / Inquiries," page 39-1 for additional information.]

If the complaint is related to Civil Rights, refer to sections on state complaint and Section 504/ADA Coordinator procedures.

### 36.3.2 State Complaint Procedures

In addition to filing a complaint directly with the County's Civil Rights Coordinator, the client may also contact CDSS to file a discrimination complaint. The CDSS can be reached at (916) 654-2107, or toll free at 1-866-741-6241, or emailed at [crb@dsa.ca.gov](mailto:crb@dsa.ca.gov), or through TDD/TYY at (916) 654-2098 or 1-800-688-4486 for collect calls, or via the relay services operator at 1-800-735-2929.

Information pertaining to above contact information is available in the district office lobby posters: "Need Additional Assistance" and "Everyone is Different But Equal Under the Law." SSA Staff are to direct client to above contact phone numbers when client expresses request to file a complaint.

Clients may also file a discrimination complaint at a district office. The SSA staff taking the complaint is required to take the client's information and forward the information to the County's Civil Rights Coordinator.

### 36.3.3 Section 504/ADA Coordinator

The coordinator's role is to oversee ADA compliance and provide resolution to grievances, assist in handling individual's cases and address systemic problems. The ADA coordinator has authority to make decisions on grievances. All complaints of discrimination are investigated. Complaints can be filed orally or in writing in a County office or directly with the Civil Rights Coordinator. Oral complaints are to be documented in writing. Regardless of their origin, all discrimination complaints are referred to the Civil Rights Coordinator who evaluates them for a link to a civil rights protection. Complaints that are linked to civil rights protections are investigated according to Div. 21 guidelines. If no link, they are referred back to the department for resolution.

**Note:**

If the accommodation was denied, the worker is to notify Civil Rights/ADA Coordinator of denial and inform client to contact Civil Rights/ADA Coordinator if they disagree with the denial.

The coordinator is based in the Social Services Equal Opportunity/Civil Rights Office and reachable at (408) 755-7298. The Equal Opportunity/Civil Rights Office is located at 333 West Julian Street, San Jose, Building 1 on the 2nd Floor. To file a complaint of discrimination, clients are to contact the Civil Rights Coordinator. Upon receipt of the complaint, the Civil Rights Coordinator will follow up with the client.



This follow up may include scheduling a face-to-face appointment with the client and/or scheduling an office visit to make a determination on whether an investigation is necessary. If appropriate, a findings report is submitted to the California Department of Social Services and a copy is provided to the client.

The complainant receives a Letter of Findings at the conclusion of the investigation. The letter summarizes the allegation and the evidence in relation to the allegations that led to the determination.

### 36.3.4 Disability/Special Accommodation Review Form

A review form titled “Need Additional Assistance” (SCD 2371) for special accommodations is to be used by the EW/Worker to obtain information pertaining to any additional help requested by the client due to a disability (physical, mental/emotional or learning), or other type of accommodation. The form functions as a triage form, soliciting responses to various questions. It should be made clear to clients that whether or not they disclose a disability is voluntary and they can always choose to disclose a disability, or request for a special accommodation, at a later time. If client discloses a disability during any first contact with any employee, the employee must immediately share the information with appropriate staff, who can take steps to explore a reasonable accommodation. The SCD 2371 is available on the DEBS Form’s Library.

### 36.3.5 SCD 2371 Process

Each district office lobby will have a “Need Additional Assistance” poster (SCD 2372) which would prompt the applicant/client to inform the clerical of his/her disability in order to receive some form of accommodation. In addition to the Poster, the workflow below is the process to follow for identifying clients who require a Reasonable Accommodation:

Who	Action						
Clerical	<table> <tr> <th>If the applicant...</th><th>Then...</th></tr> <tr> <td>Has a visible disability,</td><td>Follows current district office process.</td></tr> <tr> <td><u>States</u> he/she has a disability, or requires a special accommodation,</td><td> <ul style="list-style-type: none"> <li>Issues SCD 2371 to the client, or attaches SCD 2371 with client's application forms.</li> <li>Follows current district office business process for assigning applications to Eligibility Workers (EWs).</li> </ul> </td></tr> </table>	If the applicant...	Then...	Has a visible disability,	Follows current district office process.	<u>States</u> he/she has a disability, or requires a special accommodation,	<ul style="list-style-type: none"> <li>Issues SCD 2371 to the client, or attaches SCD 2371 with client's application forms.</li> <li>Follows current district office business process for assigning applications to Eligibility Workers (EWs).</li> </ul>
If the applicant...	Then...						
Has a visible disability,	Follows current district office process.						
<u>States</u> he/she has a disability, or requires a special accommodation,	<ul style="list-style-type: none"> <li>Issues SCD 2371 to the client, or attaches SCD 2371 with client's application forms.</li> <li>Follows current district office business process for assigning applications to Eligibility Workers (EWs).</li> </ul>						



Who	Action						
EW/ Worker	<ul style="list-style-type: none"> <li>Receives application forms</li> </ul> <table> <tr> <th>If SCD 2371 form...</th><th>Then...</th></tr> <tr> <td>Is attached to application forms and/or MEDS screens,</td><td> <ul style="list-style-type: none"> <li>Completes SCD 2371 form.</li> <li>Selects one of the following Special Accommodations Indicators in CalWIN: <ul style="list-style-type: none"> <li>Visual Accommodation</li> <li>Audio Accommodation</li> <li>Physical Accommodation</li> <li>Literacy Accommodation</li> <li>Language Accommodation</li> <li>Mental Health Accommodation</li> </ul> </li> <li>Documents in <b>Maintain Case Comments</b> using case comment Type - <i>Special Accommod/Sensitive Info</i>.</li> <li>Follows current district office business process for the application, or process.</li> </ul> </td></tr> <tr> <td>Is not attached to application forms and/or MEDS screens,</td><td> <p>Asks applicant - "Do you have a disability (physical, mental/emotional, or learning), or need a special language, or other accommodation that makes it difficult for you to do anything we might ask you to do?"</p> <p><b>NOTE:</b> For a 2-parent household, a SCD 2371 form would be needed for each parent.</p> </td></tr> </table>	If SCD 2371 form...	Then...	Is attached to application forms and/or MEDS screens,	<ul style="list-style-type: none"> <li>Completes SCD 2371 form.</li> <li>Selects one of the following Special Accommodations Indicators in CalWIN: <ul style="list-style-type: none"> <li>Visual Accommodation</li> <li>Audio Accommodation</li> <li>Physical Accommodation</li> <li>Literacy Accommodation</li> <li>Language Accommodation</li> <li>Mental Health Accommodation</li> </ul> </li> <li>Documents in <b>Maintain Case Comments</b> using case comment Type - <i>Special Accommod/Sensitive Info</i>.</li> <li>Follows current district office business process for the application, or process.</li> </ul>	Is not attached to application forms and/or MEDS screens,	<p>Asks applicant - "Do you have a disability (physical, mental/emotional, or learning), or need a special language, or other accommodation that makes it difficult for you to do anything we might ask you to do?"</p> <p><b>NOTE:</b> For a 2-parent household, a SCD 2371 form would be needed for each parent.</p>
If SCD 2371 form...	Then...						
Is attached to application forms and/or MEDS screens,	<ul style="list-style-type: none"> <li>Completes SCD 2371 form.</li> <li>Selects one of the following Special Accommodations Indicators in CalWIN: <ul style="list-style-type: none"> <li>Visual Accommodation</li> <li>Audio Accommodation</li> <li>Physical Accommodation</li> <li>Literacy Accommodation</li> <li>Language Accommodation</li> <li>Mental Health Accommodation</li> </ul> </li> <li>Documents in <b>Maintain Case Comments</b> using case comment Type - <i>Special Accommod/Sensitive Info</i>.</li> <li>Follows current district office business process for the application, or process.</li> </ul>						
Is not attached to application forms and/or MEDS screens,	<p>Asks applicant - "Do you have a disability (physical, mental/emotional, or learning), or need a special language, or other accommodation that makes it difficult for you to do anything we might ask you to do?"</p> <p><b>NOTE:</b> For a 2-parent household, a SCD 2371 form would be needed for each parent.</p>						
EW cont./ EC	<table> <tr> <th>If client says...</th><th>Then...</th></tr> <tr> <td>Yes,</td><td> <ul style="list-style-type: none"> <li>Completes SCD 2371 form.</li> <li>Selects a Special Accommodations Indicators.</li> <li>Documents in <b>Maintain Case Comments</b> using case comment <b>Type</b> - <i>Special Accommod/Sensitive Info</i>.</li> <li>Follows current district office business process for the application.</li> </ul> </td></tr> <tr> <td>No,</td><td> <ul style="list-style-type: none"> <li>Signs the SCD 2371 form and asks the client to sign the form.</li> <li>Provides a copy of the SCD 2371 form to the client.</li> <li>Documents in <b>Maintain Case Comments</b> using case comment Type - <i>Special Accommod/Sensitive Info</i>.</li> <li>Follows current district office business process for the application.</li> <li>Inform the client that she or he can request an accommodation at any point in the future, including with continuing EW, or another worker.</li> <li>Reasonable Accommodations must be provided on an ongoing basis.</li> </ul> </td></tr> </table>	If client says...	Then...	Yes,	<ul style="list-style-type: none"> <li>Completes SCD 2371 form.</li> <li>Selects a Special Accommodations Indicators.</li> <li>Documents in <b>Maintain Case Comments</b> using case comment <b>Type</b> - <i>Special Accommod/Sensitive Info</i>.</li> <li>Follows current district office business process for the application.</li> </ul>	No,	<ul style="list-style-type: none"> <li>Signs the SCD 2371 form and asks the client to sign the form.</li> <li>Provides a copy of the SCD 2371 form to the client.</li> <li>Documents in <b>Maintain Case Comments</b> using case comment Type - <i>Special Accommod/Sensitive Info</i>.</li> <li>Follows current district office business process for the application.</li> <li>Inform the client that she or he can request an accommodation at any point in the future, including with continuing EW, or another worker.</li> <li>Reasonable Accommodations must be provided on an ongoing basis.</li> </ul>
If client says...	Then...						
Yes,	<ul style="list-style-type: none"> <li>Completes SCD 2371 form.</li> <li>Selects a Special Accommodations Indicators.</li> <li>Documents in <b>Maintain Case Comments</b> using case comment <b>Type</b> - <i>Special Accommod/Sensitive Info</i>.</li> <li>Follows current district office business process for the application.</li> </ul>						
No,	<ul style="list-style-type: none"> <li>Signs the SCD 2371 form and asks the client to sign the form.</li> <li>Provides a copy of the SCD 2371 form to the client.</li> <li>Documents in <b>Maintain Case Comments</b> using case comment Type - <i>Special Accommod/Sensitive Info</i>.</li> <li>Follows current district office business process for the application.</li> <li>Inform the client that she or he can request an accommodation at any point in the future, including with continuing EW, or another worker.</li> <li>Reasonable Accommodations must be provided on an ongoing basis.</li> </ul>						

### 36.3.6 Special Accommodations Request Process

Requests for a Reasonable Accommodations can almost always be provided to the client. All requests must be approved or denied within 5 working days. The workflow below is the process to follow by all SSA staff for approving or denying requests for reasonable accommodations:

Step	Who	Action	
1.	Eligibility Worker/EC/ Worker	<ul style="list-style-type: none"> <li>Receives request for a Reasonable Accommodation.</li> <li>Discusses request with Supervisor, as needed.</li> </ul>	
		If Request is...	Then...
		Approved,	<ul style="list-style-type: none"> <li>Informs client that request was approved.</li> <li>Adds CalWIN Special Accommodations Indicator, and updates Status to <i>Approved</i>.</li> <li>Documents in <b>Maintain Case Comments</b> the accommodation.</li> </ul>
2.	Eligibility Worker/EC/ Worker Supervisor/	<ul style="list-style-type: none"> <li>Consults with ADA Coordinator if believes that request should be denied, or if not sure the request can be provided.</li> </ul>	
		If Request is...	Then...
3.	Eligibility Worker/EC	Approved,	<ul style="list-style-type: none"> <li>Informs client that request was approved.</li> <li>Adds CalWIN Special Accommodations Indicator, and updates Status to <i>Approved</i>.</li> <li>Documents in <b>Maintain Case Comments</b> the accommodation.</li> </ul>
4.	Eligibility Worker/EC/ Worker Supervisor	Denied completely, or in part,	<ul style="list-style-type: none"> <li>Provides written denial to client.</li> <li>Informs client of right to contact ADA coordinator.</li> <li>Documents in Maintain Case Comments and submits written denial to IDM.</li> </ul>

### 36.3.7 CalWIN - Other Sub Systems

SSA Staff have access to enter Reasonable Accommodation and Sensitive Information indicators types via other CalWIN sub-systems (Employment Services, Application Registration, and Traffic Log), by double clicking the window header color indicator. In addition to the SCD 2371 process used at Application, the

indicator(s) is/are to be entered through these sub-systems at the point of contact with client, when the need is identified. In Employment Services, the need, or request for accommodation may also be identified via the development of the Welfare-to-Work Plan Activity Assignment (WTW 2), and or the Online California Appraisal Tool (OCAT). [Refer to “Special Accommodation Indicators,” page 36-9.]



## 36.4 Language Access Needs

### 36.4.1 County Policy

Per Section 21-115, Santa Clara County has a legal requirement to provide language-appropriate services to individuals with limited English proficiency and to individuals with disabilities. Further, the county has policy on providing oral interpretation services and written document translations for clients with limited English proficiency.

[Refer to “Interpreter Services,” page 36-27 for policy on the use of interpreters] and [Refer to “Document Translation Services,” page 36-36 for policy on form translations.]

County specific client correspondence is available in translated languages spoken by five percent (5%) or more of the population served by DEBS or for Medi-Cal threshold languages as identified by DHCS. SSA provides translations that are available from the state. When state or county-specific correspondence is not available in the client’s language of preference, a GEN 1365 is to be included with the English correspondence. The GEN 1365 informs the client to contact their worker if they do not understand the information on their correspondence and that they have the right to interpreter services provided by the county at no cost to the client.

District Offices must place signs near any reception desk or window and other initial points of contact that advise Limited English Proficient (LEP) applicants and beneficiaries of their right to access free oral or interpreter services in their primary language and/or translated documents. All such signs must be clearly visible for clients to read. Some useful tools include posters stating that free interpreter services and translated material will be provided in many languages and language identification brochures are available from telephone language line services.

### **Office Lobby Poster**

The poster titled, “Everyone is Different But Equal Under the Law” must be in all district offices posted in visible location for clients.

### **Staffing Needs Reports**

DEBS generates quarterly statistical reports on public assistance families, which includes information on individual language demographics. These reports are used to assist with language staffing needs.

## **36.4.2 State Law**

Under the California Dymally-Alatorre Bilingual Services Act, Government Code Section 7290 et seq., accessible at <http://www.spb.ca.gov/bilingual/dymallyact.htm>, a local public office or facility is required to translate materials explaining their services into languages spoken by five percent or more of the population they serve and to employ a sufficient number of bilingual persons to ensure access to Limited English Proficient individuals. These requirements are available within CDSS MPP Chapter 21.

Under Welf. & Inst. Code § 15926, all “forms and notices developed pursuant to this section shall be developed using plain language and shall be provided in a manner that affords meaningful access to limited-English-proficient individuals, in accordance with applicable state and federal law, and at a minimum, provided in the same threshold languages as required for Medi-Cal managed care plans.”

The state Department of Health Care Services (DHCS) also requires the counties to translate certain forms, notices, and/or other written materials that must be used if provided by DHCS for those preferring non-English materials.

## **36.4.3 Federal Law**

Federal law 42 U.S. C. & 2000(d) require that Santa Clara County Social Services Agency (SCC SSA) provide meaningful access to Limited English Proficiency (LEP) persons, which includes language assistance services, such as oral interpreter services and translation or written service, including translation of documents and forms to all LEP clients, regardless of how many LEP clients reside in the SCC SSA services area. Federal law, Reg. 47311-23 (August 8, 2003) prohibits discrimination based on national origin, including as it affects LEP individuals.

### 36.4.4 “We Speak Your Language” (SCD 2334)

The SCD 2334 is to be readily available for non-English speaking individuals who are not able to communicate in English the purpose of the visit. If the individual approaches the front desk, and front desk staff is unable to communicate with or understand the visitor, the front desk is to provide the visitor with the SCD 2334 so the visitor can point to his or her language. If there is no staff member available to provide interpreter services in the visitor’s language, front desk staff is to request interpreter services via the designated telephone Language Line.



## 36.5 Required Form - SCD 1264

Although the language designation on the “Language Survey - Interpreter/ Translation Request” (SCD 1264) must to be selected and completed by the client to meet Federal Law and Civil Rights Mandates, the EW should assist the beneficiary and answer any questions about it. The information from the SCD 1264 is used to input the client’s primary language into the CalWIN Data Collection System. [\[Refer to “Translated Forms,” page 36-44 for language listing.\]](#)

The SCD 1264 is required at:

#### **Intake**

At each application.

#### **Continuing**

- When there is no SCD 1264 on file,
- Whenever the caretaker/relative changes,
- When the client requests a change, and
- When the client has been active, without interruption, for three (3) consecutive years, a new SCD 1264 must be completed during the Redetermination/ Recertification conducted in the third year.

#### **Note:**

The county may not complete the form on behalf of the client, unless the client is unable to write because of illiteracy or disability.

## 36.5.1 Processing the SCD 1264

The SCD 1264 is completed at the initial Benefits Intake appointment by clerical, but the client must complete the language section. The Eligibility Worker is responsible for processing the SCD 1264 in continuing. When processing the SCD 1264, the EW/Clerical must:

- Determine the primary oral and written language of the client.
- Print the appropriate language version of the SCD 1264 off of the intranet.
- Sign and date the form with the client.
- Ensure the appropriate language is selected from the drop down language menu in CalWIN.
- Scan the SCD 1264 into the IDM system under F1 - Application.
- Determine if other language services are required:
  - What type of language services does the applicant/recipient require (i.e., bilingual staff, interpreter, use of own interpreter family member, or friend, translated materials, etc.). [Refer to “Clients Own Interpreter Arrives,” page 36-30 because the use of 3rd party interpreters should be discouraged.]
  - Check appropriate box that pertains to language preference used on written communication and forms.
- Sign and date the form with the client and interpreter, if an interpreter is used.
- Document thoroughly on the **Maintain Case Comments** window how language assistance, both interpreter and translation services were provided to the client. When the client has a unique language need, such for example, understands oral Vietnamese, but is not be able to read it (written) and does not understand English, the case is coded Vietnamese with a case comment clearly documenting that client does not read Vietnamese and does not understand English but understand Vietnamese (oral). The client correspondence would be issued in Vietnamese but the bilingual worker is required to explain the Vietnamese form to client.

## 36.5.2 Mail-In Process

When the (re)application is completed via the mail-in process or by another entity, and the SCD 1264 is not included with the paperwork, the EW must:

- Review any other documents to determine the client's primary oral and written language.
- Contact the client and confirm the client's preferred oral and written language.
- Sign the SCD 1264 indicating the client's oral and written preference.
- Forward the SCD 1264 to the client for signature.
- Document **Maintain Case Comments** in CalWIN indicating the client's preferred oral and written language.
- Submit the EW signed copy of the SCD 1264 to clerical to be scanned into IDM.

**Note:**

The case may be transferred out of intake and/or continuing pending the return of the original SCD 1264.



## 36.6 Special Language Access Instructions

Benefits staff is to use the following guidelines for special language assistance situations:

IF the client...	THEN code the case...
Is bilingual and declares English as a primary language,	English speaking.
Declares English as his/her language, and based on experience, the EW believes that the client cannot understand English,	<ul style="list-style-type: none"> <li>• In the language the client believes he/she needs to use to communicate effectively.</li> </ul> <p style="text-align: center;">And</p> <ul style="list-style-type: none"> <li>• Request an interpreter, if appropriate.</li> <li>• Document on the <b>Maintain Case Comments</b> window what action is being taken and why.</li> </ul>

IF the client...	THEN code the case...
Declares a language other than English as his/her language,	<ul style="list-style-type: none"><li>Based on the client's declaration of his/her language.</li></ul> <p>And</p> <ul style="list-style-type: none"><li>Request an interpreter, if appropriate.</li><li>Document on the <b>Maintain Case Comments</b> window the method used to provide language access services.</li></ul>

At Intake, Foster Care EWs must review documentation provided by DFCS or Juvenile Probation Department (JPD) (such as DFCS Intake Form SCZ 203) to determine the common language of both parent(s)/guardian(s) and code the case appropriately.

**Note:**

The Form/NOA language field in the **Collect Case Summary Detail** window in CalWIN will reflect the provider's language as entered by Intake EW.

The referring agency is responsible for noting the language on documentation. If a language is not specified on the documentation, code the case as English. When there are two common languages (English being one of those) code the case as English.

**Example:**

If one parent/guardian speaks Spanish only and the other speaks both Spanish and English, code the case Spanish as this is the common language between the parents.

**Example:**

If both parents/guardians speak Vietnamese and English, the case will be coded as English.

In Continuing, the worker will change the Form/NOA language field from the **Collect Case Summary Detail** window in CalWIN if/when the Social Worker (SW) or Probation Officer (PO) provides information that the language need of the provider has changed. This information may be indicated on the "Foster Child's Data Record and AFDC-FC Certification" form SOC 158A. Cases will be coded as English if the SOC 158A indicates the placement is a facility or Foster Family Agency.



**Note:**

In a situation that differs from the scenarios above the worker will speak to their supervisor for direction.

### 36.6.1 Bilingual Certification

Bilingual staff must document on the **Maintain Case Comments** window that they have been certified by county when servicing clients who do not understand English.

### 36.6.2 “Your Rights Under California Welfare Programs” (PUB 13)

REMINDER: Eligibility Workers must give the PUB 13 to ALL clients at Intake and annually at each Reinvestigation/Redetermination/Recertification (RRR). The PUB 13 includes information on client’s rights to language access services, including oral and interpreter services and written or translation services which county welfare departments are to provide. The PUB 13 must also be available at district office lobbies.

### 36.6.3 Special Indicators for Language Needs Accommodations

One or more of the following CalWIN Case Indicators must be entered to identify clients who require language accommodations as follows:

- “Illiterate”  
(Is not able to read and write well in their own primary language and may need disability accommodations).

**Note:**

Illiteracy may be related to a learning disability or other disability, and people who have been identified as unable to read and/or write may need reasonable accommodations of disabilities in addition to language assistance. [\[Refer to “Services to People with Disabilities,” page 36-2\].](#)

- “Hearing Impaired”  
(Communication may be more difficult because the person has difficulty hearing in his/her own primary language, and may need disability accommodations in addition to translation services). [\[Refer to “Services to People with Disabilities,” page 36-2.\]](#)

- “Speech Impediment”  
(Communication may be more difficult because the person has difficulty speaking in his/her primary language and may need disability accommodations in addition to interpretation or translation services). [Refer to “Services to People with Disabilities,” page 36-2.]

**Note:**

The above Special Indicators are used in conjunction with the appropriate language code inputted into CalWIN. For clients who are Limited English Proficient, the EW must code the case with the appropriate language as identified through the SCD 1264.



## 36.7 Interpreter and Translations Services

County policy on form’s translations and interpreter services is based on state and federal law. SSA contracts with various community agencies and individuals to provide interpreter services in most languages. Through the Language Line and bilingual staff, SSA provides interpreter services to all clients in their language of preference.

Interpreters provided by contract agencies have been language-certified and advised of the regulations regarding client confidentiality. Workers may request interpreter services after it has been determined that the case cannot be assigned to existing certified bilingual staff with the required language skill.

### 36.7.1 Language Requirement

Civil Rights regulations mandate that counties obtain and document specific information regarding the client’s preferred language. Completion of the “Language Survey - Interpreter/Translation Request” (SCD 1264) form meets the client’s language declaration requirement. The language selection page and the signature page of the SCD 1264 must be scanned into the IDM system.

When the forms are available in the client’s preferred language, the worker must document whether the client accepts or refuses the forms available in their preferred language.



## 36.8 Other Language Forms and Notices

The Manual of Policies and Procedures (MPP) requires that if an individual has requested written communications in his or her primary language and the CDSS has made the form or notice available in that language, then the CDSS translation must be provided to the individual, even if the translation is not available through the county's automated system (i.e. CalWIN).

The California Department of Health Services (CDHS) also requires that if an individual has requested written communications in his or her primary language and the CDHS has made the form or notice available in that language, then the CDHS translation must be provided to the individual, even if the translation is not available through the county's automated system (i.e. CalWIN).

The requirement to provide CDSS/CDHS translated forms must be met, either by automated or manual means. When the CalWIN system incorrectly issues a form or notice in English, rather than in the applicants/recipients primary language, then the worker must manually issue the form or notice in the applicants/recipients primary language using shelf stock and/or the DEBS on-line Form's Library.

If a translated form or notice contains spaces in which information is inserted that is unique to the applicant/recipient, the inserted information must be in the applicant/recipient's primary language.

If a form or notice is not available in a client's preferred language, the client has a right to request and receive an oral translation of the notice. CalWIN is programmed to issue the GEN 1365 for cases where translations are not available. When manual forms and notices are sent, SSA must notify applicants and beneficiaries of that right by providing the "Notice of Language Services" (GEN 1365) when translations are not available.

### 36.8.1 Semi-Annual Report (SAR 7)

A commonly used periodic report that is available in languages other than English is the Semi-Annual Report (SAR) 7. The SAR 7 can be generated through CalWIN currently in the following languages:

- English
- Spanish
- Vietnamese
- Chinese

- Russian

The SAR 7 is available from CDSS in the following languages at this time:

- English
- Spanish
- Vietnamese
- Chinese
- Russian
- Arabic
- Hmong
- Japanese
- Korean
- Lao
- Mien
- Portuguese
- Tagalog
- Ukrainian
- Punjabi

Therefore, when the SAR 7 is not available in CalWIN in the client's language of preference but the state version is available, the state translated version is to be used. One Mid-Year SAR 7 in the client's language of preference (with the respective months and years entered) must be explained and provided at Intake and RRR to those clients coded as speaking languages where the correspondence is not available in CalWIN. Document on the **Maintain Case Comments** window that these forms have been provided to the client. The SAR 7 is located in the DEBS online Form's Library.

## 36.8.2 Midyear Status Report (MC 176 S)

The MC 176S can be generated through CalWIN currently in the following languages:

- English
- Spanish
- Vietnamese
- Chinese
- Farsi
- Hmong
- Laotian
- Russian
- Armenian
- Korean

- Tagalog.

The “Mid-Year Status Report” (MC 176 S) is available from CDHS in the following languages at this time:

- English
- Spanish
- Vietnamese
- Chinese
- Russian
- Armenian
- Korean
- Farsi
- Hmong
- Arabic
- Tagalog
- Khmer/Cambodian.

Therefore, a Mid-Year Status report (with the REPORT month and year entered) must be provided at Intake and RRR to those clients coded as speaking languages that are not available in CalWIN.

Document on the **Maintain Case Comments** window that these forms have been provided to the client. The MC 176 S is located in the DEBS online Form’s Library.

Online forms are to be printed on an as needed basis ONLY.



## 36.9 Interpreter Services

Staff must inform an applicant/recipient providing his or her own interpreter of potential problems of ineffective communication caused by using his or her own interpreter. Interpreters must be offered by the agency free of cost to the client, if the individual needs interpreter services.

### 36.9.1 Interpreter Services Requirement

The CDSS Manual of Policies and Procedures (MPP) Chapter 21 regulations require:

- The provision of meaningful and effective language services to all applicants/recipients in their primary language without undue delay.

- The county to offer and provide an interpreter at EACH client contact once the need for an interpreter is identified by the county or the client.
- That applicants/recipients NOT be compelled or encouraged to use their own interpreters and should not use minors to interpret, unless under extenuating circumstances. [Refer to “Use of Minors as Interpreters,” page 36-31 for additional information.]
- That substantive, program-related conversations with the applicant/recipient shall NOT be conducted until qualified interpretive services are available.

## 36.9.2 Interpreter Services Documentation

The method(s) used to document compliance requirements (State Chapter 21) must be noted on the **Maintain Case Comments** window of CalWIN. In order to meet the Federal and State Law and Civil Rights Mandates, documentation of language assistance services provided must be thoroughly documented on the **Maintain Case Comments** window in CalWIN. Cultural competency is very important for accurate understanding. Using an interpreter who speaks a different dialect of the language may lead to misunderstandings. To mitigate this, the worker shall double check that the client understands the interpreter before proceeding with the interview.

The state requires the following information be documented in the case record for each contact with the applicant/recipient:

- The applicant/recipient was offered free interpretive services.
- Who provided the interpretive services such as:
  - The assigned case worker is bilingual,
  - An outside contracted interpreter (Name) acted as the interpreter,
  - The client provided his/her own interpreter (Name),
  - A volunteer interpreter (Name) was used,
  - Another employee (Name) acted as the interpreter.
- A minor temporarily acted as an interpreter due to extenuating circumstances, with an explanation of those circumstances. [Refer to “Use of Minors as Interpreters,” page 36-31 for requirements and limitations.]

- Documentation that clients denied the county's offer of interpreter service when offered and beneficiary insisted on providing their own interpreter, and/or if the Social Services Agency needs to provide one for them throughout the interactive process.
- That the applicant/recipient was informed of potential problems of using his or her own interpreter including:
  - The possibility of ineffective communication,
  - Inaccurate interpretations, and
  - The need to disclose private information to the interpreter.

**Note:**

If staff determines that their own interpreter is not competent to provide quality and accurate interpretations, and/or issues of confidentiality, privacy, or conflict of interest arise, staff shall provide competent interpreter services and allow the family member or friend to remain as a patient advocate.

- County-provided interpretive services were offered when the applicant/recipient provided interpreter is not available.
- The applicant/recipient was informed of his/her right to accept county-provided interpretive services at any time, even when a client provided interpreter is present.
- The County provided interpretive services even where an applicant/recipient-provided interpreter is present.

### 36.9.3 Interpreter Release of Information

In order to meet the confidentiality requirements for applicants/recipients when individuals other than agency employees are used as interpreters, a "Certification of Confidentiality-Non-SSA Interpreter & Authorization to Release Information" (SCD 2362) must be obtained. The case record must be thoroughly documented on the **Maintain Case Comments** window, and indicated that a release form was completed and signed. A copy must be scanned into the IDM system under the F2 - CASE VERIF/CHILD SUPPORT tab.

**Note:**

The SCD 2362 does not need to be completed when the Language Line or Contract staff are used. However, documentation that any interpreter services were used needs to be entered into the **Maintain Case Comments** window.

## 36.9.4 Responsibility for Scheduling

Interpreter services will be requested by the person who is actually scheduling the appointment. (i.e., The receptionist for the first intake appointment, or the worker for any other appointments).

## 36.9.5 Clients Own Interpreter Arrives

If the client arrives with his or her own interpreter, SSA should advise client that agency provides certified language interpreters. [Refer to “Use of Minors as Interpreters,” page 36-31, and “Interpreter Release of Information,” page 36-29 and “The Language Line (Interpreter Services),” page 36-33 for additional information when using own interpreter.]

**Note:**

Staff are to follow all other procedures as if an interpreter had been requested, such as inputting CalWIN Case Comments and/or Special Indicators.

## 36.9.6 Phone Call Interpretations

If the worker calls an interpreter and the interpreter calls the client, the “Interpreter/Translator Services - Detailed Service Record” (SC1257) must be completed for the telephone call and a copy sent to the interpreter. [Refer to “Requesting Interpreter Services,” page 36-30.]

## 36.9.7 Requesting Interpreter Services

Use the following guide to request interpreter/translator services:

Who	Step	Action
Worker or Receptionist	1.	Determines interpreter/translator services are required.
	2.	Completes top portion of “Interpreter/Translator Services - Detailed Service Record” (SC 1257) form.
	3.	Gives SC 1257 to Supervisor for approval/denial.
Supervisor or Approving Authority	1.	If approved, signs in the Approver’s box.
	2.	Returns SC 1257 to Worker/receptionist.



Who	Step	Action
Worker or Receptionist	1.	Phones appropriate agency or individual interpreter. The official Interpreter list is available on the SSA intranet website under Policies and Procedures -In the Community section: <a href="http://intranet.ssa.co.santa-clara.ca.us/main/policies/interpreters.pdf">http://intranet.ssa.co.santa-clara.ca.us/main/policies/interpreters.pdf</a>
	2.	Schedules appointment and advises the interpreter of the reporting location.  Receptionist: Advises the interpreter to check in at the Reception Desk upon arrival.  <b>NOTE:</b> If the telephone number for an interpreter has changed or is now disconnected, please notify the Equal Opportunity/Civil Rights Office, at (408) 755-7298.
	3.	<ul style="list-style-type: none"> <li>Records the Interpreter/Translator's Name and Organization Name on the appropriate lines on the form.</li> <li>Enter the appointment date and times in the Approver's box.</li> </ul>
Interpreter	1.	Comes in for scheduled appointment.  If intake appointment, see special procedure below [Refer to "Use of Minors as Interpreters," page 36-31.]
Worker	1.	Completes the bottom portion of the SC 1257 at the conclusion of the interview beginning with Total Time with Client.
	2.	Sets up time with the interpreter for a return appointment, if needed, and initiates another SC 1257
	3.	Notes the date, interpreter's name and time of services on the <b>Maintain Case Comments</b> window.
	4.	Makes a photocopy of the SC 1257 and have it scanned into the IDM System under the F2 - CASE VERIF/CHILD SUPPORT tab.  <b>Note:</b> The form is located in the Intranet Departmental General form's section: <a href="http://intranet.ssa.co.santa-clara.ca.us/forms/department.html">http://intranet.ssa.co.santa-clara.ca.us/forms/department.html</a>
	5.	Give the original "Interpreter/Translator Services Request Form" (SC 1257) to the Interpreter at the time of services.

### 36.9.8 Use of Minors as Interpreters

It is Santa Clara County's policy that the use of minors is PROHIBITED, unless used under extenuating circumstances. If a minor is used for interpreter services, this must be thoroughly documented on the **Maintain Case Comment** window and the reason why a minor was used.

Examples of Extenuating Circumstances warranting the temporary use of a minor as an interpreter include, but are not limited to:

- The worker telephones or visits the applicant/recipient's home for initial contact and finds a non-English or limited-English speaking client. Under these circumstances, the minor can be used as an interpreter ONLY to determine the language of the client and to schedule a date and time to call/return with a county provided interpreter.
- A non-English or limited-English speaking applicant/recipient comes to the office with a minor child who speaks English and the county does not immediately have access to a county provided interpreter in the applicant/recipient's primary language. Under these circumstances, the minor can be used as an interpreter ONLY to schedule a date and time for the client to return to the office when a county provided interpreter will be available.
- When a county employee encounters a health/safety issue, such as a car accident or crime scene, where immediate communication is imperative, a minor may be used temporarily UNTIL a qualified interpreter arrives at the scene or communicates with the applicant/recipient via phone, etc.

### 36.9.9 Special Intake Appointment Instructions

The instructions for requesting Interpreter Services are outlined below when an assigned interpreter shows up for a special intake appointment:

Who	Step	Action
Interpreter	1.	Explains to the Receptionist they are there to assist in completing the "Identification and Intake Record" (SCD 41) process.
Receptionist	1.	Gives the interpreter and applicant the SCD 41 and appropriate application(s) to complete.
	2.	Marks off the appointment on the blotter.
	3.	Calls the worker for the intake appointment.
Worker	1.	Follows instructions for completion of SC 1257: <a href="#">[Refer to "Requesting Interpreter Services," page 36-30]</a> for instructions.  If a second appointment is needed, the second SC 1257 is logged in and attached to the SCD 41.



## 36.10 The Language Line (Interpreter Services)

The Language Line is an over-the-phone interpreter service provided to Social Services employees 24 hours a day, seven days a week.

### 36.10.1 Bilingual Languages Provided

The Language Line provides bi-lingual services in the following languages:

REGION	LANGUAGES	
<b>Africa</b>	<ul style="list-style-type: none"> <li>• Amharic</li> <li>• Arabic</li> <li>• Bambara</li> <li>• French</li> <li>• Hausa</li> <li>• Italian</li> <li>• Portuguese</li> </ul>	<ul style="list-style-type: none"> <li>• Portuguese Creole</li> <li>• Somali</li> <li>• Swahili</li> <li>• Tigrinya</li> <li>• Wolof</li> <li>• Yoruba</li> </ul>

REGION	LANGUAGES	
<b>Asia</b>	<ul style="list-style-type: none"> <li>• Burmese</li> <li>• Hmong</li> <li>• Indonesian</li> <li>• Japanese</li> <li>• Khmer (Cambodian)</li> <li>• Korean</li> </ul>	<ul style="list-style-type: none"> <li>• Laotian</li> <li>• Malay</li> <li>• Mien</li> <li>• Thai</li> <li>• Vietnamese</li> </ul>
<b>China</b>	<ul style="list-style-type: none"> <li>• Cantonese</li> <li>• Chaochow</li> <li>• Fukienese</li> <li>• Mandarin</li> </ul>	<ul style="list-style-type: none"> <li>• Shanghai</li> <li>• Taiwanese</li> <li>• Toishanese</li> </ul>
<b>Europe</b>	<ul style="list-style-type: none"> <li>• Albanian</li> <li>• Armenian</li> <li>• Bulgarian</li> <li>• Catalan</li> <li>• Croatian</li> <li>• Czech</li> <li>• Danish</li> <li>• Dutch</li> <li>• Estonian</li> <li>• French</li> <li>• German</li> <li>• Greek</li> <li>• Hungarian</li> </ul>	<ul style="list-style-type: none"> <li>• Italian</li> <li>• Lithuanian</li> <li>• Macedonian</li> <li>• Norwegian</li> <li>• Polish</li> <li>• Portuguese</li> <li>• Romanian</li> <li>• Russian</li> <li>• Serbian</li> <li>• Slovak</li> <li>• Spanish</li> <li>• Swedish</li> <li>• Ukrainian</li> <li>• Yiddish</li> </ul>

<b>India, Pakistan and Southeast Asia</b>	<ul style="list-style-type: none"><li>• Bengali</li><li>• Bhojpuri</li><li>• Gujarati</li><li>• Hindi</li><li>• Malayalam</li></ul>	<ul style="list-style-type: none"><li>• Nepali</li><li>• Punjabi</li><li>• Sinhales</li><li>• Tamil</li><li>• Urdu</li></ul>
<b>Middle East</b>	<ul style="list-style-type: none"><li>• Arabic</li><li>• Armenian</li><li>• Assyrian</li><li>• Dari</li><li>• Farsi</li></ul>	<ul style="list-style-type: none"><li>• Hebrew</li><li>• Kurdish</li><li>• Pashto</li><li>• Turkish</li></ul>
<b>North America, South America and Caribbean</b>	<ul style="list-style-type: none"><li>• French</li><li>• Haitian Creole</li><li>• Navajo</li></ul>	<ul style="list-style-type: none"><li>• Portuguese</li><li>• Spanish</li></ul>
<b>Pacific Islands</b>	<ul style="list-style-type: none"><li>• Akian</li><li>• Fijian</li><li>• Ilocano</li><li>• Indonesian</li></ul>	<ul style="list-style-type: none"><li>• Malay</li><li>• Samoan</li><li>• Tagalog</li><li>• Tongan</li></ul>

### 36.10.2 Procedures for Accessing Language Line Services

Language Line Services may be accessed when staff are in need of interpreter services when speaking to a client:

- Via telephone (interpreter services would be utilized as a third party line), or
- In person, when staff require immediate interpreter services, and no other interpreter is available. A phone with special features for three-way calling may be utilized with the client present and the interpreter will translate via telephone.

Who	Action
Client	<ul style="list-style-type: none"> <li>Contacts SSA via telephone or appears in District Office.</li> </ul> <p><b>Note:</b> No staff member is available to provide interpreter services in the client's native language.</p>
Staff Member (Eligibility and/or Clerical)	<ul style="list-style-type: none"> <li>Explains to the client that interpreter services will be requested.</li> <li>Dials 1-844-276-1697 or 1-844-234-0156.</li> </ul> <p><b>Note:</b> If the client contacts the Agency via telephone, the transfer button must be utilized.</p> <ul style="list-style-type: none"> <li>Follows Prompts. <b>Note:</b> Enter a Personal Identification Number (PIN) based on your office location (see list of offices and PINs following this chart) and your employee ID number.</li> <li>When the interpreter is on the line, states: "I have a client on the line (here in the office). Please ask the client how I can be of assistance."</li> </ul>
Interpreter	<ul style="list-style-type: none"> <li>Asks the client what assistance is being required.</li> <li>Relates request to staff member.</li> </ul>
Staff Member	Assists the client via the interpreter.

## DISTRICT OFFICE PERSONAL IDENTIFICATION NUMBERS (PINS)

DISTRICT OFFICE	PIN
BENEFITS SERVICE CENTER	2018
APPLICATION ASSISTANCE CENTER	2249
CENTRAL BUSINESS SERVICES	2435
NORTH COUNTY	2825
SOUTH COUNTY	3269
CALWORKS EMPLOYMENT SERVICES	4123
DEPARTMENT OF AGING & ADULT SERVICES	4623
DEPARTMENT OF FAMILY & CHILDREN SERVICES	2071
SECOND HARVEST FOOD BANK	5408
VALLEY MEDICAL CENTER	7806
GENERAL ASSISTANCE	9315
FOSTER CARE	9975



## 36.11 Document Translation Services

### 36.11.1 Requesting Translation of Forms

Submit requests for translations of written correspondence or forms other than Spanish, Vietnamese or Chinese to the Language Access Coordinator at (408) 755-7298 or FAX (408) 755-7926.

### 36.11.2 Procedures for Requesting Translations

#### Non-Program Related

Each district office has their own internal process for requesting translations that are non-program related. The district office's requests are given to the SSPM or their designee. The SSPM/designee forwards needed translations to the Equal Opportunity/Civil Rights Officer or translation committee, as appropriate.

## **Program Related Translations**

Program related translation requests will be sent by the SSPM/designee to the appropriate Program Application & Decision Support Specialist (ADSS). The Program ADSS will handle the request to the translation committee(s).

### **36.11.3 Translation Committees**

There are currently three translation committees in DEBS whose function it is to provide accurate and uniform translation of all DEBS forms, documents, client information notices and warrant stuffers. The three translation committees are:

- Spanish
- Vietnamese
- Chinese

### **36.11.4 Composition of Committees**

Committee members are composed of representatives from the various district offices and divisions of DEBS. All members are certified and have the ability to write competently in their respective language.

### **36.11.5 Meetings of Translation Committees**

#### **Regular Schedule**

Committees will meet on a regular schedule for one-half day, twice a month. When the volume for translation requests is high they may meet more frequently.

#### **Overtime**

Overtime may be approved in the following situations:

- When a document is needed prior to the next scheduled meeting time, or
- For large projects (for example: large legal documents, translation of forms for CalWIN implementation, etc.).

The chairpersons of the committees will jointly discuss the need for overtime and decide upon the amount of time they determine is needed to complete the translation(s). The request for overtime shall be made by the chairperson who will submit the request to administration, who will make the final decision regarding approval of overtime and the amount of time authorized.

### 36.11.6 Identifying Translated Documents

All documents translated by the approved translation committee will be identified by a logo. Translated documents without the logo have not been authorized by the translation committee. Existing authorized translations will have the logo added as forms are reordered.

The logo looks like a stack of forms with a curved arrow on each side. It will be located next to the revision date on the document.

**Example:**

SCD 1264 (3/92) "Logo"

### 36.11.7 "Bootleg" Forms

All translated forms being utilized by staff that are not authorized translations must be referred to the chairperson(s) of the Translation Committee(s). The chairperson(s) will follow the procedures in [\[Refer to "Document Translation Services," page 36-36\]](#) upon receiving bootleg forms.]

### 36.11.8 Committee Requests for Forms/Documents Translations

The Translation Committee(s) may want to request that a form/document be translated because the item needs to be available in other languages. In order to prevent the committee from translating forms that may be under revision or being deleted in the near future, a process has been established with Application and Decision Support Specialists (ADSS).



When the committee wishes to translate existing documents, the following process is used.

WHO:	ACTION:
Translation Committee	Establishes a priority list of forms/documents to be translated.
	Sends the list to the Forms Desk clerical support staff within the Program Bureau; the phone number is 408-755-7540. The list should be top priority SCD forms/documents that the Committee determines they can translate within a two-month time period.
	Sends copies of the actual SCD forms/documents with the list.
Forms Desk Designee	Receives the list with copies of priority forms/documents to be translated.
	Sends forms/documents to appropriate Program ADSS with "Approval For Translation" list attached.
Program ADSS	Receives priority list with the "Approval for Translation" attached.
	Determines whether or not the form should be translated at this time.
	Completes the sections of the "Approval for Translation" form and indicates: <ul style="list-style-type: none"> <li>• Yes, the translation should be completed, or</li> <li>• No, briefly explaining why this may not be a good time to translate the item (i.e. in process of being revised). If possible give a time frame when this might be available for translation.</li> </ul>
	Signs in the appropriate area if the form will be their responsibility to order later.
	Returns the "Approval for Translation" to the Forms Coordinator, who will coordinate requests and return the list to the committee.
Translation Committee	Receives the list with approval/denial status to translate forms/documents.
	Spanish/Vietnamese/Chinese In-House Committees: Translates approved forms/documents.
	<ul style="list-style-type: none"> <li>• Reviews the final draft and sends the item to the appropriate Program ADSS.</li> </ul>

WHO:	ACTION:
Designated Program ADSS	Receives the final draft of the translated form/document.
	Based on usage determines whether the form should be put online on the DEBS Forms Library and/or be printed.
	For forms that are to be printed: <ul style="list-style-type: none"> <li>• Attaches the translated form/document to the "DEBS Program Request" (SCD 293) and sends to Publishing for reproduction.</li> </ul>
	For forms that are to be put online: <ul style="list-style-type: none"> <li>• Sends a soft copy of the form, along with a "DEBS Forms Online Posting Request" (SCD 2224) to the Forms Desk requesting it be loaded on the SSA intranet website.</li> </ul>

**Note:**

Online forms are to be printed on an as needed basis ONLY.



## 36.12 Translation Requests by DEBS Staff

Each district office follows their internal process for requests for forms translations. All translation requests must come to the translation committee from the SSPM or their designated person. Program-related translation requests must be sent by the SSPM or their designee to the appropriate Program ADSS who, after review, will send it to the appropriate committee/person.

All documents needing translation must be referred to the appropriate translation person, using the SCD 970, as follows:

Language:	Person to Contact:
Spanish	Spanish Translation Committee Chairperson:  Eric Acha, ER2A DFCS 373 West Julian Street, 2nd Floor San Jose, CA 95110 Phone: (408) 501-6300

Language:	Person to Contact:
Vietnamese	Vietnamese Translation Committee Chairperson:  Nhu-Hanh Tonnu Employment Support Initiative (ESI) 333 West Julian Street San Jose, CA 95110 Phone: (408) 755-7744
Chinese	Chinese Translation Committee Chairperson:  Alex Choy, A7G2 Benefit Service Center 1867 Senter Rd. San Jose, CA 95112 Phone: (408) 758-3656, FAX: (408) 792-1894

**Note:**

For translation of other languages not listed above, contact an interpreter on the Interpreters List for assistance. An "Interpreter/Translator Services Request Form" (SC 1257) will need to be completed and given to the interpreter. The form with instructions are located in the Intranet Departmental General form's section:

<http://intranet.ssa.co.santa-clara.ca.us/forms/departments.html>

If the document that needs translation is program-related, submit the translation request to Program Bureau via the SCD 116 Program Bureau Request for Services process.

## 36.12.1 Referral Procedures

All referrals for translation will use the following procedures. All requests must be submitted AT LEAST ONE WEEK PRIOR TO THE DUE DATE.

WHO:	ACTION:	
Requestor	<p>Completes and forwards/emails a copy of the SCD 970 with the document to be translated to the appropriate chairperson.</p> <ul style="list-style-type: none"> <li>Spanish - Eric Acha, @ 373 West Julian St. Phone: (408) 501-6300, FAX: (408) 292-3166</li> <li>Vietnamese - Nhu-Hanh Tonnu @ 333 W. Julian, 5th Floor Phone: (408) 755-7744, FAX: 755-7966</li> <li>Chinese - Alex Choy, @ 1867 Senter Road BSC Phone: (408) 758-3656, FAX: 792-1894</li> </ul>	
	Indicates whether the document is to be processed through publishing services, or if the rough draft is to be returned to the person requesting the translation.	
Chairperson of Translation Committee	Reviews the SCD 970 and translation.	
	Notifies requestor of any potential problems and/or clarifies any issues.	
Translation Committee	Translates the document.	
	IF:	THEN THE CHAIRPERSON:
	The documents are to be processed through Publishing Services,	Forwards the document to Publishing Services. The committee edits the document until the translation is finalized.
	The document is to be returned to the requestor,	Returns the draft to the requestor. The requestor notes any additional edits needed to the document and returns to the Chairperson. The committee edits the document until the translation is finalized.
Chairperson of Translation Committee	Signs off and returns the SCD 970 with a final copy of the translation to the originator/requestor.	
	Files copy of document for committee's records.	

## 36.12.2 Time Allowance

### Routine Referrals

A routine referral gives the translation committee 30 days to complete. This allows the committee time to schedule the translation(s) into one of their regularly scheduled meetings and to complete any necessary word processing.

Follow the SCD 970 procedures in [\[Refer to “Referral Procedures,” page 36-42\]](#).

### Other Referrals

Other referrals are any translations that don't fit into the routine referral process of 30 days. This includes large projects, numerous documents, emergency stuffers, etc.

Other referrals are made by a telephone call to the appropriate chairperson(s), or the EO/CR coordinator at (408) 755-7298. A due date will be negotiated at that time. The EO/CR will coordinate all translations that the Spanish, Vietnamese, and Chinese Translation Committees cannot translate. The telephone call is to be followed up with the SCD 970 procedures.

### Big Projects

A big project is defined as one that requires several translations to be done at once in order to accommodate a major program change or other changes the agency may be undergoing.

#### Example:

If in August it is known that in October 12 forms/documents need to be translated, let the chairperson(s) know as much in advance as possible about the upcoming need. This way the committee can then plan their meeting times accordingly. This is imperative even if the English versions are not yet available.



## 36.13 Translated Forms

Any information needed regarding the availability of translated forms, large print and Braille, as available, can be obtained by calling Publishing Services at 758-4558. As needed, Publishing Services will coordinate with Program Form's Desk at 755-7541.



## 36.14 Language Designation in CalWIN

Correct language coding is essential for statistical data. Obtaining demographics on client's primary language is essential to ensuring appropriate interpreters and translators are available which ensure clients receive services in their primary language. Under Case Data Systems (CDS), a language coding system was established and had been used for decades. The CDS language coding system became obsolete with CalWIN. [\[Refer to "Required Form - SCD 1264," page 36-19 for instructions on collecting language data.\]](#)

In CalWIN, the following language names are available for designation the client's primary language name that is declared by the client on the SCD 1264. This is to be used when forms require that a language name be identified (e.g., when gathering statistical data for ad-hoc listings, completing intake tallies, etc.):

LANGUAGE NAME	CODE
Afghani	1A
American Sign Language	SL
Amharic	1B
Arabic	AR
Armenian	AE
Bosnian	BO
Cambodian	CA
Cantonese	CN

LANGUAGE NAME	CODE
English	EN
Ethiopian	1I
Farsi	FA
French	FR
German	1F
Hebrew	HE
Hmong	HM
Ilocano	IL
Italian	IT
Japanese	JA
Korean	KO
Lao	LA
Mandarin	MA
Mien	ME
Oromo	1D
Other Chinese Language	OC
Other Non-English	OT
Other Sign Language	AM
Polish	PO
Portuguese	PR
Romanian	RM
Russian	RU
Samoan	SA
Serbo-Croatian	1H
Somali	1E
Spanish	SP
Swahili	1C
Tagalog	FI
Thai	TH
Tigrigna	1G

LANGUAGE NAME	CODE
Turkish	TU
Vietnamese	VI



**APPENDIX C**  
**Santa Clara County Disability**  
**Screening Guide**

## Need Extra Help?

(Ask applicant): Do you have a disability (physical, mental/emotional, or learning) that makes it difficult for you to do anything we might ask you to do? (Have applicant initial/mark the answer that applies)

\_\_\_\_\_ Yes (EW/EC completes this form) \_\_\_\_\_ No (Client signs form)

*(If client needs clarification, tell client): You can get help with filling out or understanding forms, getting documents, arranging appointments to fit your needs, friendly reminders of deadlines and/or due dates, and other help as needed.*

**EW completes below** (Answer all that apply):

Y

ES NO 1. Do you have difficulty reading, hearing or speaking? Need information in Braille?  
Need a sign language  
interpreter?

If yes, please explain:

---

---

---

Y

ES NO 2. Do you need help arranging appointments to fit your needs or friendly reminders of deadlines  
or due  
dates.

If yes, please explain:

---

---

---

Y

ES NO 3. Do you need help filling out or understanding forms or complicated instructions?

If yes, please explain:

---

\_\_\_\_\_

\_\_\_\_\_

Y

ES NO 4. Do you have difficulty walking, sitting, or standing for a long time?

If yes, please explain:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Y

ES NO 5. Do you need any other extra help due to a disability?

If yes, please explain:

\_\_\_\_\_

By signing below, I understand that I will be given a copy of this form. I also understand that by signing this form, I am not providing a medical diagnosis nor am I prevented from later claiming I have a disability or have other special needs.

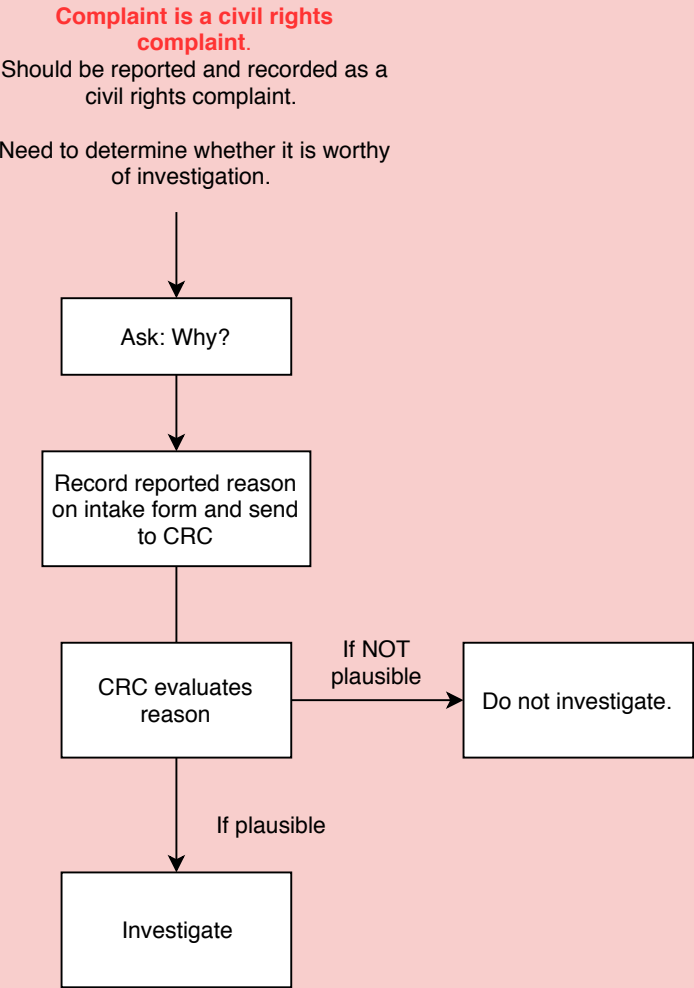
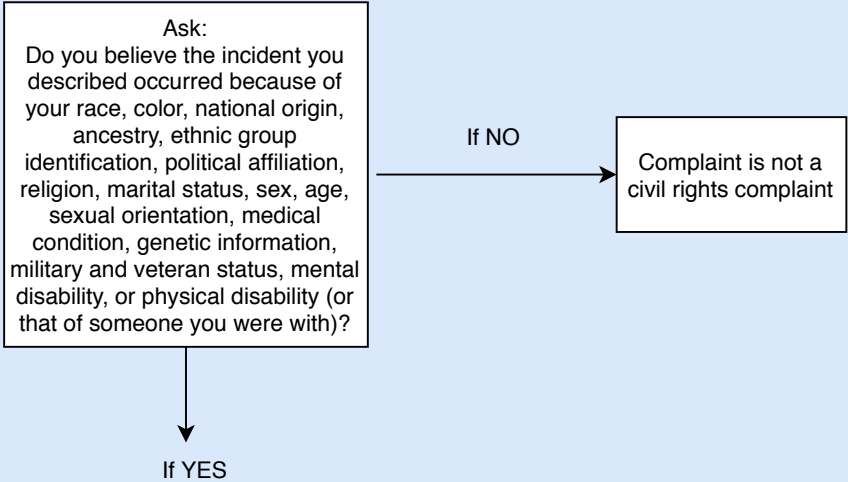
\_\_\_\_\_  
Applicant Signature (optional) Date Signed

\_\_\_\_\_  
Representative Signature Date Signed Position \_\_\_\_\_ County

Scan: Permanent Verification SCD 2371 - 6/14

**APPENDIX D**  
**Flowchart of Initial Review and Application of**  
**the “Pleading Standard”**

During intake for any type of complaint:



## **APPENDIX E**

### **Materials From Other States**

# **WASHINGTON**

## **Notice of Discrimination in Multiple Languages that Lists Protective Classes**

Example of eye-catching & clear non-discrimination notice w/ notices in multiple languages & phone number on bottom for filing complaint

Washington State Department of Social and Health Services is an equal opportunity employer and does not discriminate on the basis of age, sex, sexual orientation, gender, gender identity/ expression, marital status, race, creed, color, national origin, religion or beliefs, political affiliation, military status, honorably discharged veteran, Vietnam Era, recently separated or other protected veteran status, the presence of any sensory, mental, physical disability or the use of a trained dog guide or service animal by a person with a disability, equal pay or genetic information.



# **MASSACHUSETTS**

## **Commonly-Needed Accommodations Chart**

### **Training Slides**

This chart is a good example of guidance that could be provided to county workers for providing accommodations and affirmative screening. It will be critical to emphasize that examples are non-exhaustive and accommodation must be individualized. This chart is also great guide for accommodations for persons with mental (often "invisible") disabilities

### Commonly Needed Accommodations for Clients Working with DTA

These are examples only and are not intended to limit what a client may need or request. Each accommodation must be *individualized* and tailored to the client's particular circumstances.

Barrier in dealing with DTA	Possible disability reasons for the difficulty	Possible accommodations
Difficulty understanding notices and forms	<ul style="list-style-type: none"> <li>• Learning or cognitive impairment</li> <li>• Psychiatric issue (eg overwhelmed by anxiety)</li> <li>• Physical issue (eg vision impairment or deaf)</li> </ul>	<ul style="list-style-type: none"> <li>• Client calls DTA to ask DTA to explain a notice or form (specific list of contacts)</li> <li>• DTA calls client to explain notices and forms</li> <li>• Copy of all mail sent to helper</li> </ul>
Difficulty completing forms	<ul style="list-style-type: none"> <li>• Learning or cognitive impairment</li> <li>• Psychiatric issue (eg overwhelmed by anxiety)</li> <li>• Physical issue (eg visual or hearing impairment or physical impairment that affects writing)</li> </ul>	<ul style="list-style-type: none"> <li>• DTA discusses form with client and completes form based on client's answers; client then reviews and signs form. Could occur by phone and mail/fax</li> </ul>
Difficulty getting verifications	<ul style="list-style-type: none"> <li>• Learning or cognitive impairment</li> <li>• Psychiatric issue (eg overwhelmed by anxiety; unable to follow through due to depression)</li> <li>• Physical issue (mobility or visual or hearing impairment)</li> </ul>	DTA assists client in getting verifications; may need client to sign authorization to do so.
Difficulty meeting deadlines	<ul style="list-style-type: none"> <li>• Psychiatric issue</li> <li>• Cognitive issue</li> </ul>	DTA calls client to remind of deadlines
Difficulty coming into the DTA office	<ul style="list-style-type: none"> <li>• Mobility or other physical issue (eg walking, length of time sitting)</li> <li>• Psychiatric issue (eg anxiety, agoraphobia)</li> </ul>	<ul style="list-style-type: none"> <li>• Handle case by phone/fax/email</li> <li>• Priority handling of case to ensure short waiting time in local office</li> <li>• Home visit</li> </ul>
Difficulty getting around generally	<ul style="list-style-type: none"> <li>• Physical issue (eg mobility limitations)</li> <li>• Psychiatric issue (eg anxiety in crowds)</li> <li>• Cognitive issue (unsure how to get to unfamiliar places)</li> </ul>	<ul style="list-style-type: none"> <li>• Handle case by phone/fax/email</li> <li>• Priority handling of case to ensure short waiting time in local office</li> <li>• Home visit</li> <li>• Obtain verifications for client (who must sign releases for some verifications)</li> </ul>

Difficulty communicating by phone	<ul style="list-style-type: none"> <li>• Hearing impairment</li> <li>• Cognitive impairment</li> </ul>	<ul style="list-style-type: none"> <li>• Need for auxiliary aid (eg ASL or CDI interpreters; need for reader)</li> <li>• May need to extend deadlines to enable provision of auxiliary aid</li> <li>• Schedule in-person appointments to review information (without long waits).</li> </ul>
<b>Rule Modification Examples</b>		
Student will not graduate high school by age 19	Student delayed due to learning disability or behavioral health issue (eg repeated a grade or missed school due to trauma or impact of mental health issue)	Extend TAFDC until child reaches age 19, whether scheduled to graduate or not
Asset limit (Most common in EAEDC due to very low asset limit)	Any kind of disability necessitates use of car	Waive asset limit
Other	Any kind of disability	So long as not a “fundamental alteration” can/should be approved

#### **Notes:**

- DTA cannot require a client to accept any particular accommodation.
- DTA cannot require a client to use a helper or authorized representative.
- Although some examples of accommodations are tasks DTA can and should do regardless of disability (like explaining notices or help completing forms), if a client needs the assistance due to disability, asking for it as an accommodation due to disability confers additional protections and rights.
- Depending on a particular case, it may be appropriate for a worker to implement the accommodation or it may be appropriate for a Client Assistance Coordinator.
- For clients who need auxiliary aids to communicate effectively, federal law requires that the **primary** consideration in selecting an accommodation must be the client’s preference. 28 C.F.R. § 35.160(b)(2).
- The process through which a client requests an accommodation and the state agency decides on the request must be interactive, meaning that DTA is supposed to work out a solution with the client.
- An agency can suggest an alternative accommodation. If a client is otherwise eligible and is considered disabled as defined by the ADA, though, there are limited circumstances and justifications an agency may use to deny a request for accommodation. If this occurs, consult GBLS *Harper* counsel.

# Access to DTA Benefits for Clients with Disabilities: Accommodations & the *Harper* Settlement

Sarah Levy & Lizbeth Ginsburg  
Greater Boston Legal Services

# The Problem

- Clients with disabilities repeatedly losing or being denied DTA benefits, often because their disabilities prevented them from following DTA processes.
- DTA didn't have a system to accommodate clients with disabilities.

# Ms. Harper and her experience

“Because of my bipolar and anxiety, it’s hard to think and everything is discombobulated and confusing to me. I get hyper and aggravated and feel belligerent and can’t control it.

I also hate it when DTA talks down to me like I’m an idiot. I know how things are supposed to be, and when I get talked down to, I get heated and start cussing because I feel like that’s the only way I’m going to get heard. I try to calm myself down and call GBLS.”

# Client voices

“I tried to explain both my physical and mental health problems to the worker. The interpreter told both me and the worker that I looked fine, that I didn’t have a disability and that my psychological problems were ‘nothing.’ I used to hate working with welfare because there would be a lot of fighting and they would lower my money and I wouldn’t understand why. I would cry and have to call my friends to help me buy things for my daughters.”

- Emilia M.

# How big of a problem is this?

## The national numbers:

- 25%-33% percent of TANF (federally-funded welfare) recipients have a serious mental health illness
- 20% of TANF recipients are known to have a physical disability that impairs their ability to work.
- 25-33% of TANF recipients are known to have a learning disability.
- Approximately 25% of Food Stamps recipients are known to be disabled themselves or have a household member who is disabled.
- Many clients have multiple disabilities.



# What those barriers translate into

## From 2006-2009, DTA:

- Denied 27,289 applications for clients known to be disabled due to procedural reasons (missed appointments, incomplete paperwork).
- Terminated 118,816 cases for clients known to be disabled and previously found eligible due to procedural reasons (missed appointments, incomplete paperwork).

# The ADA: Reasonable Accommodation

Under the ADA, a public agency must provide a “reasonable accommodation” to a person with a disability when:

- the person is otherwise eligible for the agency’s programs or services; and
- the accommodation is needed to ensure that the person is not excluded due to disability.

# Scope of *Harper* Settlement

- All disabilities
- All DTA programs
- About accommodation
- About methods of administration that tend to screen out individuals with disabilities

# *Harper* by the numbers

- 5 years, 8 months from filing to court approval of settlement
- 18 GBLS staff and interns
- 4 DTA Commissioners
- 3 Assistant Attorneys General
- 31,400 pages of discovery
- Electronic discovery: warehouse of every transaction in every case handled by DTA for four years
- 6 Expert reports
- 16 depositions over 21 days
- 107 court filings
- 28 mediation sessions + 30 meetings between parties
- 5,637 hours spent by GBLS staff

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

LASONYA HARPER, ET AL.,  
Plaintiffs,

v.

MASSACHUSETTS DEPARTMENT OF  
TRANSITIONAL ASSISTANCE,  
Defendant

)  
)  
)  
)  
)  
)  
)

C.A. No. 07-12351-MLW

ORDER

WOLF, D.J.

August 19, 2013

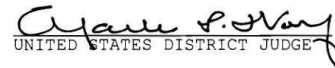
For the reasons described in detail in court on August 19, 2013,  
it is hereby ORDERED that:

1. The attached Settlement Agreement is APPROVED, pursuant to Federal Rule of Civil Procedure 23(e), as fair, reasonable and adequate. Among other things, the court finds, pursuant to Federal Rule of Civil Procedure 23(h), that the agreed upon amount of attorneys fees and litigation expenses to be paid by defendant to plaintiffs' counsel, and the terms of payment, are reasonable.

2. The parties shall perform as required by the Settlement Agreement, the terms of which are hereby incorporated in this Order.

3. Without affecting the finality of the judgment which shall be entered pursuant to this Order, the court retains jurisdiction to adjudicate any dispute concerning compliance with this Order which is filed in accordance with Section VII of the Settlement Agreement.

4. This case is otherwise DISMISSED with prejudice.

  
UNITED STATES DISTRICT JUDGE

# Content of the Settlement

- Screening for disability
- Client Assistance Coordinators (CACs)
- Recording information about disability and accommodations
- Readability of written materials
- Improvements to reasonable accommodation system
- Auxiliary aids

# Content of the Settlement

- Verification of eligibility factors
- Vendor payments
- Director of Disability Access (DDA)
- Adverse action pilot
- Duration
- Monitoring and Enforcement

# Focus on Accommodations

## Screening

Application

Eligibility reviews and recertifications if interviewed

If disclose disability

If seeking TAFDC disability exemption or EAEDC due to disability

## Interactive Process



# Indicators an accommodation may be appropriate

- Client who loses benefits because can't follow DTA processes (appointments, paperwork, verifications)
- Client keeps calling you back
- Client who has difficulty due to disability that you can anticipate will be a problem in dealing with DTA:

Going places, dealing with paperwork, reading/writing, explaining what they need, meeting deadlines, troubleshooting.

# What Screening Looks Like

- Programmed in BEACON
- Mandatory (but nothing's perfect)
- Set questions
- Inquiry happens multiple times
- Option to discuss with Client Assistance Coordinator instead of worker

# The Screening

“There are things DTA will ask you to do in order to get or keep your benefits. If you have a health problem that makes it hard for you to do something DTA asks, you can ask for help. This is called an accommodation. This could be because of a physical or mental or emotional health problem. Some of the things we’ll ask you to do are:

- Read notices we send and follow instructions in them
- Fill out forms
- Come to the office for appointments
- Get and give us documents to prove whether you can get benefits
- Tell us about changes in your household/case
- Meet deadlines

Do you think you might need help with any of these things, or something else, because of a health problem?”

# Examples of accommodations: Extra help or doing things differently

- Help getting verifications
- Complete form by phone and mail to client
- Affirmative calls to explain notices and what DTA is asking a client to do
- Not requiring a client to come to a DTA office
- Extending or reminding clients of deadlines
- Communicating with a helper
- Auxiliary aids

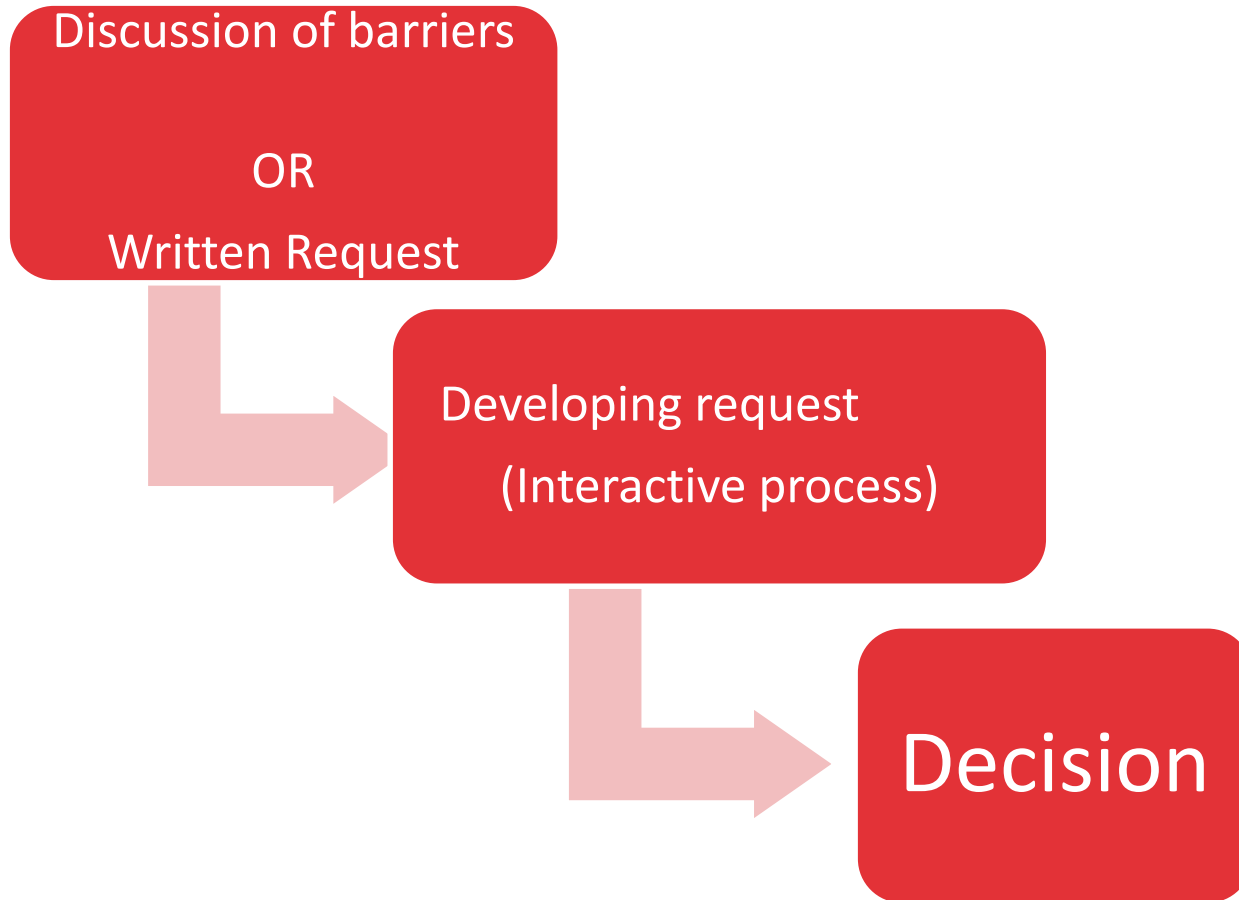
# Examples of accommodations:

## Modifying rules

- Waive the TAFDC requirement that a child must graduate high school by age 19 if the child will graduate later because of disability.
- Modify asset limit if need vehicle due to disability

→Talk to GBLS if you run into problems with this.

# The Accommodation Process



# Written Requests

- Specify disability and impact on day to day activities
- Make specific requests and clearly articulate connection to disability related need
- Specify if you want to be included in discussions about accommodation
- Submit to CAC
- Involve Director of Disability Access as needed

# Key Concepts

- Interactive
  - Back and forth discussion
- Individualized
  - What's right for **this** client?
- Specific
  - Who is responsible to do what? When and how?

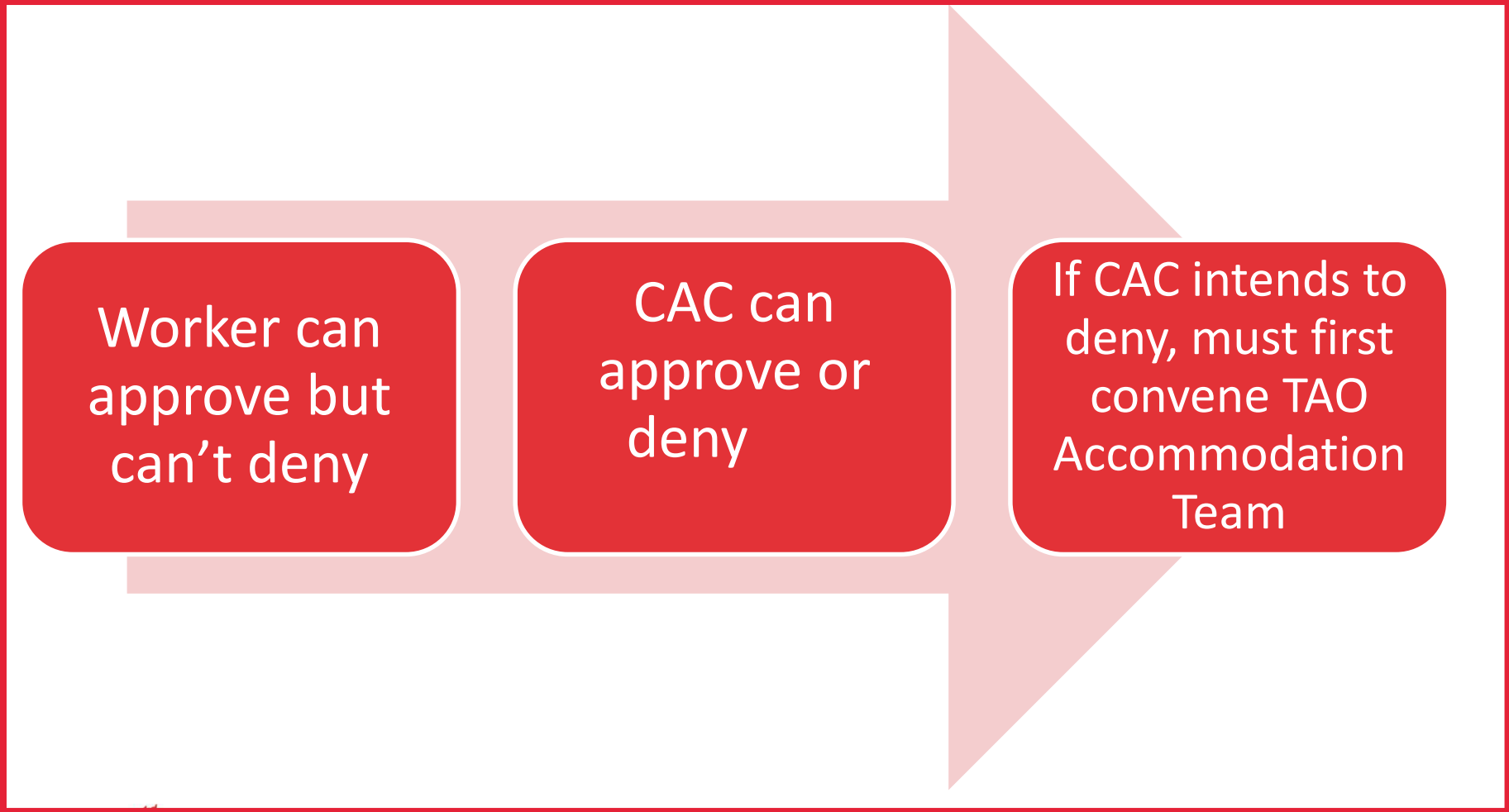


# Key Concepts: Fundamental Alteration

- DTA cannot be required to make a “fundamental alteration” to program rules.
- Cost is generally not a permissible reason.

→Talk to GBLS if you run into this

# The Accommodation Process



Worker can  
approve but  
can't deny

CAC can  
approve or  
deny

If CAC intends to  
deny, must first  
convene TAO  
Accommodation  
Team

# Accommodation Process

## Decision

Approved

Approved  
in part  
Approved  
as modified

Denied

APPEALABLE → Talk to GBLS

# Role of Client Assistance Coordinators

- 1-3 in each office
- SNAP Supervisors with reduced caseloads
- Clients can choose to discuss disability issues with them instead of workers at any time
- Specific duties related to helping clients with disabilities
- One key role is supporting the accommodation process
- Director of Disability Access oversees CACs

[Catherine.brown2@massmail.state.ma.us](mailto:Catherine.brown2@massmail.state.ma.us)

# Some common trouble spots

- Can't force someone to have an authorized rep or to be an authorized rep
- If client will need help every single time, say so. Don't put burden on client to request each time.
- If client needs affirmative calls from DTA due to disability, DTA has to call
- Use of technology- evolving

# Auxiliary Aids

- For clients who need auxiliary aids, no “effective communication” unless that aid is provided. Likely need to extend deadlines until the necessary aid is provided.
- For clients who have hearing impairments
  - ASL is a different language than English. This means that deaf clients may not be fluent in English or able to understand DTA notices.
  - Regional VRI in: Brockton, Newmarket Square, Lawrence, Springfield Liberty and Worcester.
- For clients who have visual impairments
  - Underdeveloped area.

→Talk to GBLS if you run into this

# Upcoming: Adverse Action Pilot

- Pilot in 3 DTA offices
- CACs have to take extra steps in TAFDC and EAEDC cases for clients known to be disabled when adverse action is about to happen
- Rigorous evaluation of outcomes

# Please Help Us

- We are heavily involved in Implementation
- No Settlement can anticipate fully how things will play out in practice, so we need to be adept at adjusting where necessary
- Real cases move change

Please let us know what you're seeing and what is and isn't working.





## ABOUT DTA

### Our Mission

*The mission of the Department of Transitional Assistance is to assist and empower low-income individuals and families to meet their basic needs, improve their quality of life, and achieve long-term economic self-sufficiency.*



*The Department of Transitional Assistance is committed to providing a high level of service to all those in need of our services. We are pleased to present this scorecard, which includes several measures that are important for DTA to use in measuring our success and identifying areas for improvement.*

– Jeff McCue

Commissioner, Department of Transitional Assistance

### Did you know?

**The average SNAP benefit for a household in Massachusetts is \$213.10.**

*That means the average SNAP household has \$7.01 a day to supplement food purchases.*



- ✓ 70.2% of SNAP households in Massachusetts have gross countable income of less than 100% of the Federal Poverty Level – that's \$16,240 for a household of two.
- ✓ 29.5% of SNAP households have at least one child.
- ✓ Elderly individuals are 20.8% of Massachusetts SNAP recipients.
- ✓ SNAP clients live in every city & town across the Commonwealth.
- ✓ 52,140 DTA clients are due for recertification or reevaluation in March.
- ✓ The average monthly TAFDC grant is \$448 and the average EAEDC grant is \$308.



## SNAP ENROLLMENT & QUALITY

SNAP Recipients **762,672**

SNAP Households **448,876**

SNAP Enrollment | 1 in 9 MA Residents



### SNAP Accuracy Rate

The **annual** percent of active payments that were completed without errors based on federal guidelines in Federal Fiscal Year 2017.

**95.96%**

Recipients Age 60+

**158,731**

Recipients With a Disability

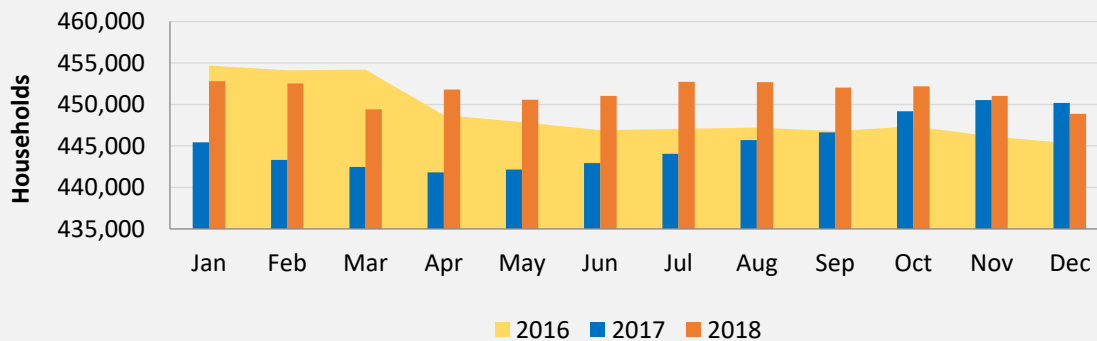
**267,931**

Recipients Age 18 or under

**269,241**

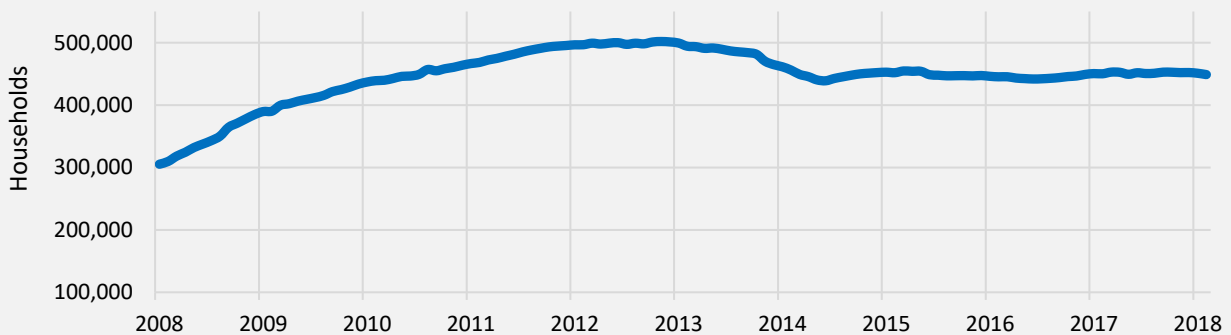
### SNAP Caseload

This is the number of households receiving SNAP benefits in Massachusetts in the prior two years.



### SNAP Caseload Trends

This is the number of households receiving SNAP benefits in Massachusetts in the last decade.



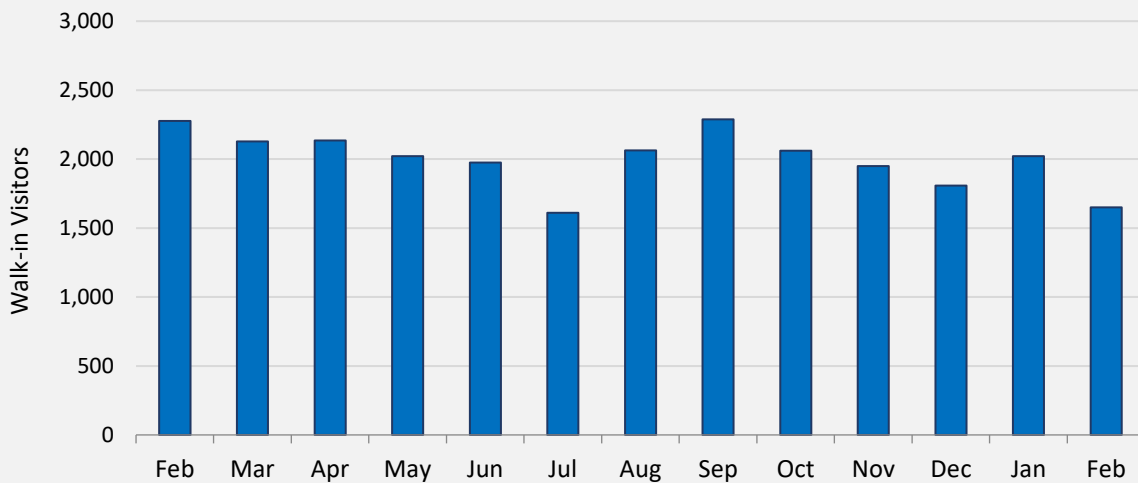


## LOCAL OFFICES

### Average Daily Walk-in Visitors

*This is how many people visit our offices each day to meet with a case manager.*

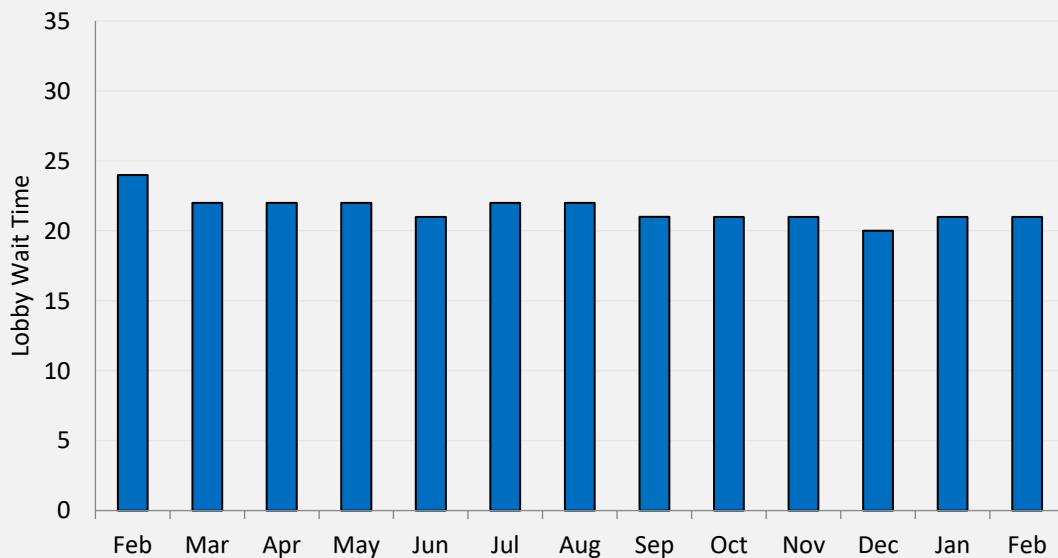
**1,650**



### Average Lobby Waiting Time

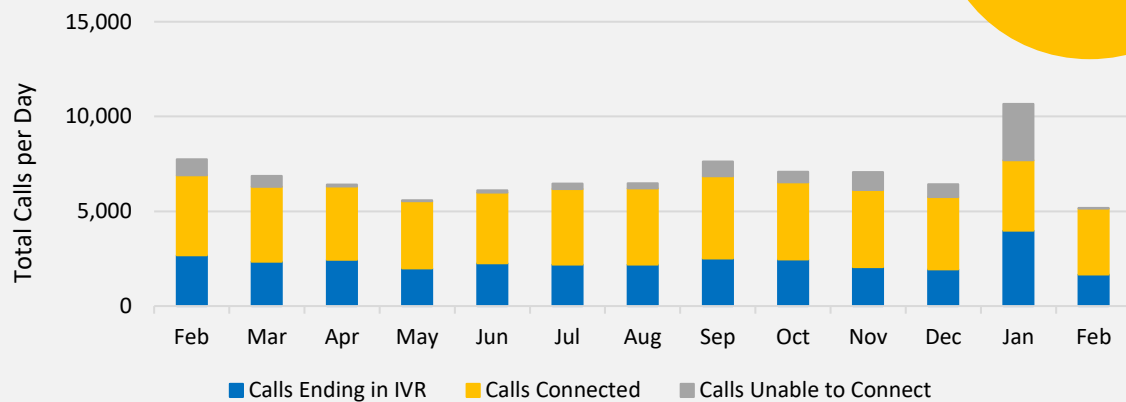
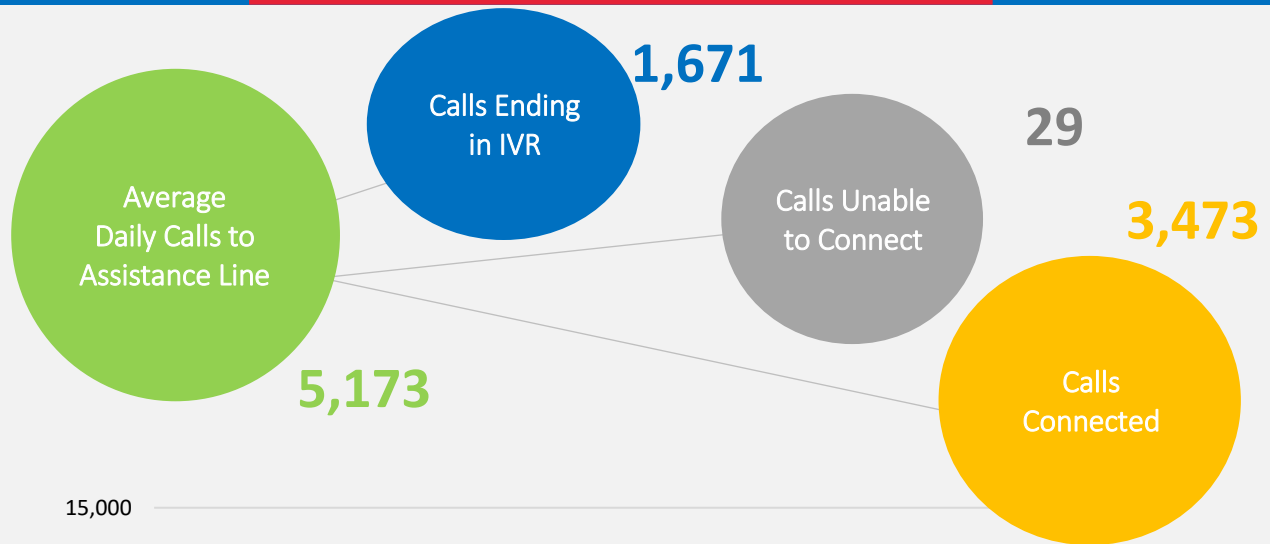
*This is how many minutes someone typically waits to see a case manager. DTA is committed to reducing the need for in-person visits from clients by expanding the ways in which services can be accessed.*

**21 min**





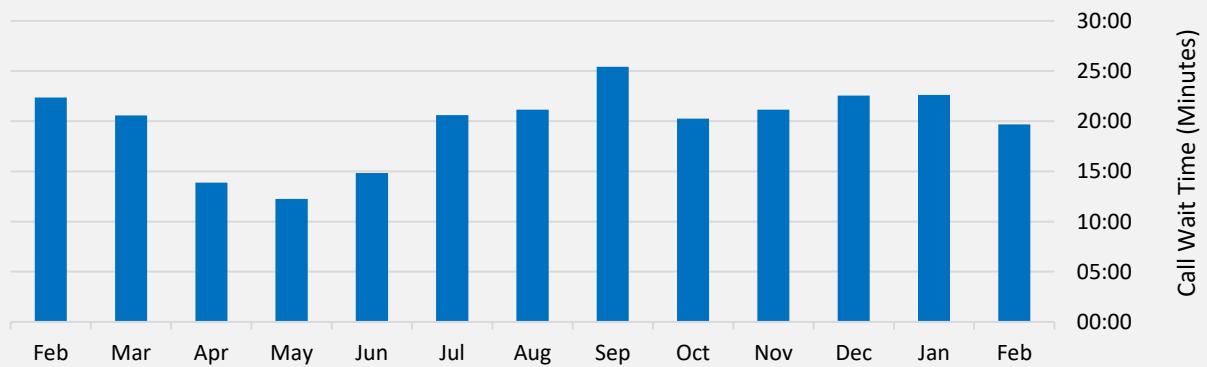
## ASSISTANCE LINE



## Average Caller Wait Time

*This is the average length of time callers wait to speak to an agent.*

20 min



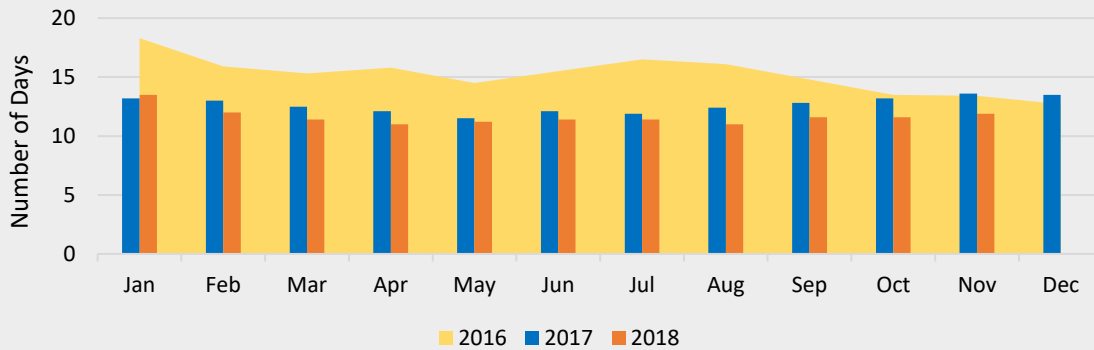


## PROCESSING

### Average Processing Days for New SNAP Applications

*This is the average number of days to **approve a new application**.*

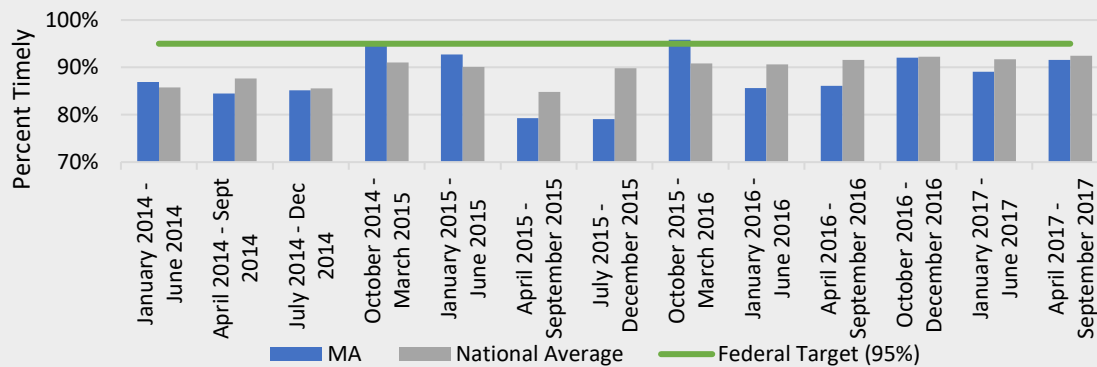
**11.9**



### SNAP Application Processed Timely

*This is the percentage of applications that are processed within federal timeframes.*

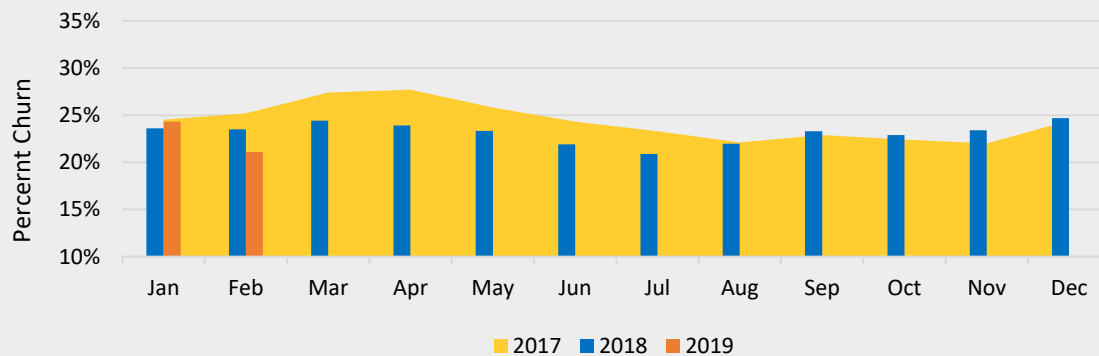
**91.6%**



### SNAP Churn

*This is the percentage of applicants each month that 90 days prior were active clients.*

**21.1%**

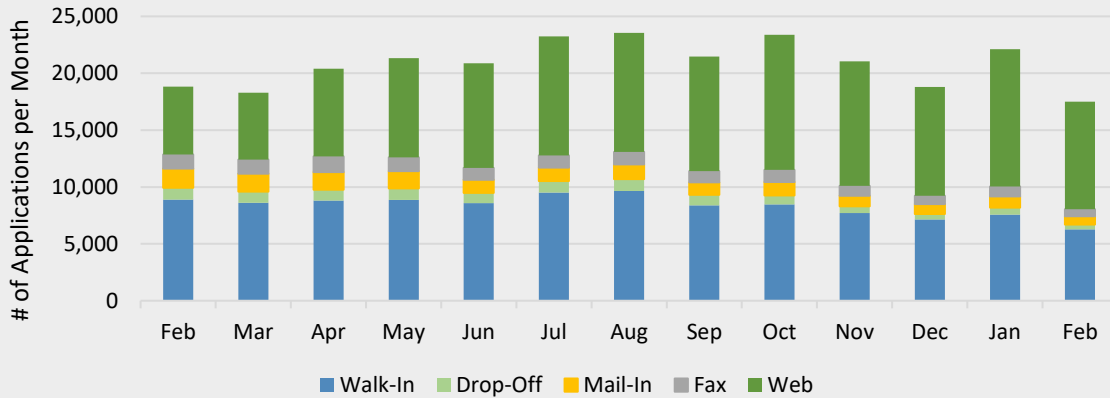




## PROCESSING

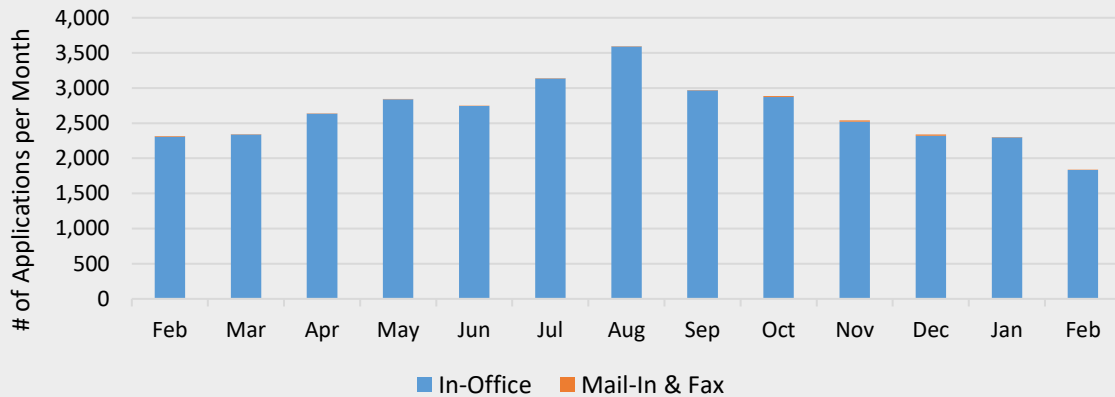
### Monthly SNAP Applications Received

17,513



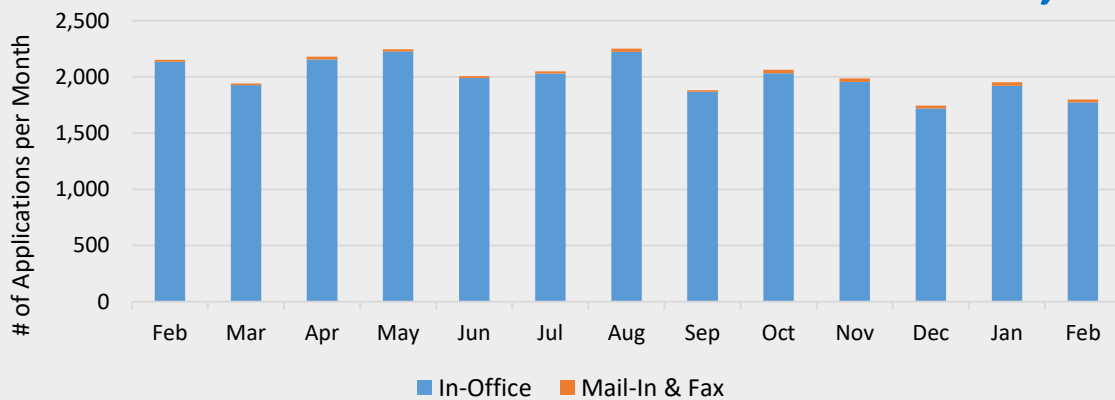
### Monthly TAFDC Applications Received

1,836



### Monthly EAEDC Applications Received

1,797





## EAEDC ENROLLMENT

EAEDC Recipients **19,699**

EAEDC Households **19,498**

Recipients Age 60+

**10,544**

Recipients With a Disability

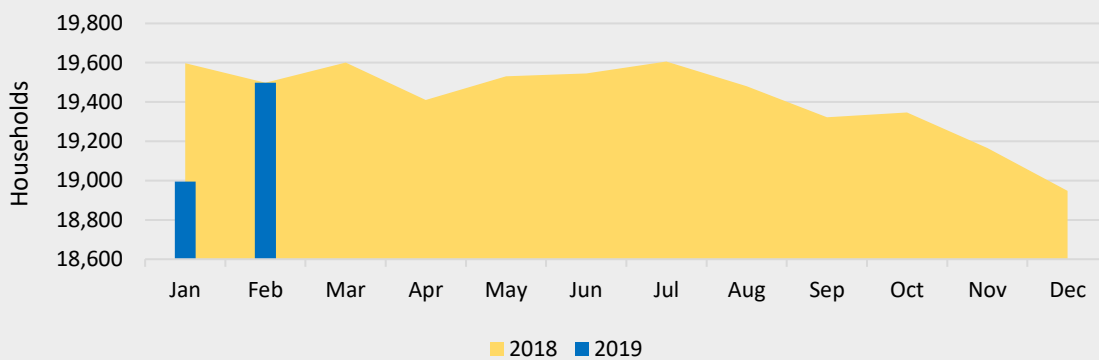
**9,928**

Recipients Age 18 or under

**523**

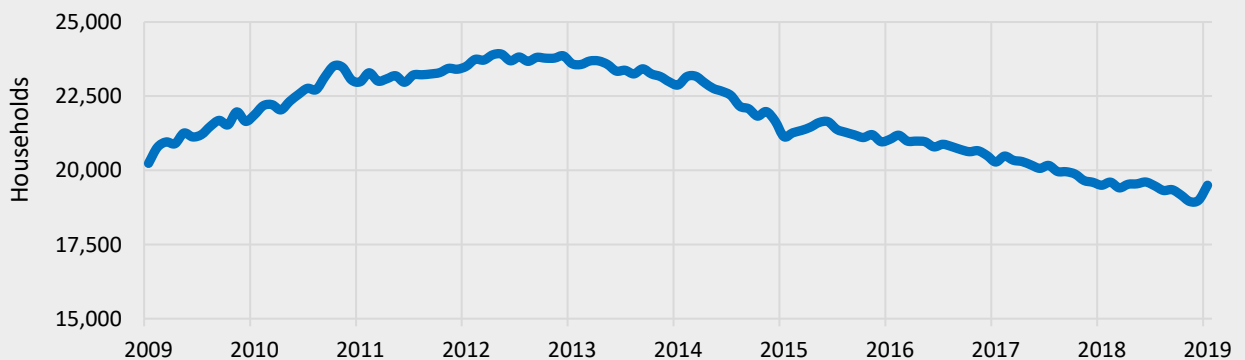
### EAEDC Caseload

*This is the number of households receiving EAEDC benefits in Massachusetts in 2018 and 2019.*



### EAEDC Caseload Trends

*This is the number of households receiving EAEDC benefits in Massachusetts in the last decade.*





## TAFDC ENROLLMENT

TAFDC Recipients **59,565**

TAFDC Households **29,791**

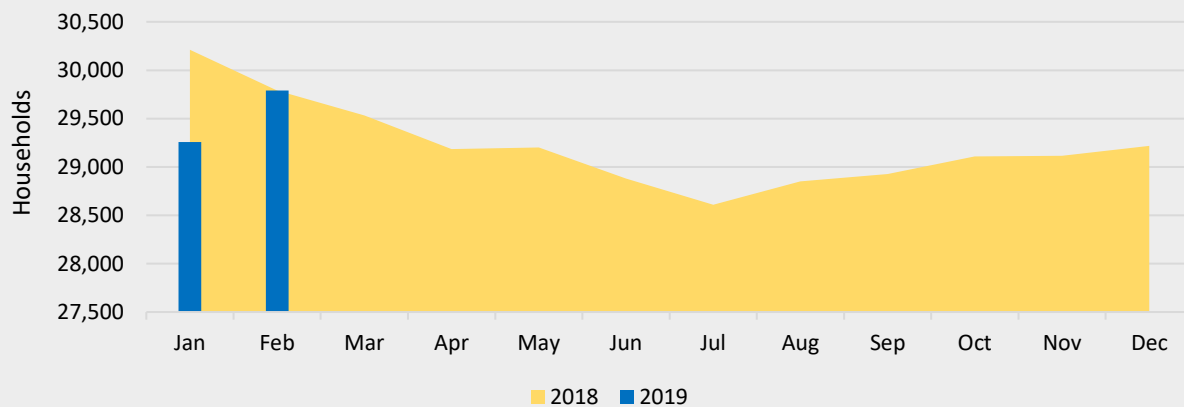
Recipients Age 60+  
**100**

Recipients With a Disability  
**5,441**

Recipients Age 18 or under  
**40,103**

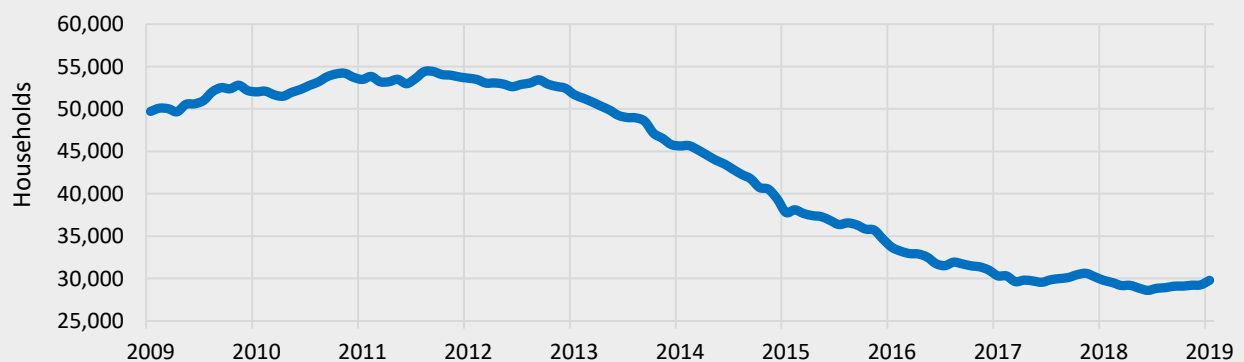
### TAFDC Caseload

*This is the number of households receiving TAFDC benefits in Massachusetts for 2018 and 2019.*



### TAFDC Caseload Trends

*This is the number of households receiving TAFDC benefits in Massachusetts in the last decade.*







## ADDITIONAL INFORMATION

### Background

Measure	Description
SNAP Recipients	This is the number of Massachusetts residents in households that receive SNAP benefits each month. These figures are finalized approximately six weeks after the end of the reporting month.
SNAP Accuracy Rate	Massachusetts ranks 35 out of 54 states/regions.
Average Daily Walk-in Visitors	Includes both cash and SNAP clients. Excludes those dropping off documents or seeking a new EBT card.
Calls Ending in IVR	Average calls that exited at a point in our Interactive Voice Response (IVR) or self-service menu. Likely exit reasons: client self-served successfully, client hang up.
Calls Unable to Connect	Average number of calls that heard a high volume message and were unable to wait for a live agent.
Calls Connected	Average number of calls connected to a live agent.
Average Caller Wait Time	On June 24, 2015, DTA introduced an improved phone system which allowed the Department to implement two new enhanced service features. Estimated wait time messaging informs callers how long they could expect to wait which allows them to decide whether to wait or to call back. DTA also increased the number of spaces in the wait queue from 100 to 200 allowing an increased number of callers to choose to wait to speak to a live agent. Due to the fact that more callers can choose to wait the caller wait time has also increased. DTA continues to monitor caller wait time and will implement strategies to improve the caller experience.
SNAP Application Processed Timely	The federal government measures this item on a rolling basis (note the overlap in months). Throughout the year, the federal government provides DTA with a projection for each time period. At year end the federal government finalizes the previous four quarters.
SNAP Churn	The SNAP program has always and will always realize some level of client churn. However reducing churn to the best of DTA's ability eliminates disruptions in benefits and improves operational efficiency. This is measured by analyzing new applications against the active caseload 90 days previous.
Recipients with a Disability	Active clients who have identified as having any disability.
EAEDC Caseload	This is the number of Massachusetts households that receive Emergency Aid to the Elderly, Disabled, and Children (EAEDC) cash benefits each month.
TAFDC Caseload	This is the number of Massachusetts households that receive Transitional Aid to Families with Dependent Children (TAFDC) cash benefits each month.

*\*To access background data right hand click on the graph and click on "Edit Data". This feature only available on the Microsoft Word version.*

# **NEW YORK STATE**

**ADA Complaint Form  
Reasonable Accommodation Notice  
ADA Notice  
Grievance Procedure Under the ADA**



## AMERICANS WITH DISABILITIES ACT COMPLAINT FORM

Please use this form to file a complaint based on disability in the provision of services, activities, programs or benefits.

Please submit this form to Equal Opportunity and Diversity at:

Office of Temporary and Disability assistance  
Equal Opportunity and Diversity  
40 North Pearl Street - 13A  
Albany, NY 12243  
Phone: 518-473-8555  
Fax: 518-473-8590  
Email: [accessibility@otda.ny.gov](mailto:accessibility@otda.ny.gov)

### COMPLAINANT INFORMATION

Name:

Home Address:

Home Phone:

E-mail Address:

1. Your claim is made against:

State Agency:

Name:

Title:

Address:

Phone:

2. Location(s) and date(s) of the circumstances giving rise to your complaint

Are the circumstances of your complaint continuing?

Yes:

No:



3. Please describe the alleged denial of services, activities, programs or benefits and your reason(s) for concluding that the conduct was discriminatory. Please include the name(s) of witnesses, if any, and attach supporting data, if available.

4. A. Have you filed a claim regarding this complaint with a federal, state or local government agency?

Yes:                      No:

B. Have you hired an attorney with respect to the allegations in the complaint?

Yes:                      No:

C. Have you instituted a legal suit or court action regarding this complaint

Yes:                      No:

5. This complaint form was completed by:

ADA Coordinator:                      Complainant:

Signature:                                      Date:

**Office of Temporary and Disability Assistance**

## **Reasonable Accommodation**

### **Reasonable Accommodation**

The State of New York is committed to assuring equal opportunity for persons with disabilities. To this end, it is OTDA policy to provide reasonable accommodation in all its accommodations, programs and services.

The Agency's Designee for Reasonable Accommodations (DRA) and Americans with Disabilities Act Coordinator (ADA Coordinator) is identified below. If you require accommodation for an OTDA program or service, please submit a request to:

Jessica Vaughn Tolle, DRA/ADA Coordinator

Bureau of Equal Opportunity and Diversity  
Office of Temporary and Disability Assistance  
Floor 13A, 40 North Pearl Street  
Albany, NY 12243

Phone: 518-473-8555

Fax: 518-473-8590

Email: [accessibility@otda.ny.gov](mailto:accessibility@otda.ny.gov)

- [Notice Under the Americans with Disabilities Act](#)
- [Grievance Procedure Under the Americans with Disabilities Act](#)
- [ADA Complaint Form](#)

**Office of Temporary and Disability Assistance**

**Office of Temporary and Disability Assistance****Notice Under the Americans with Disabilities Act****Notice Under the Americans with Disabilities Act**

In accordance with the requirements of title II of the Americans with Disabilities Act of 1990 ("ADA"), the Office of Temporary and Disability Assistance (OTDA) will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

**Employment:** OTDA does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under title I of the ADA.

**Effective Communication:** OTDA will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in OTDA's programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

**Modifications to Policies and Procedures:** OTDA will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in OTDA offices, even where pets are generally prohibited.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of OTDA should contact the Bureau of Equal Opportunity and Diversity as soon as possible but no later than 48 hours before the scheduled event.

The ADA does not require OTDA to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

OTDA will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

Any individual who is unsatisfied with the state entity's response to his or her needs as a person with a disability, or who is unsatisfied with the accommodation provided by the state entity, or who has been informally denied a requested accommodation, is entitled to file a [formal written complaint](#) with the agency. (28 C.F.R. § 35.107(b))

## Office of Temporary and Disability Assistance

**Office of Temporary and Disability Assistance**

# **Grievance Procedure Under the Americans with Disabilities Act**

## **Grievance Procedure Under the Americans with Disabilities Act**

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by OTDA. Employment-related complaints of disability discrimination are covered elsewhere, in policies available from the human resources office of OTDA.

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. No particular format of the complaint is required. However, you may choose to use [our form](#). Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.

**The complaint should be submitted by the grievant and/or his or her designee as soon as possible but no later than 60 calendar days after the alleged violation to:**

Jessica Vaughn Tolle, DRA/ADA Coordinator

Bureau of Equal Opportunity and Diversity  
Office of Temporary and Disability Assistance  
Floor 13A, 40 North Pearl Street  
Albany, NY 12243

Phone: 518-473-8555

Fax: 518-473-8590

Email: [accessibility@otda.ny.gov](mailto:accessibility@otda.ny.gov)

Within 15 calendar days after receipt of the complaint, the ADA Coordinator or his or her designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, the ADA Coordinator or his or her designee will respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of OTDA and offer options for substantive resolution of the complaint.

If the response by the ADA Coordinator or his or her designee does not satisfactorily resolve the issue, the complainant and/or his or her designee may appeal the decision within 15 calendar days after receipt of the response to the agency head or his or her designee or his or her designee.



Within 15 calendar days after receipt of the appeal, the agency head or his or her designee or his or her designee will respond in writing, and, where appropriate, in a format accessible to the complainant, with the agency's final resolution of the complaint, or indicating that the matter has been returned to the ADA Coordinator for further action. If further action is indicated, the complainant will be contacted within 15 days from the written response.

All written complaints received by the ADA Coordinator or his or her designee, appeals to the agency head or his or her designee or his or her designee, and responses from these two offices will be retained by OTDA for at least three years.

## **Office of Temporary and Disability Assistance**

## **NEW YORK CITY**

- **Civil Rights Complaint Intake Form**
- **Website: “Assistance for the Complainant”**
  - **User-friendly FAQ section**



Date:	Intake #:
Date of Walk-In if Applicable:	
Matter #, if Applicable:	

## INTAKE FORM

### Your Information

Name		Preferred Title (e.g. Dr., Ms., Mx)	Date of Birth
Address			
City		State	Zip
Cell Phone	Other Phone	Occupation	
Email	Race/Ethnicity	Primary Language	
Family Status: <input type="checkbox"/> Married <input type="checkbox"/> Domestic partner <input type="checkbox"/> Single <input type="checkbox"/> Other _____			
Emergency Contact			

### Information About the Person or Entity that you Want to Take Action Against

Name	Company if any		
Address			
City	State	Zip	Phone
Second Contact			

Address			
City	State	Zip	Phone
Date of most recent incident of discrimination:		Borough where incident occurred:	
Have you filed any complaint about this incident in any other place? <input type="checkbox"/> Yes <input type="checkbox"/> No			
If yes, check the place or describe below:			
<input type="checkbox"/> EEOC <input type="checkbox"/> NY State Division of Human Rights <input type="checkbox"/> HUD <input type="checkbox"/> HPD <input type="checkbox"/> NYCHA <input type="checkbox"/> Court			
<input type="checkbox"/> Other: _____			

#### My inquiry has to do with:

(check one, and then fill out the next section depending on your answer)

- ☐ Housing (Complete Section A and D)  
☐ Public Accommodation (store, restaurant, taxi, dentist office, etc.) (Complete Section B and D)  
☐ Employment (Complete Section C and D)  
☐ Discriminatory Harassment (Complete Section D)  
☐ Bias-based Profiling by Law Enforcement (Complete Section D)

Have you ever had an appointment with the Commission before?

☐ Yes ☐ No

List when, and the result of your inquiry:


### SECTION A: Housing (fill out only if your inquiry involves housing)

#### Type of Housing:

- ☐ Co-op ☐ Commercial ☐ Rental ☐ Shelter  
☐ SRO ☐ Owner-occupied ☐ Condo Approx. Number of Units \_\_\_\_\_

#### Basis of Discrimination -- Check all that apply:

- |  |   |  |  |
|--|---|--|--|
| <input type="checkbox"/> Race  | <input type="checkbox"/> Color            | <input type="checkbox"/> Presence of Children              | <input type="checkbox"/> Marital Status              |
| <input type="checkbox"/> Gender  | <input type="checkbox"/> Gender Identity  | <input type="checkbox"/> National Origin                   | <input type="checkbox"/> Sexual Orientation          |
| <input type="checkbox"/> Religion/Creed  | <input type="checkbox"/> Occupation       | <input type="checkbox"/> Lawful Source of Income           | <input type="checkbox"/> Alienage/Citizenship Status |
| <input type="checkbox"/> Age   | <input type="checkbox"/> Military Service | <input type="checkbox"/> Disability/Failure to Accommodate |  |
| <input type="checkbox"/> Victim of Domestic Violence, Sexual Violence, or Stalking |   |  |  |



**SECTION B: Public Accommodation** (fill out **only** if your inquiry involves a public accommodation)

Basis of Discrimination -- Check all that apply:

- |  |   |  |  |  |
|--|---|--|--|--|
| <input type="checkbox"/> Race                              | <input type="checkbox"/> Age              | <input type="checkbox"/> Religion/Creed  | <input type="checkbox"/> National Origin | <input type="checkbox"/> Sexual Orientation          |
| <input type="checkbox"/> Color                             | <input type="checkbox"/> Gender           | <input type="checkbox"/> Gender Identity | <input type="checkbox"/> Marital Status  | <input type="checkbox"/> Alienage/Citizenship Status |
| <input type="checkbox"/> Disability/Failure to Accommodate | <input type="checkbox"/> Military Service |  |  |  |

**SECTION C: Employment** (fill out **only** if your inquiry involves employment)

How many employees does your employer have? ☐ More than 4 ☐ More than 15

Are you in a union? ☐ Yes ☐ No Which union? \_\_\_\_\_

Basis of Discrimination -- Check all that apply:

- |   |                                    |  |  |
|---|------------------------------------|--|--|
| <input type="checkbox"/> Salary History   | <input type="checkbox"/> Race      | <input type="checkbox"/> Sexual Orientation  | <input type="checkbox"/> Alienage/Citizenship Status       |
| <input type="checkbox"/> Gender Identity  | <input type="checkbox"/> Gender    | <input type="checkbox"/> Credit History  | <input type="checkbox"/> Disability/Failure to Accommodate |
| <input type="checkbox"/> Marital Status   | <input type="checkbox"/> Pregnancy | <input type="checkbox"/> National Origin   | <input type="checkbox"/> Arrest/Conviction Record          |
| <input type="checkbox"/> Religion/Creed   | <input type="checkbox"/> Age       | <input type="checkbox"/> Unemployment Status   | <input type="checkbox"/> Military Service                  |
| <input type="checkbox"/> Caregiver Status | <input type="checkbox"/> Color     | <input type="checkbox"/> Status as Victim of Domestic Violence, Sexual Violence, or Stalking |  |

**SECTION D: Explain**

Briefly describe what happened:

---

---

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**OFFICE USE ONLY\*\*\*\*\*OFFICE USE ONLY \*\*\*\*\*OFFICE USE ONLY**

Date of Intake or Walk-In

Intake Number

Staff Member

1. Statute of Limitations deadline: LEB \_\_\_\_\_ EEOC \_\_\_\_\_

2. How did this person hear about the Commission? (check all that apply)

- |   |  |   |                                   |  |
|---|--|---|-----------------------------------|--|
| <input type="checkbox"/> CRB  | <input type="checkbox"/> Social Services     | <input type="checkbox"/> City Agency    | <input type="checkbox"/> Internet | <input type="checkbox"/> Elected Official  |
| <input type="checkbox"/> Community Org.                                   | <input type="checkbox"/> Commissioner        | <input type="checkbox"/> CCHR Website   | <input type="checkbox"/> 311      | <input type="checkbox"/> Private Lawyer    |
| <input type="checkbox"/> Social Media                                     | <input type="checkbox"/> Legal Services Org. | <input type="checkbox"/> Press          | <input type="checkbox"/> TV       | <input type="checkbox"/> Radio             |
| <input type="checkbox"/> Newspaper  | <input type="checkbox"/> Email               | <input type="checkbox"/> Flyer/Brochure | <input type="checkbox"/> Taxi TV  | <input type="checkbox"/> Other Complainant |
| <input type="checkbox"/> Advertisement (Please specify if possible) _____ |  |   |                                   |  |

Details: (If Elected Official, City Agency, Commissioner, or Other, write in the name/more information)

3. Language Access Issues:

a. Limited English Proficient? ☐ Yes ☐ No

b. Primary Language of Complainant: \_\_\_\_\_

c. In which language was intake conducted? \_\_\_\_\_

d. Method of interpretation: ☐ LEB staff ☐ Phone ☐ Volunteer ☐ Paid Interpreter

4. Were referrals made? ☐ Yes ☐ No Where? \_\_\_\_\_

5. Was a complaint filed? ☐ Yes ☐ No

Approved by \_\_\_\_\_

[Menu](#)

Search

[Complaint Process](#)[Mediation](#)[Settlement](#)[Highlights](#)[Decisions](#)

Select



- [Steps in the Complaint Process](#)
- [Assistance for the Complainant](#)
- [Assistance for the Respondent](#)
- [Complaint Process - Flowchart](#)

## Assistance for the Complainant

[Expand All](#)[Collapse All](#)

Click a topic, or press the enter key on a topic, to reveal its answer.

1. [How do I file a claim under the NYC Human Rights Law?](#)

2. [What is the difference between filing in court and at LEB?](#)

3. [Will I be provided with a lawyer when I file a complaint?](#)

4. [Can a lawyer represent me in bringing my claim to LEB?](#)

5. [What is the first step for filing a complaint?](#)

6. [I am a lawyer and I would like to file a complaint on behalf of my client: what do I do?](#)

7. [What happens after the complaint is filed?](#)

8. [What if, after I have filed my complaint with LEB, I decide I do not want my complaint investigated by LEB?](#)

**9. Will there be a chance to settle my case before a trial?****10. What are the possible results of the investigation?****11. What kind of compensation or other remedies can I get from my case?****12. Can I file a complaint if I am undocumented?****13. I filed a complaint and now the respondent is taking action against me: what can I do?****14. Can I remain anonymous while filing a complaint?****15. What if I want to report discrimination, but I do not want to be involved?****16. Is my complaint available in the public record?****17. Are there any costs or fees connected to filing a complaint with the NYC Commission on Human Rights?****18. I need interpretation in order to file a complaint, what should I do?****19. I need an accommodation for a disability in filing a complaint or attending an appointment or hearing, what should I do?**

# **NORTH CAROLINA**

- Grievance Procedure Explanation  
Complaint Form**

NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
GRIEVANCE PROCEDURE  
Title II Americans with Disabilities Act (ADA)  
Section 504 Rehabilitation Act (RA)

The Department of Health and Human Services (“DHHS” or “the Department”) has adopted the following internal grievance procedure to provide for the prompt and equitable resolution of complaints against a division within DHHS alleging an action prohibited by the U.S. Department of Justice regulations implementing Title II of the Americans with Disabilities Act, 28 CFR Part 35, or by the U.S. Department of Justice regulations implementing Section 504 of the Rehabilitation Act of 1973, 45 CFR Part 84.

The Department’s rules relating to ADA Grievance Procedures RA Grievance Procedures are codified at 10A NCAC 01E .0101 *et seq.*

This document sets out the procedures for filing and processing complaints.

**I. How to File a Complaint with the Department of Health and Human Services:**

You must file your complaint in writing within sixty (60) days of the date you become aware of the alleged violation. The complaint must contain the name and address of the person filing it, the name of the DHHS Division involved, the date(s) of the alleged violation, and a brief description of the alleged violation. If, due to a disability, you require secretarial assistance to prepare a complaint, the Department or Division ADA/RA coordinator shall provide such assistance upon request. The Department’s Compliance Attorney is M. Terry Hodges, Esq., Office of the Secretary, 101 Blair Drive, Raleigh, NC 27603, telephone 919-855-4800. The Department’s Special Advisor on the ADA is Jessica Keith, Office of the Secretary, 101 Blair Drive, Raleigh, NC 27603, telephone 919-855-4800.

The form for filing a complaint is appended to the end of this Grievance Procedure. Additionally, the form is available on the DHHS website and from the Department’s Compliance Attorney.

To file a complaint, completed forms must be mailed to:

DHHS ADA/RA Complaints  
Office of Legal Affairs  
2001 Mail Service Center  
Raleigh, NC 27699-2001



*NC DHHS Grievance Procedure  
Title II Americans with Disabilities Act/  
Section 504 Rehabilitation Act,  
Page 2.*

The following is a list of ADA/RA coordinators for each Division and Office of DHHS, with contact information:

<b>DHHS Division or Office</b>	<b>Division/Office ADA/RA Coordinator</b>
Division of Mental Health, Developmental Disabilities and Substance Abuse (DMH/DD/SA)	Glenda Stokes 919-715-3197
Division of Medical Assistance (DMA)	Sabrena Lea 919-855-4365
Division of Vocational Rehabilitation Services (DVR)	Phil Protz 919-855-3567
Division of State Operated Healthcare Facilities (DSOHF)	Laura White 919-855-4700
Division of Public Health (DPH)	Lin Taliaferro 919-733-9744
Division of Services for the Blind (DSB)	Kim Harrell 919-527-6716
Division of Child Care Development and Early Education (DCDEE)	Tammy Barnes 919-527-6335
Division of Services for the Deaf and Hard of Hearing (DSDHH)	Jeff Mobley 919-874-2212
Division of Aging and Adult Services (DAAS)	Lynne Berry 919-855-3427
Division of Social Services (DSS)	Kevin Kelley 919-527-6340
Division of Health Service Regulation (DHSR)	Amy Sawyer 919-855-3750
Office of Rural Health and Community Care	
Office of the Secretary	M. Terry Hodges, Esq. 919-855-4800

For any Division or Office which does not list an ADA/RA Coordinator, contact the Department's Compliance Attorney, M. Terry Hodges, Esq., 919-855-4800.

Please note that the Department will only process complaints involving a Division or Office of DHHS. If you have a complaint against a different state agency, please contact that agency directly.

## **II. Complaint Resolution by the Department**

### **A. Complaint, Investigation and Determination**

Within thirty (30) days of DHHS's initial receipt of a complaint, the Division ADA/RA Coordinator shall send written notification to the complainant of the Department's determination as to the validity of the complaint and a description of the resolution, if any.

To the extent practicable, DHHS's internal procedure shall be the following.

1. Upon receipt, a complaint will be logged into the Department's database.
2. Within two (2) business days of receipt, the complaint will be assigned to the appropriate Division ADA/RA coordinator. The Division ADA/RA coordinator will send a letter to the complainant acknowledging receipt of the complaint. The Division ADA/RA coordinator also will send a copy of the acknowledgment to the person or division that is the subject of the ADA/RA complaint. A template acknowledgment letter is appended to the end of this procedure.
3. As soon as practicable, the Division ADA/RA coordinator will assign the investigation to a Section Chief or other designee. The Section Chief or designee shall investigate the complaint. The investigation shall afford all interested persons and their representatives, if any, an opportunity to submit evidence relevant to the complaint.
4. As deemed appropriate in each case, any point during the investigation, the Section Chief or designee may consult with the Division ADA/RA coordinator, the Office of Legal Affairs, the Office of the Special Advisor on the ADA, the North Carolina Department of Justice and/or other knowledgeable individuals within the Department (including representatives of the Division of Services for the Deaf and the Hard of Hearing).
5. Within twenty (20) days of DHHS's initial receipt of the complaint, the Section Chief or designee will send proposed findings, recommendations and written notification to the following: (1) the Division ADA/RA Coordinator, (2) the Office of Legal Affairs, and (3) the Office of the Special Advisor on the ADA. The Section Chief shall not send the proposed findings, recommendations and written notification to the Division Director (as the Division Director may become involved if reconsideration is requested).
6. As deemed appropriate in each case, the Division ADA/RA Coordinator, the Office of Legal Affairs and/or the Office of Special Advisor on the ADA may review and/or revise the Section Chief's proposed findings and recommendations.

7. Within thirty (30) days of DHHS's initial receipt of a complaint, and following the review specified in Paragraph 5, the Division ADA/RA Coordinator shall send a determination letter to the complainant. The letter shall state the Department's determination as to the validity of the complaint and a description of the resolution, if any. The determination letter shall be sent by trackable mail. The determination letter shall notify the complainant of the following:

- a. If the complainant has a disability that renders a different form of communication necessary (*i.e.*, non-written communication), then upon request the Division ADA/RA coordinator shall make reasonable efforts to effectively communicate the determination to the complainant.
- b. If the complainant is dissatisfied with the Department's determination, he/she may request reconsideration of the determination by the Division Director. A request for reconsideration shall be filed within 30 (thirty) days after the complainant receives the Department's determination. The determination letter shall identify the name and contact information for the appropriate Division Director.

- c. A Reconsideration Request form shall be attached to or enclosed with the Department's determination letter.

8. The Division ADA/RA Coordinator shall send a copy of the Department's determination letter to the person or division that was the subject of the ADA/RA complaint. The notification shall be sent by trackable mail.

9. If warranted by extenuating circumstances or good cause, the Division or Office ADA/RA Coordinator may extend the thirty (30) day time period to send notice of the Department's determination of the validity of the complaint and a description of the resolution, if any, provided that the Department shall send the required notice within a reasonable time as provided by federal law.

Templates for a determination letter, and a reconsideration request, are appended to the end of this procedure.

## **B. Reconsideration of Department's Determination**

If a complainant is dissatisfied with the Department's determination, he/she may request a reconsideration by the Division Director. A request for reconsideration must be received by the Division Director within thirty (30) days after the complainant receives the Department's written determination, or within thirty (30) days after he/she receives the determination if it was communicated by other means.

A request for reconsideration shall be submitted to the appropriate Division Director using the Reconsideration Request form that will be enclosed with the written determination. A form for submitting a reconsideration request is attached to the end of this Grievance Procedure. Additionally, the form is available on the DHHS website and from the Division ADA coordinators.

Completed requests for reconsideration should be mailed to the appropriate Division Director, as identified on the reconsideration request form. Contact information for each Division Director also can be found on the DHHS website, [www.dhhs.nc.gov](http://www.dhhs.nc.gov).

The Division Director, or a designee, shall issue a written determination to a request for reconsideration within thirty (30) days after the Department receives a timely request for reconsideration. The Division Director also shall send the determination to the person or division that was the subject of the complaint. The determination will be sent by trackable mail. The Division Director shall also forward a copy of the determination to the Division ADA Coordinator, the Office of Legal Affairs and the Office of Special Advisor on the ADA.

Should the complainant have a known disability that renders a different form of communication necessary, the Division Director coordinator shall make reasonable efforts to effectively communicate the determination.

### **C. Records**

The Department will maintain records of the complaints, investigations and resolutions as required by its approved record retention schedule.

### **D. Revision**

This ADA/RA Grievance Procedure was last revised on September 21 , 2015.

### **E. Forms and Templates**

An ADA/RA complaint form is appended below. This form is also available on the DHHS website and from the Department Compliance Attorney, M. Terry Hodges, Esq.

NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
COMPLAINT FORM

Title II Americans with Disabilities Act (ADA)  
Section 504 Rehabilitation Act (RA)

INSTRUCTIONS: Please fill out (PRINT) this form completely and mail to the address listed on page 2.

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

TELEPHONE: \_\_\_\_\_

\_\_\_\_\_

If someone is filling out this form on your behalf, please indicate that person's name, address and telephone number below:

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

TELEPHONE: \_\_\_\_\_

\_\_\_\_\_

DHHS DIVISION INVOLVED: \_\_\_\_\_

DATE(s) the alleged violation(s) occurred: \_\_\_\_\_

DESCRIPTION OF ACTIONS YOU BELIEVE ARE PROHIBITED BY SECTION 504 of the REHABILITATION ACT OR OF TITLE II OF THE AMERICAN WITH DISABILITIES ACT. (Please list names and addresses of persons who were involved and who can be contacted to provide information relevant to this complaint. You may attach additional sheets as necessary. Please attach copies of any documents or evidence you would like DHHS to consider when investigating your request.)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Have efforts been made to resolve this complaint through other informal means?

*NC DHHS Reconsideration Request Form  
Title II Americans with Disabilities Act/  
Section 504 Rehabilitation Act,  
Page 2.*

\_\_\_ yes \_\_\_ no.

If so, please specify those means, and provide the status. \_\_\_\_\_

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Have you filed a complaint on this alleged violation with any federal office of civil rights, other agency, or in a court? \_\_\_ yes \_\_\_ no.

If so, please specify, and provide the status. \_\_\_\_\_

---

---

Have you previously filed a complaint on this alleged violation with any state agency?

\_\_\_\_\_ yes \_\_\_\_\_ no.

If so, please specify, and provide the status. \_\_\_\_\_

---

---

PRINTED NAME: \_\_\_\_\_ DATE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

Mail this form and any supporting information to:

DHHS ADA/RA Complaints  
Office of Legal Affairs  
2001 Mail Service Center  
Raleigh, NC 27699-2001

If you have a disability that renders a non-written form of communication necessary, the Department upon request shall make reasonable efforts to effectively communicate with you. For more information, please contact the Department's Compliance Attorney, M. Terry Hodges, Esq., NC DHHS Compliance Attorney, Office of the Secretary, 101 Blair Drive, Raleigh, NC 27603, telephone 919-855-4800.



File # \_\_\_\_\_  
Date Received \_\_\_\_\_

**North Carolina Department of Health and Human Services,**  
**Division of Social Services**  
**Complaint Form**

**Departamento de Salud y Servicios Humanos de Carolina del Norte,**  
**División de Servicios Sociales**  
**Forma De Querella**

Usted tiene derecho a presentar una queja si usted piensa que le trataron injustamente **por motivo de raza, color, nacionalidad, sexo, credo religioso, discapacidad, edad, creencias políticas, o en represalia o venganza por actividades previas de derechos civiles en algún programa o actividad realizados o financiados por el USDA o US HHS.** Usted puede llenar una queja por usted o a favor de otra persona. Si usted desea presentar una queja, puede hacerlo con el Departamento de Agricultura (USDA), o con el Departamento de Salud y Servicios Humanos (HHS); o para presentar una queja con el Departamento de Servicios Sociales de NC por favor contacte a: Carlotta Dixon al (919)527-6421. Por favor conserve la información de la persona con la que habló y la fecha.

Para presentar una queja con el Departamento de Agricultura o el Departamento de Salud y Servicios Humanos, vea las indicaciones en la parte inferior de la pagina 5.

Para proteger sus derechos, usted debe presentar esta queja en el plazo de 180 días desde la fecha que usted cree que le trataron de una forma injusta. Si usted no presenta su queja en el plazo de 180 días, usted puede perder su derecho para someter su queja.

You have a right to file a complaint if you think that you were treated unfairly because **of your race, color, national origin, sex, religious creed, disability, age, political beliefs, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA or US HHS.** You can file a complaint for yourself or for someone else. If you want to file a complaint, you may file with USDA, HHS, or NC DSS. If you want to file a complaint with NC DSS, please fill out this form and give one copy to the "Title VI Compliance Officer" or contact Carlotta Dixon at (919)527-6421. Please make sure to keep track of the name of the person you spoke with and the date.

To file a complaint directly with USDA or HHS please refer to the statement at the bottom of page 4.

To protect your rights, you must file this Complaint within 180 days of the date you believe you or someone else was treated unfairly. If you do not file your Complaint within 180 days, you may lose your right to file any Complaint.

---

1. Name (person filing Complaint)  
Nombre (persona presentando la queja)

---

2. Home Phone  
Teléfono de la casa

Business Phone  
Teléfono del trabajo

Cell Phone  
Teléfono celular

---

---

3. Home Address (street #, city, zip code)  
Dirección de su casa (# de calle, ciudad, código postal)

---

4. Are you filing this Complaint for someone else? No\_ Yes\_  
(If yes, please give that person's name and phone number)  
¿Está presentando esta queja por alguna otra persona? No\_\_\_\_\_Sí\_\_\_\_\_(Si su respuesta es sí, por favor escriba el nombre de esa persona y el número de teléfono)

---

5. Who do you think treated you unfairly?  
(Please state the Person, Agency, or Program)  
¿Quién usted piensa le trató injustamente?  
(indique por favor la persona, la agencia, o el programa)

---

6. Address of person/agency/program you believe treated you unfairly:  
Dirección de persona/agencia/programa que usted cree le trató injustamente:

---

7. When did the unfair treatment happen? (give a date if you can)  
¿Cuándo sucedió? (dé una fecha si puede)

---

8. Tell what happened and why you believe you were treated unfairly because of not speaking or understanding English well (Attach additional pages as needed).  
Diga qué sucedió y por qué usted cree que fue tratado injustamente a causa de que usted no puede entender o hablar bien el inglés. (Si necesita más espacio puede agregar más hojas).

---



9. Please list any person(s) (if any) we may contact for more information about what happened.

Name Address Phone Number Cell Phone

Enumere por favor cualquier persona(s) que nos pueda(n) dar más información de lo que sucedió.

Nombre Dirección Teléfono Teléfono Celular

10. Have you filed this Complaint with any other federal, state or local agency, or state or federal court? No\_\_\_ Yes\_\_\_ (If yes, please list the agency or court)

¿Ha presentado esta queja ante alguna agencia federal, estatal o local, o corte del estado o federal? No\_\_\_ Sí\_\_\_ (si contesta sí, por favor enumere la agencia o la corte)

11. How can this Complaint be resolved (how can the problem be corrected)?

¿Cómo puede esta queja ser resuelta (cómo se puede corregir el problema)?

12. Please list anyone else we should contact.

Por favor liste cualquier persona con la que debemos entrar en contacto.

13. Do you need special accommodations for us to communicate with you about this complaint (mark all that apply)?

\_\_\_ Braille      \_\_\_ Large Print      \_\_\_ Cassette Tape      \_\_\_  
\_\_\_ Computer Diskette      \_\_\_ Electronic Mail      \_\_\_ TDD  
\_\_\_ Sign Language Interpreter (specify language)  
\_\_\_ Foreign Language Interpreter (specify language)

¿Necesita arreglos especiales para hablar con usted acerca de este asunto? (Marque el medio de comunicación que necesita.)

\_\_\_ Sistema Braille, \_\_\_ Letras Impresas Grandes, \_\_\_ Audio en Casete,  
\_\_\_ Audio Disco, \_\_\_ Correo Electrónico, \_\_\_ Sistema para Sordos (TDD),  
\_\_\_ Intérprete por señas (indique el idioma) \_\_\_\_\_,  
\_\_\_ Intérprete Oral (indique el idioma) \_\_\_\_\_.

Signature:

Firma:

Date:

Fecha

**To file this complaint with the NC DSS State Agency, please mail it to:**

**Para presentar esta queja con el Departamento de Servicios Sociales de Carolina de Norte, envíela a:**

Carlotta Dixon, MHS, CPM  
Section Chief of Program Compliance  
Title VI/ADA-Civil Rights Coordinator  
NC Division of Social Services  
820 South Boylan  
MSC 2401  
Raleigh, North Carolina 27699

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, religious creed, disability, age, political beliefs, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](#), (AD-3027), found online at: [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) mail: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW  
Washington, D.C. 20250-9410
- (2) fax: (202) 690-7442; or
- (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

For any other information dealing with Supplemental Nutrition Assistance Program (SNAP) issues, persons should either contact the USDA SNAP Hotline Number at (800) 221-5689, which is also in Spanish or call the [State Information/Hotline Numbers](#) (click the link for a listing of hotline numbers by State); found online at: [http://www.fns.usda.gov/snap/contact\\_info/hotlines.htm](http://www.fns.usda.gov/snap/contact_info/hotlines.htm).

To file a complaint of discrimination regarding a program receiving Federal financial assistance through the U.S. Department of Health and Human Services (HHS), write: HHS Director, Office for Civil Rights, Room 515-F, 200 Independence Avenue, S.W., Washington, D.C. 20201 or call (202) 619-0403 (voice) or (800) 537-7697 (TTY).

De conformidad con la Ley Federal de Derechos Civiles y los reglamentos y políticas de derechos civiles del Departamento de Agricultura de los EE. UU. (USDA, por sus siglas en inglés), se prohíbe que el USDA, sus agencias, oficinas, empleados e instituciones que participan o administran programas del USDA discriminen sobre la base de raza, color, nacionalidad, sexo, credo religioso, discapacidad, edad, creencias políticas, o en represalia o venganza por actividades previas de derechos civiles en algún programa o actividad realizados o financiados por el USDA o US HHS.

Las personas con discapacidades que necesiten medios alternativos para la comunicación de la información del programa (por ejemplo, sistema Braille, letras grandes, cintas de audio, lenguaje de señas americano, etc.), deben ponerse en contacto con la agencia (estatal o local) en la que solicitaron los beneficios. Las personas sordas, con dificultades de audición o discapacidades del habla pueden comunicarse con el USDA por medio del Federal Relay Service [Servicio Federal de Retransmisión] al (800) 877-8339. Además, la información del programa se puede proporcionar en otros idiomas.

Para presentar una denuncia de discriminación, complete el Formulario de Denuncia de Discriminación del Programa del USDA, (AD-3027) que está disponible en línea en: [http://www.ocio.usda.gov/sites/default/files/docs/2012/Spanish\\_Form\\_508\\_Compliant\\_6\\_8\\_12\\_0.pdf](http://www.ocio.usda.gov/sites/default/files/docs/2012/Spanish_Form_508_Compliant_6_8_12_0.pdf), y en cualquier oficina del USDA, o bien escriba una carta dirigida al USDA e incluya en la carta toda la información solicitada en el formulario. Para solicitar una copia del formulario de denuncia, llame al (866) 632-9992. Haga llegar su formulario lleno o carta al USDA por:

- (1) correo: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410
- (2) fax: (202) 690-7442; o
- (3) correo electrónico: [program.intake@usda.gov](mailto:program.intake@usda.gov).

Para obtener información adicional relacionada con problemas con el Programa de Asistencia Nutricional Suplementaria (SNAP, por sus siglas en inglés), las personas deben comunicarse con el número de línea directa USDA SNAP Hotline al (800) 221-5689, que también está disponible en español, o llame a los números de [información/líneas directas de los estados](#) (haga clic en el vínculo para ver una lista de los números de las líneas directas de cada estado) que se encuentran en línea en: [http://www.fns.usda.gov/snap/contact\\_info/hotlines.htm](http://www.fns.usda.gov/snap/contact_info/hotlines.htm)

Para presentar una denuncia de discriminación relacionada con un programa que recibe asistencia financiera federal a través del Departamento de Salud y Servicios Humanos de los EE. UU. (HHS, por sus siglas en inglés), escriba a: HHS Director, Office for Civil Rights, Room 515-F, 200 Independence Avenue, S.W., Washington, D.C. 20201, o llame al (202) 619-0403 (voz) o al (800) 537-7697 (sistema TTY).

# **NORTH DAKOTA**

## **Civil Rights Complaint Form “Your Civil Rights” Notification**



## CIVIL RIGHTS COMPLAINT

NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES

LEGAL ADVISORY UNIT

SFN 143 (7-2018)

Individual or Organization Against Whom the Complaint is Made

Basis of the Discrimination (check all that apply)

- ☐ Race ☐ Age ☐ Religion ☐ National Origin ☐ Political Beliefs+
- ☐ Color ☐ Sex ☐ Disability ☐ Status with Respect to Marriage or Public Assistance

Reason for Complaint - Describe in detail when, where, and how the alleged discrimination occurred.

Signature (If electronically submitted, a typed name is considered a signature)

Date

Name

Telephone Number

Address

City

State

ZIP Code

Send to: Program Civil Rights Office  
North Dakota Department of Human Services, Legal Advisory Unit  
600 E Boulevard Avenue, Department 325  
Bismarck, ND 58505-0250  
(701) 328-2311  
TTY 1-800-366-6888; FAX (701) 328-2173



Send to: Program Civil Rights Office  
North Dakota Department of Human Services, Legal Advisory Unit  
600 E. Boulevard Avenue, Department 325  
Bismarck, ND 58505-0250  
701-328-2311  
TTY 1-800-366-6888; FAX 701-328-2173



## NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES YOUR CIVIL RIGHTS

### What is the policy of the North Dakota Department of Human Services (DHS)?

Discrimination means treating someone differently because of a particular characteristic such as race, color, sex, age, disability, or religion. DHS makes available all services and assistance without regard to race, color, sex, age, disability, national origin, religion, political beliefs, or status with respect to marriage or public assistance. These laws must be followed by persons who contract with or receive funds to provide services for DHS, including the states eight regional human service centers, the State Hospital, the Developmental Center, and county social services.

The policies of DHS also require that:

- You be given the chance to apply for assistance or services, or both.
- The same eligibility standards apply to you as those standards apply to others in similar situations.

In accordance with Federal law, and U.S. Department of Agriculture (USDA) and U.S. Department of Health and Human Services (HHS) policy, DHS is prohibited from discriminating on the basis of race, color, sex, age, disability, national origin, religion, or political beliefs.

### What do I do if someone has discriminated against me?

You may file a written complaint if you believe you have been discriminated against because of race, color, sex, age, disability, national origin, religion, or status with respect to marriage or public assistance, in accordance with Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, the Age Discrimination Act, the Americans with Disabilities Act, and the North Dakota Human Rights Act, or if you believe you have been discriminated against because of your political beliefs, in violation of USDA policy.

### A Civil Rights Complaint Form (SFN 143) is also available in a PDF fillable format at:

<http://www.nd.gov/dhs/misc/nondiscrimination.html>

The Program Civil Rights Officer and Program ADA/504 Coordinator work together to prevent and eliminate discrimination against individuals in the delivery of programs and services administered and supervised by DHS and to make all programs and activities accessible to people with disabilities.

### Where do I file a complaint?

Persons who need accommodations or have questions related to discrimination and the delivery of human services may contact any of the following offices. Written complaints may be filed with your local county social service office or any of the following:

Program Civil Rights Office North Dakota Department of Human Services Legal Advisory Unit 600 E. Boulevard Avenue, Department 325 Bismarck, ND 58505-0250 (701) 328-2311 TTY 1-800-366-6888; FAX (701) 328-2173 Email: dhslau@nd.gov	*U.S. Department of Health & Human Services Office for Civil Rights 200 Independence Avenue SW HHH Building, Room 509-F Washington, DC 20201 1-800-368-1019 TDD 1-800-537-7697; FAX (202) 619-3437 Email: ocrmail@hhs.gov
*U.S. Department of Health & Human Services Office for Civil Rights, Region VIII 1961 Stout Street, Room 08-148 Denver, CO 80294 1-800-368-1019 TDD 1-800-537-7697; FAX (202) 619-3818 Email: ocrmail@hhs.gov	* + U.S. Department of Agriculture Director, Office of Adjudication 1400 Independence Avenue SW Washington, DC 20250-9410 1-866-632-9992 TTY 1-800-877-8339; FAX (202) 690-7442 Email: program.intake@usda.gov

\*State and local agencies are required to comply with the North Dakota Human Rights Laws that prohibit discrimination based on "status with respect to marriage or public assistance." However, federal agencies are not required to investigate complaints based on the North Dakota Human Rights Laws.

+ Under USDA policy, discrimination is prohibited also on the basis of religion or political beliefs.

### When should I file a complaint?

The complaint must be filed within 180 days of the incident. Include in your complaint the nature of the discrimination, where and when it took place, who discriminated against you, and all other important facts. Remember to date the form and sign your name.

### What happens when I file a complaint with the DHS Program Civil Rights Office?

The Program Civil Rights Office will determine if the nature of the complaint is within its jurisdiction. If it is, an investigation will be conducted and you will know the outcome of the complaint within 60 business days of when it was filed. If it is not, you will receive a letter. If you file your complaint with another agency, they will notify you according to their policies.



## Civil Rights

### **What is the policy of the Department of Human Services (DHS)?**

DHS makes available all services and assistance without regard to race, color, religion, national origin, age, sex, disability, political beliefs, or status with respect to marriage or public assistance. Persons who contract with or receive funds to provide services for DHS must follow these laws.

The policies of DHS also require that:

- You be given the chance to apply for assistance and/or services, or both.
- \* The same eligibility standards applied to you as others in similar situations.

In accordance with Federal law and U.S. Department of Agriculture (USDA) and U.S. Department of Health and Human Services (HHS) policy, ND DHS is prohibited from discriminating on the basis of race, color, national origin, sex, age, disability, religion or political beliefs.

### **What do I do if someone has discriminated against me?**

You may file a written complaint using the SFN143 - Civil Rights Complaint Form on the following page if you believe you have been discriminated against because of race, color, religion, national origin, age, sex, disability or status with respect to marriage or public assistance, in accordance with Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, the Age Discrimination Act, the Americans with Disabilities Act and the North Dakota Human Rights Act, or if you believe you have been discriminated against because of your political beliefs, in violation of USDA policy.

### **Where do I file a complaint?**

Written complaints can be filed with your local county social service office or any of the following:

Program Civil Rights Office  
North Dakota Department of Human Services  
Legal Advisory Unit  
600 E. Boulevard Avenue, Department 325  
Bismarck, ND 58505-0250  
701-328-2311  
TTY 800-366-6888  
Fax 701-328-2173

U.S. Department of Health & Human Services  
Office for Civil Rights  
200 Independence Avenue SW  
HHH Building, Room 509-F  
Washington, DC 20201  
202-619-0403  
TTY 800-537-7697  
Fax 202-619-3437

U.S. Department of Health & Human Services  
Office for Civil Rights, Region VIII  
1961 Stout Street  
Room 08-148  
Denver, CO 80294  
800-368-1019  
TDD 800-537-7697  
Fax 202-619-3818

\*U.S. Department of Agriculture  
Office of Adjudication  
1400 Independence Avenue SW  
Washington, DC 20250-9410  
866-632-9992  
Fax 202-690-7442  
TTY 800-877-8339  
Email: [program.intake@usda.gov](mailto:program.intake@usda.gov)



**\*\*State and local agencies are required to comply with the ND Human Rights Law that includes “status with respect to marriage or public assistance”. However, federal agencies are not required to investigate complaints related to the ND Human Rights Laws.**

**When should I file a complaint?**

The complaint must be filed within 180 days of the incident. Include in your complaint the nature of the discrimination; where and when it took place; who discriminated against you; and all other important facts. Remember to date the form and sign your name.

**What happens when I file a complaint with the ND DHS Program Civil Rights Office?**

The Program Civil Rights Office will determine if the nature of the complaint is within its jurisdiction. If it is, an investigation will be conducted and you will know the outcome of the complaint within 60 business days of when it was filed. If it is not, you will receive a letter. If you file your complaint with another agency, they will notify you accordingly.

# **OHIO**

- **Civil Rights Complaint Notification on  
Back of Benefits Applications**
- **Cuyahoga County Affirmation Statement  
Regarding Title VI and LEP Training**
  - **Discrimination Complaint**
- **Ohio Discrimination Complaint Process  
Flowchart**

# Request for Cash, Food Stamp, and Medical Assistance

Ohio Department of Job and Family Services

## 1. Tell us about you (the applicant)

Complete this section for you or for the person for whom you are applying.

First Name, Middle Initial

Last Name

Are you:

☐ Visually Impaired

☐ Hearing Impaired

Do you need any of the following services?

☐ Interpreter

☐ Other:

☐ Sign Language

### Office Use Only

Date Received: \_\_\_\_\_

Application Number: \_\_\_\_\_

Case Number: \_\_\_\_\_

Expedited Food Stamps: ☐ Yes ☐ No

PRC Requested: ☐ Yes ☐ No

Child Care Requested: ☐ Yes ☐ No

Have you, or anyone living with you, ever received cash, food stamp, or medical assistance? ☐ Yes ☐ No  
If yes, who: \_\_\_\_\_ Where (City/County/State): \_\_\_\_\_

## 2. Tell us how to reach you

Complete this section for you or for the person for whom you are applying.

Street Address ☐ Check here if you are homeless

City

County

State

Zip Code

Phone Number

( )

Additional Phone Number

( )

E-mail Address

Mailing Address (if different):

Street Address

City

County

State

Zip Code

## 3. Tell us if you are an authorized representative

An authorized representative is someone who assists the applicant by completing the application process. If you are filling out this form as an authorized representative, please fill out the following.

First Name, Middle Initial

Last Name

Street Address

City

County

State

Zip Code

Phone Number

( )

Additional Phone Number

( )

E-mail Address

## 4. Sign Here

Signature of Applicant or Authorized Representative

Print Name

Date

## 5. Tell us if you need food stamp assistance right away

These questions will help us decide if you qualify to get food stamp assistance within 24 hours to 7 days.

How many people live with you and buy, fix, and eat meals with you? \_\_\_\_\_

Answer the following questions for only the people who buy, fix and eat meals with you.

Is your total gross income before taxes for the current month less than \$150? ☐ Yes ☐ No

Is your total net income after taxes and paying for such things as housing costs, child/dependent care costs, or child support payments for the current month zero? ☐ Yes ☐ No

Are your total resources in cash, checking, and savings accounts less than \$100? ☐ Yes ☐ No

Are your monthly rent or mortgage and utilities (such as gas, electric, water, and phone) more than your total monthly gross income before taxes? ☐ Yes ☐ No

Are you a migrant or seasonal farm worker? ☐ Yes ☐ No

## 6. Tell us about the people in your home

You must list everyone who lives with you even if they are not applying. Please be sure to list your name first. If you need more space, attach a separate piece of paper.

- **Social Security Number:** You only have to list a social security number for someone who is applying for cash, food stamp, or medical assistance. You do not have to provide a social security number for someone applying for alien emergency medical assistance.
- **U.S. Citizen:** You only have to indicate if someone is a U.S. citizen if they are applying for cash, food stamp, or medical assistance.
- **Sex (gender):** If your household is only applying for food stamp assistance, you do not have to complete the sex (gender) question.
- **Race/Ethnicity:** Title VI of the Civil Rights Act of 1964 allows us to ask for racial/ethnic (Hispanic or Latino) information. If you do not want to give us this information, it will have no effect on your case. If you do not give us this information, the worker will enter an answer.

Name (First, Last)	Relationship to You (spouse, son, friend, etc.)	Social Security Number	Date of Birth	Sex  Write M or F	U.S. Citizen  Write Y or N	Race	Hispanic or Latino  Write Y or N
	Self						

Are you married? ☐ Yes ☐ No Spouse's name \_\_\_\_\_

Are you, or anyone you are applying for, pregnant? Only answer if applying for cash or medical assistance.

☐ Yes ☐ No If yes, who? \_\_\_\_\_

Do you, or anyone you are applying for, need nursing home / in-home care?

☐ Yes ☐ No If yes, who? \_\_\_\_\_

What is your preferred language? Spoken \_\_\_\_\_ Written \_\_\_\_\_

## 6. Tell us about the people in your home (continued)

Is anyone 60 years of age or older? ☐ Yes ☐ No

If yes, answer the questions in this section. If no, please skip to question 7.

Is this person(s) receiving disability benefits? ☐ Yes ☐ No

If yes, from what source? \_\_\_\_\_

Is this person(s) unable to prepare meals due to a disability? ☐ Yes ☐ No

If you answered "Yes" to the last three questions, does this person(s) wish to receive food stamp assistance separately from the other people you live with? ☐ Yes ☐ No

## 7. Tell us about your finances

Will you or the people in your home receive income this month? ☐ Yes ☐ No

Income refers to all the money that you and the people in your home receive such as earnings from employment, child/spousal support, disability benefits, retirement benefits, Workers' Compensation, Social Security, SSI, Veterans Benefits, etc.

If yes, please complete the table below.

Name	Type of Income	Amount of Income (before taxes)	How Often Received (weekly, bi-weekly, etc)	Date Last Received

How much do you and the people in your home have in cash, checking, or savings (such as bank accounts, annuities, stocks, or bonds)?

Give your best estimate of the total: \$ \_\_\_\_\_

Did anyone in your home leave a job or lose a job within the last 60 days? ☐ Yes ☐ No

If yes, who? \_\_\_\_\_ When? \_\_\_\_\_ For what reason? \_\_\_\_\_

Is anyone in your home on strike from a job? ☐ Yes ☐ No

If yes, who? \_\_\_\_\_

## 8. Tell us about your expenses

Which expenses do you and the people in your home pay? Check all that apply. List the amount for each expense.

☐ Day care costs for a child or other dependent(s)

Estimated amount paid per month: \$ \_\_\_\_\_

If you need help with child care costs, contact your local CDJFS for a child care application.

☐ Child support payments

Estimated amount paid per month: \$ \_\_\_\_\_

☐ Medical expenses for anyone who is disabled or age 60 or older

These include expenses such as medical bills, prescriptions, health insurance premiums, or other medical services.

Estimated amount paid per month: \$ \_\_\_\_\_

☐ Rent / Mortgage payments

Estimated amount paid per month: \$ \_\_\_\_\_

Utilities -Provide an estimated amount paid per month for each utility.

Do you pay for heating and/or  
air conditioning?

☐ Yes ☐ No

☐ Gas \$ \_\_\_\_\_

☐ Telephone \$ \_\_\_\_\_

☐ Garbage \$ \_\_\_\_\_

☐ Electricity \$ \_\_\_\_\_

☐ Water \$ \_\_\_\_\_

☐ Sewer \$ \_\_\_\_\_

☐ Other \$ \_\_\_\_\_

## 9. Signature of person who completed this application

### By signing this application:

- I understand the questions on this form and certify, under penalty of perjury, that all my answers are correct and complete to the best of my knowledge, including information about the citizenship or alien status of each household member applying for assistance.
- I state under penalty of perjury I have disclosed all annuities and other similar financial devices in which I and/or my spouse have any interest.
- I understand and agree to provide documents to prove what I have said.
- I understand and agree that the CDJFS may contact other persons or organizations to obtain the necessary proof of my eligibility and level of assistance.
- I understand that by signing this application and receiving OWF, I am assigning to the State of Ohio any rights to all support owed to me and the minor children in the assistance group.
- I understand that in some instances, I may be asked to give consent to the CDJFS to make whatever contacts are necessary to determine my eligibility.

Signature of Applicant or Authorized Representative	If Authorized Representative, Relationship to Applicant	Date

## 10. What to do when you complete this application



Return this application to your local County Department of Job and Family Services office.

### Your civil rights

Federal law and the policies of the U.S. Department of Agriculture (USDA), the U.S. Department of Health and Human Services (HHS), the Ohio Department of Job and Family Services (ODJFS) and the local County Department of Job & Family Services (CDJFS) say that we must not discriminate on the basis of race, color, national origin, sex, age, or disability. Under the Food Stamp Act and USDA policy, discrimination is prohibited also on the basis of religion or political beliefs.

To file a discrimination complaint, write or call USDA, HHS, or ODJFS.

#### Write or Call:

##### USDA

Director, Office of Civil Rights  
Room 326-W, Whitten Building  
1400 Independence Avenue, S.W.  
Washington, D.C. 20250-9410  
(202) 720-5964 (voice and TDD)

#### Write or Call:

##### HHS

Region V, Office of Civil Rights  
233 N. Michigan Ave., Suite 240  
Chicago, Illinois 60601  
(312)886-2359 (voice)  
(312) 353-5693 (TDD)  
(312)886-1807 (fax)

#### Write or Call:

##### ODJFS

Bureau of Civil Rights  
150 E. Gay Street, 18<sup>th</sup> Floor  
Columbus, OH 43215  
(614) 644-2703 (voice)  
1-866-227-6353 (toll free)  
(614) 752-6381 (fax)  
1-866-221-6700 (TTY)

USDA, HHS, and ODJFS are equal opportunity providers and employers.



Ohio requires county workers to sign affidavit after trainings reiterating their pledge to provide interpreters to users with LEP

**Civil Rights Training  
Attendance Verification  
2018**

**Cuyahoga Job and Family Services  
Affirmation Statement  
2018 Civil Rights Title VI and Limited English Proficient Training**

The Department of Job and Family Services (ODJFS), together with its county partners and contractors, are committed to full compliance with Title VI of the Civil Rights Act of 1964. One important element of Title VI is non-discrimination on the basis of national origin, including provision of language access services to persons with Limited English Proficiency (LEP).

LEP customers shall receive timely and effective oral interpreter and written translation services at no cost. All Cuyahoga Job and Family Services staff must comply with Title VI of the Civil Rights Act of 1964.

Staff will be subject to progressive discipline if they do not comply with LEP requirements.

**I will provide Limited English Proficient customers access to all services provided by Cuyahoga Job and Family Services Agency, through agency bi-lingual staff and/or our contracted provider for interpretation services in a timely manner at no cost to the customer. I understand that I should contact a supervisor/manager if additional assistance is required to obtain these services.**

**PRESENTER(S)**

--	--

**DATE**

**TYPE**

--	--

**CENTER/DEPARTMENT**

**AREA**

--	--

**CLEARLY PRINT NAME**

**FIRST NAME**

**LAST NAME**

--	--

**SIGNATURE – I understand my obligation to assist agency customers in receiving interpreter services.**

--

Cuyahoga Job and Family Services • 1641 Payne Avenue, Cleveland, Ohio 44114 • (216) 987-7000  
Ohio Relay Service (TTY) 711

**Our Mission:**  
To promote economic self-sufficiency and personal responsibility  
for families by providing a broad range of quality services.

Ohio Department of Job and Family Services  
**DISCRIMINATION COMPLAINT**

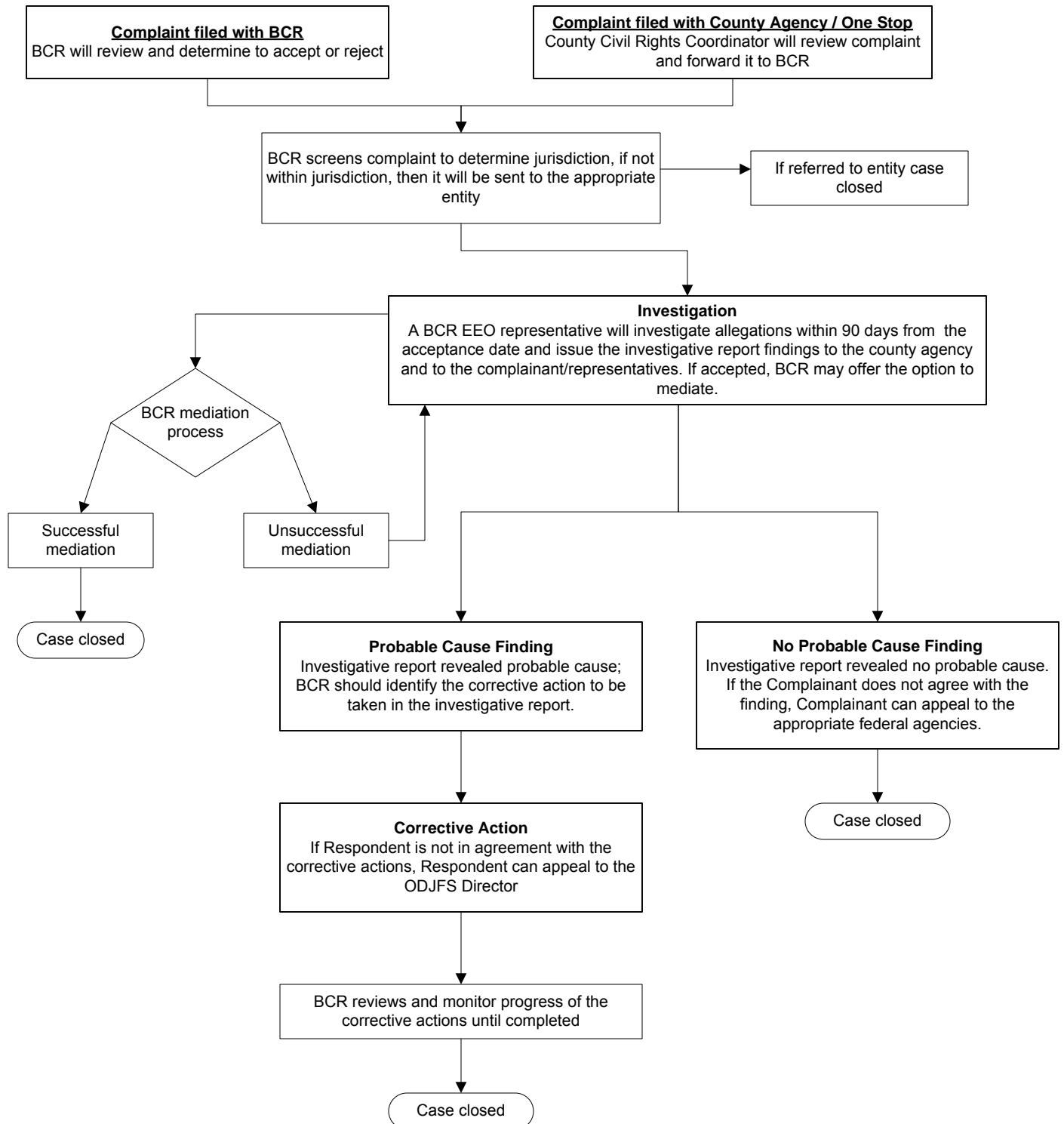
Bureau of Civil Rights  
30 E. Broad Street, 30<sup>th</sup> Floor  
Columbus, Ohio 43215-3414  
(614) 644-2703 or Toll Free 1-866-227-6353 FAX 614-752-6381  
*Assistance with completion of this form shall be provided.*

1. Name: <i>(Last)</i>		<i>(First)</i>		<i>(Middle Initial)</i>	
Home Address <i>(Number and Street)</i>			2. Work Phone Number (###) ### - ####		
<i>(City)</i>		<i>(Zip)</i>		3. Home Phone Number (###) ### - ####	
4a. On what basis do you believe you have been discriminated against? <input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> Religion <input type="checkbox"/> Sex <input type="checkbox"/> Disability <input type="checkbox"/> National Origin <input type="checkbox"/> Age <input type="checkbox"/> Political Belief (Food Stamps Only)			4b. Program/Services Area <input type="checkbox"/> Adoption/Foster Care/Child Welfare <input type="checkbox"/> Unemployment <input type="checkbox"/> WIOA <input type="checkbox"/> Child Support <input type="checkbox"/> Health Services <input type="checkbox"/> TANF <input type="checkbox"/> Food Stamps <input type="checkbox"/> Other _____		
5. Race of the Complainant <input type="checkbox"/> American Indian/Alaska Native <input type="checkbox"/> Native Hawaiian/Other Pacific Islander <input type="checkbox"/> Asian <input type="checkbox"/> White/Caucasian <input type="checkbox"/> Black/African American <input type="checkbox"/> Other _____			6. Complainant's Ethnicity <input type="checkbox"/> Hispanic/Latino <input type="checkbox"/> Not Hispanic/Latino		7. Sex of the Complainant <input type="checkbox"/> Male <input type="checkbox"/> Female
8. Name the agency you believe has discriminated against you:				<i>(County)</i>	
9. Location: <i>(Number and Street)</i>		<i>(City)</i>		<i>(State)</i>	<i>(Zip)</i>
10. Name(s) and title(s) of who you believe discriminated against you:					
11. Date of alleged discrimination		12. Working/training site where you were located: <i>(if applicable)</i>			
13. Please explain why you believe the treatment or incident you experienced was because of your race, color, religion, national origin, age, sex, disability, political affiliation or belief, and/or for WIOA Participants: citizenship/participant status. (Please attach additional sheet(s) of paper, if necessary to fully state your complaint.)					
14. Date complaint written		15. Complainant's signature			
FOR OFFICIAL USE ONLY					
Complaint No.		BCR staff assigned <i>(initials)</i>		Date charge received	
County Agency <i>(specify CSEA, PCSA, CDJFS, ODJFS, etc.)</i>			Program <i>(OWA, WIOA, TANF, Food Stamps)</i>		



Ohio Department of Job and Family Services  
Bureau of Civil Rights (BCR)  
**Discrimination Complaint Process**

Allegation of Discrimination, Harassment or Retaliation  
Must be filed 180 days from the alleged act. For MEPA 2 years from  
the alleged act



# **OREGON**

- **Website: “Filing Customer Service or Privacy Complaints or a Report of Discrimination”**
- **Customer Service/Civil Rights Complaint Form**

## Filing Customer Service or Privacy Complaints or a Report of Discrimination

If you have a complaint regarding the services you received from the Department of Human Services (DHS), the protection of your private information or feel you have been discriminated against, this document will explain the process to file a report of discrimination, or a customer service or privacy complaint.

### **Mail, fax or email completed complaint to:**

Department of Human Services  
Governor's Advocacy Office  
500 Summer Street N.E., E-17  
Salem, OR 97310-1097  
Fax: 503-378-6532  
Email: GAO.CR@state.or.us

This document can be provided upon request in alternate formats for individuals with disabilities or in a language other than English for individuals with limited English skills. To request this form in another format or language, contact the Governor's Advocacy Office at 503-945-5941.

**Do not** use this form if either of the following applies to you:

### **1. Your complaint is with the Office of Vocational Rehabilitation Services (OVRs).**

If you disagree with an action or decision, contact your local OVRs office or call the OVRs dispute resolution coordinator at 503-945-6253.

Free legal services are available from the Client Assistance Program (CAP), a service of Disability Rights Oregon. CAP is not a state agency or part of OVRs.

Contact CAP at:

Voice: 503-243-2081

Toll-free voice: 1-800-452-1694

TTY at 503-323-9161 and toll-free TTY at 1-800-556-5351

### **2. Your complaint is with Child Welfare Services and you disagree with a decision that was made. Please contact your DHS caseworker or local Child Welfare Office and ask what can be done about the decision.**

Do not use this form for such things as:

- Adoption committee decision;
- Court rulings or matters to be reviewed by the juvenile court;
- Child protective services actions or decisions;
- You have asked for a contested case hearing or started some other court action;
- Any other exception found in Oregon Administrative Rules 413-010-043.

## **DHS customer service and confidentiality expectations**

Good customer service is important to DHS. You have the right to:

- Be treated fairly and respectfully;
- Receive correct and complete information;
- Have DHS programs and benefits that you qualify for explained;
- Have your calls returned within one or two working days;
- Have your benefits or changes processed in a reasonable amount of time;
- Have your health and personal information kept confidential.

## **Resolving customer service and privacy complaints**

DHS wants to provide quality customer service and to keep your personal information confidential. However, if you are not satisfied or have a complaint, DHS recommends that you first talk to your worker/counselor or talk to a manager. However, you do not need to do this before you file a complaint. You can file a complaint by completing this form within 60 days after the incident happened. This form may be returned to any DHS office or forwarded directly to the Governor's Advocacy Office (GAO), *(the contact information is listed on page one)*.

## **What happens after you file a customer service complaint**

- A DHS manager will contact you as soon as possible, but no later than five business days after receiving the complaint. *(This could take more than five days if you do not have a telephone.)*
- The manager may set up a meeting with you to try to resolve the complaint. The meeting could be in person or by telephone.
- Complaints that are not resolved at this meeting will be reviewed by other DHS managers and you may be contacted again.
- If your complaint is about an employee, the employee will be notified about the complaint. The employee has the right to respond to the complaint and may be present at any meeting or phone conference that is held. The employee will be given the chance to respond in writing to your complaint. Any personnel action as a result of a complaint against an employee will remain confidential.
- Employees may not take action against a client for filing a complaint.
- All complaints will be forwarded to and reviewed by the GAO.

## **Discrimination complaints filed with DHS**

Civil rights laws and DHS rules and policies state that you have the right to file a discrimination complaint if you feel that DHS has kept you from receiving equal service and benefits because of your age, race, color, national origin and disability, and in some federally funded programs, age, gender, religion, sexual orientation and political beliefs.

## What happens after you file a discrimination complaint

You may file a written complaint by completing this form **within 60 days** of the incident. A DHS civil rights investigator will contact you within 20 working days to learn more about your complaint. Within 20 working days of talking with the investigator, DHS will send you a written decision. Appeal rights are outlined in the written decision.

## Federal discrimination or privacy complaints

Privacy violations or discrimination complaints alleging that DHS has not provided you with equal service because of your age, race, color or national origin, gender, religion or disability can also be filed with the U.S. Office for Civil Rights. Federal discrimination complaints must be submitted within 180 days of the incident. Even if you file a complaint first with DHS, you still must file a federal complaint within 180 days of the incident. Contact the specific program listed below to receive more information.

### Federal limitations

Sexual orientation discrimination is protected by the State of Oregon but not by federal laws. Only Supplemental Nutrition Assistance Program (SNAP) benefit clients are protected against discrimination based on their political beliefs.

#### For issues involving SNAP benefits

U.S. Department of Agriculture

Voice: 1-866-632-9992

TTY: 1-202-720-2600

#### For issues involving Vocational Rehabilitation

U.S. Department of Education

Voice: 1-800-421-3481

TTY: 1-800-877-8339

#### For issues involving all other programs

U.S. Department of Health & Human Services

Voice: 1-800-368-1019

TTY: 1-800-537-7697

## About requesting an administrative hearing

If your benefits were denied, reduced, or ended, you have the right to request a contested case hearing. You may request a hearing **and** file a complaint. To request a hearing, complete the Administrative Hearing Request form (DHS 0443). You may get an Administrative Hearing Request form at any DHS office, request the form from the Governor's Advocacy Office (GAO) at 1-800-442-5238, or download the form at <https://apps.state.or.us/cf1/FORMS>. You may also call the Public Benefits Hotline at 1-800-520-5292, operated by the Oregon Law Center and Legal Aid Services of Oregon. Your hearing request form can be returned to any DHS office.

A hearing request is not the same as filing a complaint. There are strict deadlines for filing a hearing request. When you file a hearing request you are asking for a Contested Case Hearing before an Administrative Law Judge.

**Note:** Requesting a hearing about SNAP benefits can be made verbally.

Oregon has customer service & civil rights complaint on same intake form and allows users to check both. The drawback of this practice is that users who have discrimination complaint may just check the customer service box out of fear of retaliation or alleging an discrimination complaint

## Customer Service/Privacy Complaint or Report of Discrimination

For help completing this form, you may contact any DHS office.

Please print clearly: Name of person with the complaint:			Phone/TTY number:	
			Email:	
Mailing address:			Date of birth:	
City:	State:	ZIP:	Last 4 digits of Social Security number:	
Are you filing on behalf of someone else? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Your name: _____			Phone: _____	
Please mark the reason for your complaint ( <i>check all that apply</i> ):				
<input type="checkbox"/> You did not receive good customer service; <input type="checkbox"/> You believe your personal information was not kept confidential; <input type="checkbox"/> You believe you were discriminated against because of: <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div><input type="checkbox"/> Age</div> <div><input type="checkbox"/> Gender</div> <div><input type="checkbox"/> Sexual orientation*</div> <div><input type="checkbox"/> Political beliefs**</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div><input type="checkbox"/> Religion</div> <div><input type="checkbox"/> Disability</div> <div><input type="checkbox"/> Race, color or national origin</div> </div>				
*Sexual orientation is protected by the State of Oregon, but not federal laws. **SNAP clients are protected against political belief discrimination.				
Details of complaint: Who was involved?			When did the incident happen? Date/time:	
Location of complaint:				
Please describe your complaint ( <i>if you need more space, attach additional paper</i> ):				
What would you like DHS to do to resolve your complaint? What suggestions do you have?				

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

<b>For DHS use only</b>	
Date received: _____	Received by ( <i>print name</i> ): _____
*For <b>discrimination and privacy complaints</b> , send to Governor's Advocacy Office, address on page 1. *For <b>customer service complaints</b> , forward to the appropriate manager.	

**Distribution:** Original - GAO; Copy - Client; Copy - Manager

# **MINNESOTA**

- Website: “Civil Rights in Human Services”**



# Civil rights in human services

Minnesota Department of Human Services Civil Rights Plan (PDF)  
(<http://edocs.dhs.state.mn.us/lfserver/Legacy/DHS-5362-ENG>)

## Your right to fair treatment

The Department of Human Services (DHS), county human service agencies and other service providers are committed to providing equal access to programs and services for eligible Minnesotans. It is also important for applicants and clients to know and understand their civil rights. They have the right to fair and equal treatment from service providers and the right to file a complaint with federal, state or local human service agencies if they feel they have been treated in a discriminatory way in receiving services.

## Our role in preventing discrimination

DHS works with county agencies and other service providers to help eligible individuals and families meet basic human needs. To make services possible, DHS receives funding from federal agencies. As a recipient of federal funding, DHS must treat all applicants and clients fairly and equally. To prevent discrimination, DHS has a civil rights plan. The plan includes an equal opportunity policy and a procedure for filing complaints. The plan also identifies a contact person who you can call to speak about civil rights matters.

## The role of county human services agencies and other providers

County human service agencies and other providers also receive federal funds to operate public programs. Like DHS, they must follow civil rights requirements. They must treat applicants and clients equally and have an equal opportunity policy and complaint procedure available for the public.

## Who to contact

DHS has a civil rights contact person who makes sure that applicants and clients have equal access to services. This person is responsible for:

- Handling discrimination complaints
- Keeping civil rights records and files
- Giving information about civil rights laws and other matters to human services workers and applicants, clients and members of the public
- Acting as liaison between DHS and federal agencies and others concerned about fair service delivery



- Providing training and education to human services workers.

To reach the civil rights contact person, call or write to the Equal Opportunity and Access Division.

## How to file a complaint

All human services agencies must treat you fairly and equally. If you believe that someone working for a human services agency discriminated against you, you may file a civil rights complaint.

The Minnesota Department of Human Services, Equal Opportunity and Access Division, prohibits discrimination in its programs because of race, color, national origin, creed, religion, sexual orientation, public assistance status, age, disability or sex (including sex stereotypes and gender identity under any health program or activity receiving federal financial assistance). You have one year after the unfair treatment to file a complaint. To ask for a complaint form, contact the Equal Opportunity and Access Division directly:

Minnesota Department of Human Services  
Equal Opportunity and Access Division  
P.O. Box 64997  
St. Paul, MN 55164-0997  
651-431-3040 (voice) or use your preferred relay service

If you need help filling out the complaint form, we can help you.

- We can provide spoken language interpreters for non-English speakers.
- We can provide a reasonable modification, auxiliary aids/services, or provide accessible formats for a disability, such as a sign language interpreter, Braille or large print materials.

To arrange for an interpreter, accessible formats, a reasonable modification or auxiliary aids/services, contact the Equal Opportunity and Access Division at the above address.

If you file a complaint against a human services agency, agency workers cannot punish or retaliate against you in any way. If this happens, report it to the Equal Opportunity and Access Division.

If you want to file a complaint with your county agency, contact the agency director and ask for its complaint procedure.

## Other important agencies

The Minnesota Department of Human Rights prohibits discrimination in public services programs because of race, color, creed, religion, national origin, disability, sex, sexual orientation, or public assistance status. You have one year after the unfair treatment to file a complaint. To ask for a complaint form, contact the Minnesota Department of Human Rights directly:

Minnesota Department of Human Rights  
Freeman Building, 625 North Robert Street  
St. Paul, MN 55155  
651-539-1100 (voice)  
800-657-3704 (toll free)  
651-296-1283 (TTY)

The U.S. Department of Health and Human Services' Office for Civil Rights prohibits discrimination in its programs because of race, color, national origin, age, disability and in some cases religion and sex. You have 180 days after the unfair treatment to file a complaint. To ask for a complaint form, contact the federal agency directly:

U.S. Department of Health and Human Services  
Office for Civil Rights, Region V  
233 North Michigan Avenue, Suite 240  
Chicago, IL 60601  
312-886-2359 (voice)  
800-368-1019 (toll free)  
800-537-7697 (TTY)

The U.S. Department of Agriculture prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html) ([http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html)), or at any USDA office, or call 866-632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax 202-690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov) (<mailto:program.intake@usda.gov>).

Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at 800-877-8339; or 800-845-6136 (Spanish).

For any other information dealing with Supplemental Nutrition Assistance Program (SNAP) issues, persons should either contact the USDA SNAP Hotline Number at 800-221-5689, which is also in Spanish or call the state information/hotline numbers (click the link for a listing of hotline numbers by state); found online at [http://www.fns.usda.gov/snap/contact\\_info/hotlines.htm](http://www.fns.usda.gov/snap/contact_info/hotlines.htm) ([http://www.fns.usda.gov/snap/contact\\_info/hotlines.htm](http://www.fns.usda.gov/snap/contact_info/hotlines.htm)).

USDA is an equal opportunity provider and employer.

Contact the Equal Opportunity and Access Division with any questions about this website page:

Minnesota Department of Human Services  
Equal Opportunity and Access Division  
P.O. Box 64997  
St. Paul, MN 55164-0997  
651-431-3040 (voice) or use your preferred relay service

## Discrimination frequently asked questions

### **Who can file a discrimination complaint?**

Service recipients, employees and affiliates (i.e., a vendor or a contractor) of the Department of Human Services can file a discrimination complaint.

### **If I am a recipient of services, can I file a discrimination complaint at my county human services agency?**

Yes, you can. Just contact your county human services agency directly.

### **If I do not want to file a discrimination complaint with my county human services agency, are there other agencies that I can file a complaint?**

You can contact the Equal Opportunity and Access Division, part of the Office for Equity, Performance and Development, for information about other important agencies where you can file discrimination complaints against a human services agency or see the client's civil rights information.

**If I am neither a DHS employee or affiliate, nor a recipient of services funded by DHS where can I file a discrimination complaint?**

You can file a discrimination complaint with the **Minnesota Department of Human Rights** (<http://mn.gov/mdhr/>), or the **Equal Employment Opportunity Commission** (<http://www.eeoc.gov/>).

**Where can I get some general information about discrimination or harassment?**

You can review the information from the Office for Equity, Performance and Development or contact the Equal Opportunity and Access Division at the following:

Equal Opportunity and Access Division  
Office for Equity, Performance and Development  
Minnesota Department of Human Services  
P.O. Box 64997  
St. Paul, MN 55164-0997  
Voice: 651-431-3040  
TTY: 866-786-3945

Updated: 2016-04-10



- [Soomaali \(/mdhr/yourrights/fact-sheets/soomaali/index.jsp\)](/mdhr/yourrights/fact-sheets/soomaali/index.jsp)
- |
- [Español \(/mdhr/yourrights/fact-sheets/spanish/index.jsp\)](/mdhr/yourrights/fact-sheets/spanish/index.jsp)
- |
- [Hmoob \(/mdhr/yourrights/fact-sheets/hmoob/index.jsp\)](/mdhr/yourrights/fact-sheets/hmoob/index.jsp)

[\(/mdhr/index.jsp\)](/mdhr/index.jsp)

## File a Complaint

## Guidelines for Charging Parties

The time limit for filing a charge with the Minnesota Department of Human Rights (MDHR) is one year from the date of the incident.

If you are close to the one-year deadline, contact us immediately at 651.539.1100 or Toll Free 800.657.3704.

The one-year period begins running from the date of the alleged discriminatory act.

If you have questions about the terminology used on our website, visit our [glossary \(/mdhr/glossary.jsp\)](/mdhr/glossary.jsp).

-  Your Investigation

### What the Department Investigates

The Department of Human Rights investigates charges of discrimination in employment, housing, public accommodations, public services, education, credit, and business contracts. It is illegal to discriminate against someone because of their race, color, creed, religion, national origin, sex, sexual orientation, marital status, physical or mental disability, use of public assistance, age, or family status. It is also illegal to aid in a violation of the Minnesota Human Rights Act or to coerce a person to violate it, obstruct compliance with the Act, or interfere with the Department's performance of its duties. The Act also prohibits reprisal or retaliation because a person opposed a practice forbidden by the Act, filed a charge or participated in a matter brought under the Act, or because a person is associated with a person or group of persons who are disabled or of a different race, color, creed, religion, sexual orientation or national origin.

# Our Charge Filing Process

A Department investigator or enforcement officer will review your information to see if you have a valid complaint for filing a charge under the Minnesota Human Rights Act. If so, the Department will write a formal, written charge and mail it to you. If not, the Department therefore does not write a charge for you, and the reasons will be explained to you.

You must sign the charge before a notary public who will witness your signature. Then, you must return the signed and notarized charge for filing within one year of when the discrimination occurred. After you return the signed charge, it will be served on the respondent to provide an answer.

- How You Can Help

## Keep Good Records

If the Department finds that you were illegally discriminated against, you could be awarded damages such as back pay or other losses directly caused by the discrimination. In employment discrimination cases, keep a record of your earnings or your efforts to find work after the discriminatory action.

## If Your Address or Telephone Number Changes

You must notify the Department in writing if your address or telephone number change. If we cannot contact you or get information from you about your case, your case may be dismissed. We send notices by regular or certified mail, so be sure to open your mail promptly and read everything carefully so you provide an appropriate response. Notify the Department in writing if you will be away from home for more than two weeks.

- After You File

## What You Will Receive from the Department

After your charge is filed, you will receive another copy of the written charge with a case reference number written on it. Whenever you contact the Department, you should refer to your case number. Also, once the respondent submits an answer to your charge, a copy of the answer will be sent to you as required by law.

## How the Department Investigates a Charge

When we receive the respondent's answer along with other necessary information, the Department will collect information necessary to determine if your allegations of discrimination warrant a formal investigation. This does not mean that the Department has decided there has been a violation of the law. It simply means that you have made a complaint that the Department has authority to investigate. At this stage, the Department takes no position and looks at evidence from both sides.

If Your Charge Involves Federal Laws. Your charge may be filed at the federal Equal Employment Opportunity Commission (EEOC) (<http://www.eeoc.gov/>) if it meets the criteria for filing under the federal employment discrimination laws enforced by that agency. Under our work-share agreement with EEOC and if your charge is eligible, we will automatically cross file it with EEOC. To do this, your complaint must be within the statute of limitations for the applicable federal law. Federal laws have a shorter period for filing a complaint.

If the Discrimination Happened in Saint Paul or in Minneapolis. You have the option of filing with the St. Paul Human Rights Department (<http://www.stpaul.gov/index.aspx?NID=2403>) Minneapolis Department of Civil Rights<> instead of filing with this Department.

## The Difference between a Charge and a Lawsuit

Filing a charge is not the same as filing a lawsuit. The Department does not represent either you or the party against whom you have filed. The Department will investigate both sides of the complaint and conduct a neutral investigation. You do not have to have a private attorney during this process. You may hire a private attorney to represent you while your charge is being investigated by the Department. If you want to withdraw your case from the Department and file a civil lawsuit in district court, you may consult an attorney.

## What To Do if Someone "Gets Even" with You for Making Your Complaint

If anyone takes action against you because you contacted a civil rights agency or made a complaint about illegal discrimination against them, you may file a reprisal charge about that action.

## What Happens When the Department Conducts an Investigation

After the Department has investigated your complaint, the Commissioner of the Department of Human Rights will decide, based on the evidence, whether discrimination probably occurred ("probable cause") or not ("no probable cause").

## The Commissioner May Find Evidence of Discrimination

If the commissioner decides there is probable cause or evidence to believe discrimination occurred, the Department will invite you and the respondent to discuss settling the case. If settlement fails, the case may be refer[red] to the Minnesota State Attorney General's Office for further action.

The commissioner may find no probable cause or no evidence to believe discrimination occurred. In that situation, the Department will close the case.

# **APPENDIX F**

## **Child Protective Services Appendix**





 Search...



> [OUR PRACTICE \(/PRACTICE\)](#) > [RACIAL EQUITY, DIVERSITY AND INCLUSION](#)

# Racial Equity, Diversity and Inclusion

The Department of Children, Youth and Families (DCYF) is committed to Washington's children and youth growing up safe, healthy, and thriving. Currently children of color are underrepresented in the percentage of children entering kindergarten with the skills they need to be successful. Children and youth of color enter and remain in the child welfare system at greater rates. Youth of color are also disproportionately represented as they enter and progress through the juvenile justice system.

Underlying systems, policies and practices are driving these disparate outcomes and experiences. DCYF will transform the way we operate to promote racial equity, diversity, inclusion, and justice, so each and every child, youth and family can thrive.

## The Work So Far

Each of the originating agencies have been engaged in the foundational efforts necessary to make progress on our long term goals of impacting child and family outcomes. This has included building the will, skill and capacity of leaders and staff to lead for equity, diversity, and promote inclusion. Representatives from Children's Administration, Department of Early Learning, the Office of Juvenile Justice and the Juvenile Rehabilitation Administration formed an Equity Workgroup, whose mission is to define how we bring our work together into an integrated strategy for DCYF.

## Initial Priorities

[Top](#)

DCYF can only be successful when we collaborate with children, youth, families, communities and tribes who are most impacted and often marginalized in defining our action plan. As we embark on that process, the following represent several initial priority strategies.

**1. Pay attention to data about outcomes for children, youth, and families consistently.**

Disaggregate data by race, ethnicity, sexual orientation, gender identity, gender expression and geographic areas. Use both quantifiable data and individuals' stories and experience to inform our actions and provide accountability.

**2. Staffing and leadership that reflect and are responsive to the communities we serve.**

Recruit, retain, promote and provide supports for people with diverse backgrounds, experiences and ideas. Create a positive workplace climate to increase job satisfaction and effectiveness.

**3. Lead for racial equity, diversity, and inclusion.** Provide training and resources for DCYF staff on taking an intersectional approach, which recognizes that people sit at the intersection of race, gender, sexual orientation, gender, and gender expression, class, and other ways of experiencing barriers and oppression. Training, coaching and support will also be provided on understanding how racism and other biases show up in our organizations and systems; applying a racial equity lens in our work; recognizing and mitigating implicit biases; and practicing cultural humility and responsiveness.

## What Next

In the coming months, DCYF will invite communities to engage in defining our racial equity, diversity and inclusion strategies. We look forward to partnering with you!

## Contact

**Child Welfare:** Dae Shogren (mailto:dae.shogren@dcyf.wa.gov)

**Early Learning & Family Support:** Evette Jasper (mailto:evette.jasper@dcyf.wa.gov)

**Office of Juvenile Justice:** Vazaskia Crockrell (mailto:vazaskia.crockrell@dshs.wa.gov)

**Juvenile Rehabilitation:** LaToya Holmes-Ware (mailto:HolmeL1@dshs.wa.gov)

*\*Note that Juvenile Rehabilitation and the Office of Juvenile Justice formally join DCYF in July 2019.*



Child Welfare Racial Disproportionality and Disparity in Washington State (2016)  
 (/sites/default/files/pdf/reports/2016DisproportionalityReport-CA.pdf)

Child Welfare Racial Disproportionality and Disparity in Washington State (2017)  
 (/sites/default/files/pdf/reports/2017DisproportionalityReport-CA.pdf)

Early Learning Racial Equity Initiative Data Report (2017)  
 (/sites/default/files/pdf/reports/Equity\_Initiative\_Data\_Report\_1.18.2017.pdf)

Racial Equity Theory of Change for Early Learning VC (<http://thrivewa.org/work/racial-equity-2/>)

Racial Equity, Diversity, and Inclusion Resources (/sites/default/files/pdf/REDI\_Resources.pdf)



**f** (<https://www.facebook.com/waDCYF/>)

**t** (<https://twitter.com/waDCYF/>)

**y** (<https://www.youtube.com/channel/UCsRzIU1gRk6-u4JtKIDyqhQ>)

**in** (<https://www.linkedin.com/company/washington-state-department-of-children-youth-and-families/>)

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## Contact Us

[Contact Us \(/contact-us\)](/contact-us)

[DCYF Offices & Regional Map \(/sites/default/files/pdf/DCYFMap-offices.pdf\)](/sites/default/files/pdf/DCYFMap-offices.pdf)

[Media \(/about/media\)](/about/media)

[Jobs at DCYF \(/about/jobs\)](/about/jobs)

## Useful Links

[Capitol Campus Map \(https://des.wa.gov/capitol-campus-interactive-map\)](https://des.wa.gov/capitol-campus-interactive-map)

[Department of Social & Health Services \(http://dshs.wa.gov/\)](http://dshs.wa.gov/)

[Rehabilitation Administration \(https://www.dshs.wa.gov/ra\)](https://www.dshs.wa.gov/ra)

[Behavioral Health Administration \(https://www.dshs.wa.gov/bha\)](https://www.dshs.wa.gov/bha)

[Alliance for Child Welfare Excellence \(https://allianceforchildwelfare.org/\)](https://allianceforchildwelfare.org/)

[Prevent Child Abuse Washington \(http://preventchildabuse.org/\)](http://preventchildabuse.org/)

[Rule Making \(/practice/policy-laws-rules/rule-making\)](/practice/policy-laws-rules/rule-making)

[Sole Source Contracts \(/contracts/sole-source-contracts\)](/contracts/sole-source-contracts)

[Request Public Records \(/public-records\)](/public-records)

[Board of Appeals \(/board-of-appeals\)](/board-of-appeals)

[Outlook Webmail for State Staff \(https://mobile.wa.gov/owa/\)](https://mobile.wa.gov/owa/)

## REPORT TO THE LEGISLATURE

### Racial Disproportionality and Disparity in Washington State

RCW 74.13.096(6)  
Chapter 465, Laws of 2007, Section 3  
(SHB 1472)

December 1, 2017

Children's Administration  
Executive Staff  
PO Box 45710  
Olympia, WA 98504-5710  
(360) 902-0222

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### [Committee Members](#)

Ron Murphy, Co-Chair  
Jim Sherrill, Co-Chair  
Dr. Susan Barkan, Member  
Toni Lodge, Member  
Rick Maib, Member  
Paola Maranan, Member  
Mary O'Brien, Member  
Shrounda Selivanoff, Member  
Bob Smith, DSHS Secretary's designee

## Introduction

Substitute House Bill 1472, enacted in 2007, created the statewide Racial Disproportionality Advisory Committee (WSRDAC) for the purposes of convening an advisory committee to analyze and make recommendations on the disproportionate representation of children of color in the Washington state child welfare system. Legislation also directed the creation of a remediation plan and performance measures for implementing the plan. The sunset date for the legislation was June 30, 2017.

An analysis of disproportionality in the Washington state child welfare system was completed in 2008 by the Washington State Institute for Public Policy (WSIPP). The analysis concluded that racial disproportionality did exist in the Washington state child welfare system for Native American, Black and Hispanic children and that the greatest disproportionality occurred at the following decision points:

- The initial referral to Child Protective Services (CPS)
- The decision to remove a child from their home
- A child remaining in care for over two years

In December 2008, WSRDAC submitted a remediation plan to then Department of Social and Health Services (DSHS) Secretary Robin Arnold-Williams. The plan included activities focused on the three decision points:

- *Structured Decision Making® (SDM)*: Study SDM® to determine its impact on reducing disproportionality.
- *Family Team Decision Making (FTDM)*: Assess FTDM to determine its impact on disproportionality.
- *Kinship Care*: Implement policies to ensure equitable services and supports for children and families in kinship care.
- *Compliance with the Indian Child Welfare Act (ICWA)*: Comply with ICWA. Use Indian Child Welfare Case Review model as an anchor for quality improvement and compliance measurement.
- *Enactment of Washington State Indian Child Welfare Act*: Support enactment of a Washington State ICWA.
- *Cultural Competency and Anti-Racism Training*: Implement mandatory ongoing anti-racism training.
- *Caseloads (Council on Accreditation Standards)*: Children's Administration (CA) caseloads should meet COA standards
- *Mandated reporter training*: Revise mandated reporter training to increase awareness of racial disproportionality.
- *Assessment of CA*: Assess organizational cultural competency and commitment to the elimination of racial disproportionality for children of color.

- *Implement a Racial Equity Impact Analysis Tool:* Implement the tool to review all policies and practices.
- *Explore implementation of in-home, community-based services that will keep children safe and reduce the need for out-of-home placement:* Study the impact of in-home and community-based services on reducing racial disproportionality and disparity in other states. If there was a positive impact, recommendation was to increase the availability and access to those services.

In November 2011, supplemental remediation initiatives were developed. These included:

- *Increase recruitment and licensing of caregivers of color*
- *Increase documentation of ethnic and racial background and tribal affiliation in FamLink*
- *Eliminate the use of long-term foster care for children of color 12 years or older*
- *Make disproportionality awareness training mandatory for CA staff*

WSRDAC, DSHS leadership, CA leadership and staff, tribes, stakeholders, state partners and philanthropic partners, such as Casey Family Programs, have continued efforts to reduce disparate outcomes for children of color in the child welfare system.

WSRDAC has continued to evaluate strategies and activities and monitor progress to safely reduce racial disproportionality. CA continues to work internally and with tribes, external partners and stakeholders to reduce racial disproportionality in the Washington state child welfare system. The following report describes and summarizes the thoughtful work, accomplishments and progress in addressing disproportionality to date and next steps for continuing the work.



## Progress

### Summary and Status:

CA has continued to monitor the progress and impact of implementation of the remediation plan. As a way to institutionalize the work, it is critical that CA continue to address those outcomes that have not been achieved. The tables below list each remediation activity and its current status.

INITIAL REMEDIATION INITIATIVES	
INITIATIVE	STATUS
<b>Evaluate SDM.<sup>®</sup></b> The SDM <sup>®</sup> is a risk assessment tool implemented by CA in 2007 designed to assist CPS workers in making decisions regarding child safety and risk.	The WSIPP study was completed and published in 2011. Results and CA response are addressed in the <a href="#">Report to the Legislature March 6, 2012</a> .
<b>Evaluate FTDM.</b> An FTDM meeting brings together family members, relatives and other supports to make decisions about safety planning, removal, changes in out-of-home placement and reunification.	The WSIPP study was completed and published in 2011. Results and CA response are addressed in the <a href="#">Report to the Legislature March 6, 2012</a> .
<b>Implement Kinship Care Policies</b>	Policies to support equitable services and supports for children involved in child welfare and in kinship care have been implemented and continue to be reviewed and supported.
<b>Maintain Compliance with ICWA</b>	CA completed ICW case reviews in 2007, 2009, 2012 and 2015 in collaboration with tribes and Recognized American Indian Organizations (RAIO) to support continued compliance and assess areas of strength and improvement.
<b>Enactment of a Washington state ICWA</b>	The Washington state ICWA was enacted in 2011.
<b>Implement Cultural Competency and Anti-Racism Training.</b> Combined with supplemental initiative on training.	CA implemented Building Bridges (Prejudice Reduction Workshop) as mandatory training for all staff in 2012. Beginning in 2016, CA implemented Microaggressions training as mandatory training for all staff.
<b>Implement Council on Accreditation Caseload Standards.</b>	WSRDAC rescinded this recommendation in June 2011 because it lacked a clear connection to reducing racial disproportionality and eliminating racial disparities.
<b>Implement Mandated Reporter Training</b>	CA <a href="#">mandated reporter training materials</a> were updated to include information about disproportionality.

INITIAL REMEDIATION INITIATIVES	
INITIATIVE	STATUS
<b>Conduct Assessment of CA</b>	Surveys were completed in 2011 and 2013 using the National Association of Public Child Welfare Administrators (NAPCWA) Disproportionality Diagnostic Tool. CA is interested in exploring other assessment tools that could align with the DSHS Equity, Diversity and Inclusion (EDI) work.
<b>Implement a Racial Equity Impact Analysis Tool</b>	CA leadership approved a Race Equity Analysis (REA) tool for implementation in 2014.
<b>Explore Implementation of In-Home, Community Based Services</b>	CA continues to work to improve the in-home service array available to children and families and to integrate data related to race and ethnicity to support development and availability of services to meet each family's unique needs.

SUPPLEMENTAL REMEDIATION INITIATIVES	
INITIATIVE	STATUS
<b>Increased Recruitment and Licensing of Caregivers of Color</b>	Performance-based, regionally managed recruitment and retention contracts have been established and include performance targets related to recruitment and licensing of caregivers of color.
<b>Increased Documentation of Racial, Ethnic and Tribal Affiliation Data in FamLink</b>	Processes for ensuring that race, ethnicity and tribal affiliation are documented have been implemented.
<b>Elimination of the Use of Long-term Foster Care for Children of Color 12 years of age or older</b>	CA does not favor long-term foster care as a permanent plan. The use of long-term foster care is allowed for youth 16 and older when permanent plan options of adoption, reunification or guardianship have been ruled out through a shared planning process. CA is continuing ongoing efforts to improve permanency outcomes.
<b>Make Disproportionality Awareness Training Mandatory for Children's Administration Staff</b> (combined with remediation initiative on training)	Beginning in 2016, CA implemented Microaggressions training as mandatory training for all staff.

## Achievements and Challenges

Since the enactment of the legislation and identification of the remediation initiatives, there have been achievements as well as challenges in addressing disproportionality.

### ACHIEVEMENTS

CA has made progress in addressing disproportionality and disparities including: the development of accurate data that can be used to evaluate progress and develop strategies; engaging and responding to community voice; engaging staff and ongoing engagement of staff; increased accountability for outcomes; and integration of staff training.

Examples include:

#### Training

- Ongoing training is available to support understanding of disproportionality and bias at all levels of the organization.
- Updated mandated reporter training and resources include disproportionality awareness.

#### Count of Native American children

- Improved documentation processes for tribal membership and affiliation.
- Established statewide Native American Identification and Research (NAIR) unit.

#### Improving data accuracy, accessibility

- Documentation of race, ethnicity and tribal affiliation is occurring consistently. Processes are in place to make sure this continues.
- Race/ethnicity is in standard reports available in FamLink.
- Race/ethnicity categories have been aligned (Multi-racial, Multi-racial Black, Multi-racial Native American) to improve consistency of understanding and reporting.
- Annual statewide data is now available at the regional level to allow for locally targeted improvement strategies.

#### ICW case reviews

- Successful completion of four rounds of reviews in collaboration with tribes and RAIO.
- Development of statewide and regionally specific action items to improve practice.

#### Kinship care policies

- Implemented the relative guardianship assistance program (RGAP) which provides subsidy to licensed relatives who establish guardianships for dependent children and youth.
- Supported elimination of means testing for non-licensed kinship caregivers (Chapter 20, Laws of 2017 [[2ESSB 5890 Sec. 16](#)]).
- Relative support funds are available for unlicensed relatives to meet concrete needs related to caring for children in out-of-home care.
- Established a process for CA licensors to have direct access to concrete service funds to pay for items needed to support relatives in completing their home studies and/or becoming licensed foster parents.

#### Recruitment and licensing of caregivers of color

- Established regionally based contracts for foster parent recruitment and retention. Contractors work with local teams to review data, identify recruitment needs and develop recruitment strategies.
- Recruitment and support materials for communities of color have been developed and implemented. Examples include Spanish radio broadcasts, video recruitment messages and Facebook pages.

### **CHALLENGES**

As CA has continued to work toward remediating disproportionality, challenges have surfaced related to specific activities and initiatives including:

#### Racial Equity Analysis Tool

- While the REA tool was approved for implementation, additional assessment of the tool's use is needed to determine the best use within available resources.

#### FTDM Analysis

- While the initial FTDM analysis did not reflect reduced disproportionality, the shared planning process continues to be a cornerstone of family engagement. Improvements in data collection and reporting, including data regarding race and ethnicity, will continue to provide information regarding the engagement of families to strengthen practice and support improved outcomes and address disproportionality at the key decision points.

## WSRDAC Recommendations

At the WSRDAC annual meeting held October 2017, the committee recommended three areas of focus for CA for the coming year. These include:

**Outcome 1:** All children are equitably able to remain safely in their own homes through collaborative efforts across systems to prevent initial placements into out-of-home care (and re-entry into care post-reunification).

Rationale: In order to effectively ameliorate disproportionate representation of families of color in the child welfare system it is essential to work across systems with a focus on prevention.

**Outcome 2:** Relative caregivers have culturally appropriate services and the support they need to care for relative children placed in their care.

Rationale: One great thing that CA does is place a lot of children with relative caregivers. This is good in terms of disproportionality because it means that children are placed within their own family/culture which is generally better for the children on many levels. However, because proportionately more of the relative caregivers are caregivers of color and we know that as a group, people of color are disproportionately less financially resourced, these families who have the greatest need are likely receiving fewer resources to care for their relative children. Strengthening financial support and services may help stabilize placement and hopefully lead to a shorter time to stable permanency.

**Outcome 3:** Disproportionality in child welfare is eliminated at all decision-points and the data are accurate and available to make it possible to document and monitor that process.

Rationale: This action item touches on all decision points and is important for overall monitoring of trends in disproportionality in regions and sub-regions across the state so that we can better understand the effects of efforts to reduce disproportionality in those regions/sub-regions. This action item could also be useful to concentrate efforts to focus specifically on the “placement” decision point to understand what is driving disproportionality at that decision point and potentially identify where improvements in practice or additional assistance to families might be needed. Accessible, reliable data at a variety of levels is essential to understanding and monitoring what is going on with disproportionality. CA has put a lot of work into improving the quality of and increasing access to data and understanding how it informs practice. It is important and helpful to the committee to continue to sustain and build on that.

## Next Steps

CA will become part of the newly formed Department of Children Youth and Families (DCYF) July 1, 2018. With this transition, new advisory structures and performance targets may be established. The work that has been completed to date and the knowledge, expertise and infrastructure that exist will continue to inform our work as we move toward eliminating racial disproportionalities and disparities in the Washington state child welfare system while maintaining child safety, permanency and well-being. Access to an array of culturally appropriate services and supports delivered by culturally competent, sensitive and informed staff and contracted service providers is a key component of this work.

Next steps include:

- Continue to work with WSRDAC, tribal and community partners, and stakeholders to address disproportionality in the child welfare system. Strengthen the processes for monitoring implementation and outcomes related to recommendations and strategies.
- Continue to build infrastructure to support statewide region and field level discussion regarding race, ethnicity and disproportionality and integrate use of race and ethnicity data in decision making, program development and assessment of practice.
- Provide training on facilitating difficult discussions regarding race for disproportionality leads and other identified staff.
- Continue to focus on the development of a diverse, effective service array to meet the individual needs of children, youth and families.
- Integrate race and ethnicity data into program and practice reviews and discussions, including, but not limited to, advisory groups' review of data, case reviews, program evaluations, development and implementation of new programs.
- Implementation of regionally specific, data driven improvement plans to address disparate outcomes related to the identified decision points.

## History of Race

- [Myth of Race Debunked in 3 Minutes](#) (video)
- [Race - The Power of Illusion](#) (website & film)
- [How We Got Here: A Reckoning with U.S. and Tacoma history](#) (video)
- [Seattle Civil Rights & Labor History Project](#) (website)
- [Stamped from the Beginning](#) by Ibram X. Kendi (book)
- [Who We Be](#) and [We Gon' Be Alright](#) by Jeff Chang (books)
- [A Different Mirror: A History of Multicultural America](#) by Ronald Takaki (book)
- [A People's History of the United States](#) by Howard Zinn (book)

## Structural Racism

- [Rewrite the Racial Rules](#) by the Roosevelt Institute (report)
- [Between the World and Me](#) by Ta-Nehisi Coates (book)
- [Racism without Racists: Color-Blind Racism and the Persistence of Racial Inequality in America](#) by Eduardo Bonilla-Silva (book)
- [The New Jim Crow](#) by Michelle Alexander (book)
- [13<sup>th</sup>](#) by Ava DuVernay (film)
- [The Talk - Race in America](#) by PBS (film)
- [Unnatural Causes](#) by California Newsreel (film)
- [The Disturbing History of the Suburbs](#) by Adam Ruins Everything (video)

## Implicit Bias

- [How to overcome our biases? Walk boldly toward them](#) by Verna Myers (video)
- [Kirwan Institute Implicit Bias Module Series](#) (videos)
- [Implicit Association Test](#) (website)
- [Facebook Managing Bias series](#) (videos)
- [25 Mini Films for Exploring Race, Bias and Identity with Students](#) (videos)
  - [Implicit Bias: Peanut Butter, Jelly and Racism](#) (video)
- [Invisibilia: The Culture Inside](#) (podcast episode)

## Racial Equity in Early Childhood

- [Equity Starts Early: Addressing Racial Inequities in Child Care and Early Education Policy](#) by CLASP (report)
- [Preventing Suspensions and Expulsions in Early Childhood Settings](#) by SRI International (Guide)
- [Being Black is Not a Risk Factor: A Strengths-based Look at the State of the Black Child](#) by the National Black Child Development Institute (report)

## Racial Equity in Child Welfare

- [National Child Welfare Workforce Institute Racial Equity Resources](#) (website)
- [Achieving Racial Equity: Child Welfare Policy Strategies to Improve Outcomes for Children of Color](#) by Megan Martin and Dana Dean Connelly (article)

## Racial Equity in Adolescence

- [The W. Haywood Burns Institute for Juvenile Justice Fairness & Equity](#) (website)
- [Pushout: The Criminalization of Black Girls in Schools](#) by Monique Morris (book)

### Talking about Race – Color Brave Conversations

- [Color Blind or Color Brave?](#) by Mellody Hobson (video)
- [Color Brave Space Agreements](#) by Heidi Schillinger and Erin Okuno (Fakequity blogpost)
- [Talking About Race Toolkit](#) by the Center for Social Inclusion (website)
- [Talking about Race: Toward a Transformative Agenda](#) by the Kirwan Institute
- [Code Switch](#) by NPR (blog and podcast)
- [So you want to talk about race?](#) by Ijeoma Oluo (book)
- [11-Step Guide to Understanding Race, Racism, and White Privilege](#) (website)
- [White Fragility and the Rules of Engagement](#) by Dr. Robin DiAngelo (article)

### Intersectionality

- [A Primer on Intersectionality](#) by Kimberlé Crenshaw (article)
- [How to Do Intersectionality](#) by Rinku Sen (article)
- [#RaceAnd Videos](#) by Race Forward

## Inclusion

### Othering and Belonging

- [The Problem of Othering: Towards Inclusiveness and Belonging](#) by John A. Powell and Stephen Menendian (article)
- [Racing to Justice: Transforming Our Concepts of Self and Other to Build an Inclusive Society](#) by John A. Powell (book)
- [Bridging: Towards A Society Built on Belonging](#) (video)

### Gender

- [The Gender Unicorn](#) from Trans Student Educational Resources
- [Why sharing gender pronouns at work matters](#) by Alexis Croswell (article)
- [Why gender equality is good for everyone — men included](#) by Michael Kimmel (TedTalk)
- [Transgender Children & Youth](#) (Human Rights Campaign website)
- [What exactly does it mean to be 'all-gender affirming?'](#) by Jaime Grant (article)
- [My Purple Umbrella](#) (organization facebook account)

### LGBTQ+

- [Washington State Directive for LGBTQ Inclusion](#) (Governor's Directive)
- [Stonewall Youth](#) (organization)
- [Pizza Klatch](#) (organization)
- [PFLAG](#) (organization)
- [For LGBTQ People Of Color, Discrimination Compounds](#) by Deena Prichet (article)

### Disability

- People First Language: [DisabilityisNatural.com](#) (website)



**APPENDIX G**  
**Division 21 CDSS Manual:**  
**Proposed Changes**

**Redlined Version**  
**Clean Version**

## CIVIL RIGHTS

### NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

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## ~~CALIFORNIA-DSS-MANUAL-CFG~~

### ~~CIVIL RIGHTS~~

#### ~~NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS~~

#### ~~CHAPTER 21-100 NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS Title VI Civil Rights Act 1964~~

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## CHAPTER 21-100 NONDISCRIMINATION IN STATE AND FEDERALLY ASSISTED PROGRAMS

### 21-101 PURPOSE ~~21-101~~

(a) The purpose of Division 21 is to effectuate the provisions of the following laws: Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the ~~Rehabilitation~~ Rehabilitation Act of 1973, as amended; Title II of the Americans With Disabilities Act of 1990, ~~as amended~~; the Age Discrimination Act of 1975, as amended; the Food Stamp Act of 1977, as amended; ~~and~~ California Civil Code, Section 51, et seq., as amended; California Government Code, Section 11135, et seq., as amended; ~~and~~ California Government Code, Section 4450; and other applicable federal and state laws and their implementing regulations to ensure that the administration of public assistance and social services programs are nondiscriminatory, and that no person shall, because of ~~actual or perceived~~ race, color, national origin, ~~ancestry, ethnic group identification~~, political affiliation, religion, marital status, sex, age, ~~gender, gender identity, gender expression, sexual orientation, medical condition, genetic information, military and veteran status, mental disability~~, or ~~physical~~ disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity ~~that is conducted, operated, or administered by the state or any state agency, is funded directly by the state, or receives any financial assistance from the state, receiving federal or state financial assistance~~. Administrative methods/procedures which have the effect of subjecting individuals to discrimination or defeating the objectives of these regulations are prohibited.

(b) ~~All definitions and prohibitions set forth in the statutes listed in 21-101(a) are hereby incorporated by reference. Any act or omission which is contrary to said definitions and prohibitions constitutes a violation of this subchapter and is subject to the sanctions provided for in this subchapter. In the event of any conflict between the definitions and prohibitions of the provisions incorporated by this reference and the definitions and prohibitions set forth in this subchapter, the definitions and prohibitions set forth in this subchapter shall prevail.~~

(c) ~~This Division and other implementing regulations provide protections independent of those in federal anti-discrimination laws. Although federal laws provide the floor of protection relating to discrimination, this Division and implementing regulations afford additional protections to provide robust protection of protected classes in state and state-supported programs and activities, including by recognizing that this Division prohibits discrimination independently of guarantees of equal protection and the prohibition~~

**Commented [A2]:** source: CA Gov. Code § 12926, subd. (o) clarifies that discrimination includes discrimination on the basis of perception  
[https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=GOV&sectionNum=12926](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=12926)

**Commented [A3]:** source: 11135 draft

**Commented [A4]:** In 2013 CA added veteran/military status as a protected class under the CA FEHA. This is not in the 11135 draft  
<https://www.jacksonlewis.com/resources-publication/military-and-veteran-status-now-protected-under-california-employment-discrimination-law>

**Commented [A5]:** source: 11135 draft (except military/veteran status)

**Commented [A6]:** source: 11135 draft

**Commented [A7]:** source: 11135 draft

against denial of full and equal access. The provisions of this Division and other implementing regulations shall be construed liberally for the accomplishment of the purposes of this part.

(a)(d) This Division's prohibition against discrimination includes intersectional discrimination, discrimination on more than one basis, harassment, coercion, intimidation, and retaliation for exercising a protected right or refusing to engage in an act prohibited by Division 21.

Commented [A8]: source: 11135 draft

AUTHORITYNOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code; Section 51, California Civil Code; Sections 4450, ~~and 11135~~, 11136, and 12993, California Government Code; Title II of the American With Disabilities Act of 1990, Public Law (P.L.) 101-336; 42 USCA 2000d; as amended by the ADA Amendments Act of 2008 (ADA Amendments Act) (Pub. L. 110-325, 122 Stat. 3553 (2008)), Title II of the Americans with Disabilities Act Regulations; 28 CFR 35; and Title VI of the Civil Rights Act of 1964, P.L. 88-352.

#### **21-10~~323~~ SCOPE OF DIVISION ~~21-103~~**

These requirements shall apply to the California Department of Social Services (CDSS), all county welfare departments, and all other agencies receiving federal or state financial assistance through CDSS for the administration of public assistance, food stamps, child support enforcement, fraud investigation, and social services.

When the laws of California prescribe stronger protections and prohibitions than federal laws, the entities covered by this ~~d~~Division are subject to the stronger protections and prohibitions.

.1 Civil Rights requirements addressing the Child Support Program in the county District Attorney's offices are covered in separate plans of cooperation (see MPP Division 12 (Administrative Standards for State IV-D Agency), Appendix I, Part IX, Civil Rights Component).

.2 Civil Rights requirements addressing welfare fraud investigations in the county by District Attorney's offices are covered in separate purchase of service agreements and plans of cooperation (see MPP Division 20 (Fraud and Suspected Law Violations), Section 20-007.111).

.3 CDSS reserves the right to interview staff, review, copy or obtain all data, records, reports, case files and other materials determined necessary in the conduct of discrimination complaint investigations and/or compliance reviews involving all agencies subject to the requirements of this ~~d~~Division.

.4 Contractor and Vendor Compliance: Contractors, vendors, consultants, and other providers of service who receive federal or state assistance through CDSS or through

agencies covered by these regulations shall comply with nondiscrimination requirements of this ~~d~~Division.

.5 Written assurances of nondiscrimination in programs and activities receiving federal or state financial assistance shall be required. This requirement is fully applicable to all vendors, contractors, consultants, and other providers of service in addition to county welfare departments.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code; Section 11135(b), Government Code; Title VI of the Civil Rights Act of 1964, P.L. 88-352; and 28 CFR 42.407.

## **21-10~~43~~ DEFINITIONS 21-103**

.1 The following definitions shall apply to the terms used in this Division:

1. ~~a. (1)~~ "Accessibility" generally refers to the usability of public facilities by individuals with disabilities. See 21.18xx for a complete definition.
2. "Adverse action" includes any action that harms or has a negative effect on an aggrieved person, including denial or reduction in benefits, harassment, intimidation, threats, coercion, inferior or unfavorable treatment, discrimination, or any denial of full and equal access.
3. "Age" means how old a person is or is perceived to be, or the number of years elapsed from the date of a person's birth or perceived to have elapsed from that date.
4. "Aggrieved person" includes any person who believes that they have been injured by a discriminatory practice or denial of full and equal access, or believes that the person will be injured by a discriminatory practice or denial of full and equal access that is about to occur. "Aggrieved person" shall include any applicants for or recipients of public benefits from agencies covered by these regulations.
5. "Ancestry" means an individual's actual or self-identified family or ethnic origin, descent or lineage, nationality group, tribal affiliation, or geographical place of origin or country in which the individual or the individual's parents or ancestors originated, or the perception of the individual's ancestry.
6. "Assistance animal" means an animal that is necessary as a reasonable accommodation for an individual with a disability. Assistance animals include service animals and support animals. An assistance animal is not a pet. It is an animal that works, provides assistance, or performs tasks for the benefit of an individual with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of an individual's disability.
  - a. "Service animals" are animals that are trained to perform specific tasks to assist individuals with disabilities, including individuals with mental health disabilities. Service animals do not need to be professionally trained or certified, but may be trained by the individual with a disability or another individual. Specific examples include:

Commented [A9]: source: 11135 draft

- i. "Guide dog," as defined at California Civil Code section 54.1, or other animal trained to guide a blind individual or individual with low vision.
- ii. "Signal dog," as defined at California Civil Code section 54.1, or other animal trained to alert a deaf or hard-of-hearing individual to sounds.
- iii. "Service dog," as defined at California Civil Code section 54.1, or other animal individually trained to the requirements of an individual with a disability.
- iv. "Miniature horses" meeting the requirements of 28 CFR 35.136(i) and 28 CFR 36.302(c)(9).
- v. "Service animals in training," including guide, signal, and service dogs being trained by individuals with disabilities, persons assisting individuals with disabilities, or authorized trainers under California Civil Code sections 54.1(c) and 54.2(b).
- vi. "Support animals" are animals that provide emotional, cognitive, or other similar support to an individual with a disability. A support animal does not need to be trained or certified. Support animals are also known as comfort animals or emotional support animals.

7. "Assistive technology" means technology designed to be utilized in an assistive technology device or assistive technology service.

- a. "Assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.
- b. "Assistive technology service" means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device.

1-8. "Associated with" means linked or related to a person who is or is perceived to be a member of a protected class, or who identifies with or advocates for a member of a protected class, or who expresses support or sympathy for, encourages, or participates in groups composed of or representing members of a protected class or groups organized for the protection or assertion of rights protected under this Division. "Associated with" includes an individual's current or prior social or professional relationship with, marriage to, or domestic partnership with a member of a protected class; an individual's familial relationship with a person who is a member of the class, including an adoptive, step, or foster care relationship; a person's relationship as an attendant, aide, or caregiver of an individual with a disability; membership in or association with an organization identified with or seeking to promote the interests of a protected class; attendance or participation in schools, clubs, associations, organizations, churches, temples, or mosques, generally associated with a protected class; being on the premises of a facility or building owned or rented by an entity, group, or person that has, or is identified with people who have, one or more characteristics of a protected class; or actual or perceived association of a person's name or other characteristics with a protected class.

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2.9. ~~(2)~~ "Assurance of Compliance Agreement" is a legal agreement in which a county welfare department agrees to administer a program or activity covered by this ~~d~~Division in accordance with all applicable civil rights laws and their implementing regulations.

3.10. "Authorized representative" means ~~a~~An individual or group that has written authorization from the applicant/recipient to act in his/her behalf (see MPP, Division 19, Section 19-005.2).

11. "Auxiliary aids and services" include:

- a. ~~c~~Communicating, written or orally, in plain language, simplified English
- b. qualified interpreters; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, video relay services, video remote interpreting (VRI), or other telecommunications devices that make communication as equally effective as oral communication in English; videotext displays; accessible electronic and information technology; tactile sign language; or other equally effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing or assisting those individuals to communicate;
- c. qualified readers; taped texts; audio recordings; Braille materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision or assisting those individuals to communicate;
- d. qualified interpreters, speech-to-speech relay services, or other effective methods of making aurally delivered information available to individuals who have speech disabilities or assisting those individuals to communicate;
- e. acquisition or modification of equipment or devices; and
- f. other similar services and actions, including newly developed forms of electronic information systems and technology as they become available.

12. "Benefit" means anything offered or provided with the intention of or for the purpose of contributing to an improvement in condition, maintaining a condition, or preventing anticipated deterioration of a condition over time, including aid or services offered or provided by a covered entity.

13. "Color" means the actual or perceived physical characteristics of an individual's complexion, pigmentation, or skin tone.

4.14. "Community Organization" is any organization at the local level which interacts with applicants/recipients, such as a community action program, civic organization, migrant group, church, neighborhood council, local chapter of a community organization (e.g., NAACP), or other similar group.

15. "Contractor" includes a person or recipient that receives any state support under contract

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or subcontract. "Contractor" includes prime contractors and subcontractors at any tier.

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16. "Covered entity" includes:

- a. the state or a state agency;
- b. any entity or individual involved in carrying out any program or activity that is conducted, operated, or administered by the state or by any state agency;
- c. any entity or individual, including local agencies, recipients, contractors, and grantees, that is funded directly by the state, or receives any state support;
- d. a local agency, and any entity or individual involved in carrying out any program or activity of a local agency if any part of the local agency receives state support;

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17. "Culturally aware persons" are those who possess knowledge and understanding of cultural environments, religious beliefs, life styles, self-concepts and language characteristics of the populations they serve. Such knowledge is necessary to effectively communicate and provide the same level of service being provided to the welfare population at large.

18. "Disability" means a physical or mental impairment that limits one or more major life activities of an individual, a record of such an impairment, or being regarded as having such an impairment. It includes any mental or physical disability as defined in this section, and shall be construed as follows:

- a. This Division provides protections that are independent from those in the federal Americans with Disabilities Act of 1990 (P.L. 101-3361) and the American with Disabilities Amendments Act of 2008 (P.L. 110-325) (collectively, "the ADA"), and may afford additional protections, but in no event shall be construed to provide fewer protections than the ADA. Notwithstanding the definitions of physical disability and mental disability in this section, if the definition of "disability" used in the ADA would result in broader protection of the civil rights of individuals with a mental disability or physical disability, or would include any medical condition not included within those definitions, then that broader protection or coverage shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of, the definitions in this section.
- b. All definitions shall be interpreted in accordance with the expansive construction mandates of Section 12926.1 of the California Government Code. To the extent that codified definitions or interpretations are expanded in the future, such new, more expansive definitional mandates shall be incorporated into this Division. To the extent that such codified definitions or interpretations are narrowed or restricted in the future, the more expansive definitions referenced in this subparagraph shall nevertheless continue to govern this Division.
- c. "Mental disability" includes:
  - i. Having any mental or psychological disorder or condition, such as intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity.
  - ii. Any other mental or psychological disorder or condition not described in [the sentence above] that requires special education or related services.
  - iii. Having a diagnoses, record, or history of a mental or psychological disorder or condition described in [the two sentences above].

- iv. Being regarded or treated as having, or having had, any mental condition that makes achievement of a major life activity difficult.
  - v. Being regarded or treated as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in [paragraphs i and ii].
- d. (4) "Physical Disability" includes:
- i. (A) having any physiological disease, disorder, or condition, cosmetic disfigurement, or anatomical loss that affects one or more body systems (neurological, including immunological; musculoskeletal, special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic, skin; and endocrine systems), and limits a major life activity;
  - ii. (B) any other health impairment not described in subparagraph (A) above that requires special education or related services;
  - iii. (C) having a diagnosis, record, or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in subparagraph (iA) or (iiB) of this paragraph;
  - iv. (D) being regarded or treated as having, or having had, any physical condition that makes achievement of a major life activity difficult; or
  - v. (E) being regarded or treated as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in subparagraph immediately above in (iA) or (iiB) of this paragraph.
- e. (5) "Having a record of such impairment" means has a history of, or has been misclassified as having, an impairment that limits one or more major life activities.
- f. (6) "Perceived as having an impairment" means:
- i. (A) has an impairment that does not limit major life activities but that is treated or perceived as constituting a limitation;
  - ii. (B) has an impairment that limits major life activities only as a result of the attitudes of others toward such impairment; or
  - iii. (C) does not have an impairment but is treated or perceived as having such an impairment.
- g. (7) The definition of disability in this subchapter shall be construed in favor of broad coverage of individuals under this subchapter, to the maximum extent permitted by the terms of this subchapter. Disabilities include contagious and noncontagious diseases; orthopedic, visual, speech and hearing impairments; traumatic brain injuries, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disabilities, developmental disabilities, autism or autism spectrum, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

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- h. (8) Individuals are protected from discrimination and denial of full and equal access due to an actual or perceived physical or mental impairment that is disabling, potentially disabling, or perceived or regarded as disabling or potentially disabling (even if it has no present disabling effect), including when an individual is erroneously or mistakenly believed to have any physical or mental condition that limits a major life activity, whether or not the impairment actually limits or is perceived to limit a major life activity.
- i. (9) Physical and mental disabilities include chronic or episodic conditions, such as HIV/AIDS, hepatitis, epilepsy, seizure disorder, diabetes, clinical depression, bipolar disorder, multiple sclerosis, and heart disease. An impairment that is episodic or in remission is a disability if it would limit a major life activity when active.
- j. (10) The definitions of "physical disability" and "mental disability" require a "limitation" upon a major life activity, but do not require, as does the ADA, a "substantial limitation." This distinction is intended to result in broader coverage under this subchapter than under the ADA.
- k. (11) "Major life activities" shall be broadly construed and include physical, mental, and social activities; caring for one's self; performing manual tasks; walking, seeing, hearing, speaking, breathing, eating, sleeping, standing, lifting, bending, learning, reading, concentrating, thinking, communicating, and working. Working is a major life activity, regardless of whether the actual or perceived working limitation implicates a particular employment or a class or broad range of employment.
- l. (12) For purposes of subparagraph (f6), a major life activity also includes the operation of a major bodily function, including functions of the immune system, normal cell growth, digestive, bowel, bladder, cardiovascular, genitourinary, hemic, neurological, lymphatic, brain, respiratory (including speech organs), circulatory, endocrine, and reproductive functions.
- m. (13) A disability limits a major life activity if it makes the achievement of the major life activity difficult.
- n. (14) An impairment that limits one major life activity need not limit other major life activities in order to be considered a disability.
- o. (15) The determination of whether an impairment limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, unless the mitigating measure itself limits a major life activity, regardless of federal law under the ADA. Mitigating measures include:
  - i. (A) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;
  - ii. (B) use of assistive technology and devices;
  - iii. (C) reasonable accommodations or auxiliary aids or services; or (D) learned behavioral or adaptive neurological modifications.

- p. ~~(16)~~-The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment limits a major life activity. As used in this subparagraph:
- i. ~~(A)~~-the term "ordinary eyeglasses or contact lenses" means lenses that are intended to fully correct visual acuity or eliminate refractive error; and
  - ii. ~~(B)~~-the term "low-vision devices" means devices that magnify, enhance, or otherwise augment a visual image.
- q. ~~(17)~~-“Disability” does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs. “Sexual behavior disorders” means pedophilia, exhibitionism, and voyeurism.
- r. ~~(18)~~-“Current unlawful use of controlled substance or drugs” does not include an individual who:
- i. ~~(A)~~-has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated and is no longer engaging in such use;
  - ii. ~~(B)~~-is participating in a supervised rehabilitation program and is no longer engaging in such use;
  - iii. ~~(C)~~-is erroneously regarded as engaging in such use; or
  - iv. ~~(D)~~-is using drugs taken under the supervision of a licensed health care professional, or other uses authorized by law.
- s. ~~(19)~~-Notwithstanding other provisions of this subchapter, an individual shall not be denied health services, or services provided in connection with drug rehabilitation, on the basis of current unlawful use of drugs if the individual is otherwise entitled to such services.
19. “Effective Communication” means communication sufficient to provide the LEP individual with substantially the same level of services received by individuals who are not LEP. For example, staff must take reasonable steps to ensure communication with an LEP individual is as effective as communications with others when providing similar programs and services.
20. “Ethnic group identification” means the actual or self-identified possession of the physical, cultural, or linguistic characteristics associated with a racial, cultural, or ethnic group or country, geographical place of origin, or the status of being a descendent of someone with such actual or self-identified characteristics, or the perception of a person’s ethnic group identification. “Ethnic Group Identification” includes ancestry, color, national origin, and race.
21. “Gender” means sex, and includes a person’s gender identity and gender expression, or a perception of any of the aforementioned.
22. “Gender identity” means each person’s internal understanding of their gender, or perception of a person’s gender identity, which may include male, female, a combination of male and female, neither male nor female, a gender different from the person’s sex assigned at birth, or transgender.

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23. "Gender expression" means a person's gender-related appearance or behavior, or the perception of such appearance or behavior, whether or not stereotypically associated with the person's sex assigned at birth.

5.24. "Genetic Information" means information about an individual's genetic tests, the genetic tests of an individual's family members, the manifestation of a disease or disorder in the individual's family members, or the perception of any of the aforementioned. Genetic information includes any request for, or receipt of, genetic services, or participation in clinical research that includes genetic services, by an individual or any family member of the individual. Genetic information does not include information about the sex or age of any individual.

25. "Includes" or "including" has the same meaning as "includes, but not limited to" or "including, but is not limited to."

6.26. "International Symbol of Accessibility" is the symbol specified in Title 24 of the California Code of Regulations (Access Code) Section 3105A.(e) used to identify facilities, restrooms, parking spaces, etc. as accessible to individuals with disabilities.

27. "Intersectional Discrimination" means discrimination on the basis of a combination of protected classes, i.e., where two or more bases for discrimination are alleged. Thus, an entity that is not unlawfully discriminating solely on the basis of race or gender still may be discriminating against individuals who are perceived as or identified as having a combination of more than protected basis, such as, Asian males.

7.28. "Individual with a disability" is any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairment or is regarded as having such an impairment.

7. "Physical or mental impairmentPhysical Disability" meansincludes having a:

29. Any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin and endocrine.

— "Mental Disability includes ; orhaving a

30. Any mental or psychological disorder, such as an intellectual disabilitymental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities or any other mental or psychological disorder or condition not that requires special education or related services.

40.31. "Major life activities" include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

11.32. "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

12.33. "Is regarded as having an impairment" means:

- a. Has a physical or mental impairment that does not substantially limit major life activities, but that is treated by the agency as constituting such a limitation;
- b. Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

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c. Has none of the impairments defined in this section but is treated by an agency as having such an impairment.

34. "Major Occupational Group" ~~Groups~~ shall include, but are not limited to, the following general positions/classifications: Social Service Supervisors, Eligibility Supervisors, Social Workers, Eligibility Workers, Welfare Aids, Receptionists, Clerical Employees. Agency personnel whose position/classification is not included, but whose primary duties/responsibilities correspond to any one of the above shall be included in that major occupational group.

35. "Marital status" means an individual's actual or perceived pending state of marriage, non-marriage, domestic partnership, divorce or dissolution, separation, widowhood, annulment, or other marital state.

36. "Meaningful Access" is language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual. For LEP individuals, meaningful access denotes access that is not significantly restricted, delayed, or inferior as compared to programs or activities provided to English proficient individuals.

37. "Medical Condition" means any actual or perceived health impairment related to or associated with a diagnosis, record, or history of cancer; or genetic characteristics known to be a cause of a disease or disorder or associated with a statistically increased risk of developing a disease or disorder. "Genetic characteristics" means either of the following:

- a. any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or that person's offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder; or
- b. inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or that person's offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.

38. "Military and veteran status" means a member or veteran of the United States Armed Forces, United States Armed Forces Reserve, the United States National Guard, and the California National Guard.

39. "National origin" includes:

- a. the individual's or ancestors' actual or perceived:
  - i. physical, cultural, or linguistic characteristics, or name associated with a national origin group;
  - ii. marriage to or association with persons of a national origin group;
  - iii. tribal affiliation;
  - iv. membership in or association with an organization identified with or seeking to promote the interests of a national origin group; and
  - v. attendance or participation in schools, churches, temples, mosques, or other religious institutions generally used by persons of a national origin group;

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<https://www.justice.gov/sites/default/files/crt/legacy/2015/05/04/crtlap.pdf>

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<https://www.jacksonlewis.com/resources-publication/military-and-veteran-status-now-protected-under-california-employment-discrimination-law>

- b. "National origin groups" include ethnic groups or people from particular geographic places of origin and countries, whether or not they are presently in existence.
- 13-c. "National origin" includes possessing a driver's license or identification card granted under Sections 12801.6, 12801.8, or 12801.9 of the Vehicle Code, or a driver's license or identification card identified with the term "Federal Limit Apply."
40. "Non-English Speaking" persons are defined as those whose primary language is other than English or those who have identified a need for interpretive services. Sign language is subject to this definition.
- 14.41. "Perceived membership in a protected class" means being regarded as, perceived as, or treated as a member of a protected class or as having the characteristics associated with being a member of a protected class, regardless of whether the perception is accurate.
- 15.42. "Practice" or "Practices" includes any action or failure to act, rule, law, ordinance, regulation, guideline, decision, standard, project, policy, process, or procedure, whether written or unwritten or singular or multiple.
43. "Program or activity" includes all of the operations and facilities of, or services, benefits or aid provided by, a covered entity, directly or indirectly.
44. "Protected class" and "protected basis" are used interchangeably. They refer to the bases on which individuals are entitled to protections against discrimination and denial of full and equal access. Protected bases include sex, race, color, religion, ancestry, national origin, ethnic group identification, age, disability (including mental and physical disability), medical condition, genetic information, marital status, gender, gender identity, gender expression, and sexual orientation. In the event the Legislature in the future recognizes a protected class or protected basis by legislation or regulation, that basis will be considered a protected class or protected basis pursuant to this Division, unless specifically excluded by the Legislature. All protected bases include a perception that a person is a member of a protected class or has any of those characteristics, or that a person is associated with a person who is, or is perceived to be a member of a protected class. Discrimination or the denial of full and equal access on the basis of a protected class includes discrimination or denial of full and equal access on the basis of a stereotype about members of the protected class.
- 46.45. "Public contact positions" include, but are not limited to, the following positions and activities, regardless of particular job classification or title: CWD employees assigned to the front desk or registration counter, telephone operators, eligibility workers/supervisors, social service workers/supervisors, welfare service aides, vocational counselors, homemakers, fraud investigators, and any employee providing interpretive service on a continuing or as needed basis.
46. "Qualified bilingual employee" is defined as an employee who, in addition to possessing the necessary qualifications for the particular classification, is certified through a process approved or administered by CDSS to be proficient in oral and/or written communication in the non-English language of the persons to be served. This definition shall also apply

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to an employee who is certified in the use of sign language to communicate with individuals who are deaf or hearing-impaired.]

47. "Qualified individual with a disability" means:

a. an individual with a disability who, with or without reasonable accommodations to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity or contractor, or recipient of a public entity.

17.b. with respect to employment, a qualified individual with a disability is an applicant or employee who, with or without reasonable accommodations, can perform the essential functions of the job in question.

48. "Qualified interpreter" means a person qualified and capable of effective, accurate, and impartial rendition of spoken or signed communication from one language to another between people who speak, sign, read, or write in a different language, both receptively and expressively, using any necessary specialized vocabulary and with appropriate cultural relevance, either simultaneously or consecutively. "Interpretation" is the act of listening to spoken word, visual or tactile transmission of manual language, or reading something written in one language (source language) and expressing it accurately and with appropriate cultural relevance into another language (target language), either simultaneously or consecutively. Whether an interpreter is qualified to provide services requires more than self-identification as bilingual or multilingual. To be qualified an interpreter must: (i) demonstrate proficiency in and ability to communicate information accurately in both the source and target language; (ii) have knowledge in both languages of any specialized term, concepts, or any particularized vocabulary and phraseology peculiar to the program or services; (iii) understand and follow interpreters' and translators' confidentiality, ethics and impartiality rules; and (iv) understand and adhere to their roles as interpreters or translators. Qualified interpreters include, for example, sign language interpreters, oral transliterators, and cued-language transliterators. Also, to be qualified an interpreter must have received adequate education and training in interpreter ethics, conduct, practice, and confidentiality. In some circumstances, effective communication may require that an individual be provided more than one interpreter. means an interpreter who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary.

18.49. "Qualified reader" means a person who is able to read effectively, accurately, and impartially using any necessary specialized vocabulary.

50. "Race" refers to the identification of a group of people as distinct from other groups based on supposed or presumed physical, cultural, or genetic characteristics, or the perception of an individual's race, without regard to whether those characteristics are immutable. "Race" is construed broadly to include classifications that might otherwise appear to be covered only by other protected bases, such as national origin or religion.

51. "Religion," "religious creed," "religious observance," "religious belief," and "creed" are used interchangeably under this subchapter to mean any actual or perceived traditionally

**Commented [A30]:** ICE's 2015 language access plan <https://www.ice.gov/sites/default/files/documents/Document/2015/LanguageAccessPlan.pdf> defines bilingual person (not qualified bilingual employee) as "A person who is bilingual is fluent in two languages and is able to conduct the business of the workplace in either of those languages. This is to be distinguished from proficiency in more than one language. An individual who is proficient in a language may, for example, be able to greet an LEP individual in his or her language, but not conduct agency business in that language. Interpretation and translation require the interpreter or translator to be fluently bilingual, and also require additional specific skills for interpretation and translation as described below."

**Commented [A31]:** Covered California's Bilingual Services Policy <https://www.coveredca.com/PDFs/bilingual-services/Bilingual-Services-Policy.pdf> defines qualified bilingual employee as "A CC staff member who is certified by the California Department of Human Resources Bilingual Services Program, or by any Department if that Department has delegated authority to conduct bilingual fluency examinations, and who uses this bilingual skill to serve CC consumers."

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recognized religion as well as beliefs, observances, or practices, which an individual sincerely holds and which occupy in their life a place of importance parallel to that of traditionally recognized religions. This includes all aspects of religious belief, observance, and practice, such as duties of the clergy or elders, and religious dress and grooming practices. Religion includes atheism, agnosticism, and an individual's choice not to adopt a traditional or specific religious belief.

a. "Religious dress practices" shall be construed broadly to include the wearing or carrying of religious clothing, head or face coverings, jewelry, artifacts, and any other item that is part of an individual's religious observance.

b. "Religious grooming practice" shall be construed broadly to include forms of head, facial, and body hair, or body markings, that are part of an individual's religious observance.

52. "Sex" includes pregnancy, childbirth, and breastfeeding; medical conditions related to pregnancy, childbirth, or breast feeding; recovery from childbirth or termination of pregnancy, or other conditions related to the capacity to bear children; gender; transgender; intersex; transitioning; sex stereotype; gender identity; gender expression; and perception by a third party of any of the aforementioned.

53. "Sexual Orientation" includes actual or perceived heterosexuality, homosexuality, bisexuality, and asexuality. This refers to a person's emotional, romantic, or sexual attraction toward other people, and may be described by terms including gay, lesbian, bisexual, straight, asexual, or queer.

54. "Sign Language" means the use of fingers and hands to communicate with individuals who are deaf or hard of hearing. There are multiple sign languages including:

a. "American Sign Language (ASL)," a visual language that does not share grammar, word order, or sentence structure with English.

b. "Manually Coded English," signs that are a visual code for spoken English.

19-c. "Pidgin Signed English," a visual language combining ASL and English that does not follow English grammatical structures exactly.

20-55. "Stereotype" means a belief about a person's appearance or behavior, gender roles, gender expression, or gender identity, or other roles, expressions or identities, or about an individual's ability or inability to perform certain kinds of work or to participate in or benefit from programs or activities, or receive health or other services, based on a myth, bias or prejudice, assumption, social expectation, convention, statistical probabilities, or generalization about the individual or about other persons in a protected class.

56. "Substantial Number" is defined as five percent or more persons of a program/location, who are non-English speaking, deaf, or hearing-impaired (see Section 21-115.12).

57. "Transgender" is a general term that refers to a person whose gender identity differs from the person's sex assigned at birth. A transgender person may or may not have a gender expression that is different from the social expectations of the sex assigned at birth. A transgender person may or may not identify as "transsexual."

58. "Transitioning" is a process some transgender people go through to begin living as the gender with which they identify, rather than the sex assigned to them at birth. This

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Commented [A37]: Advocates recommended adding "or 1,000, whichever is less" in order to cover populous LEP groups that don't meet the 5% threshold because the county is so large

process may include, changes in name and pronoun usage, facility usage, or undergoing hormone therapy, surgeries, or other medical procedures.

59. "Ultimate beneficiary" means a person in a protected class who receives, applies for, participates in, or benefits from, or is unlawfully deterred or excluded from benefiting from, full and equal access to the benefits of, or employment with, or is subjected to discrimination under a program activity or service that is conducted, operated or administered by any covered entity.

60. "Video remote interpreting" ("VRI") service means an interpreting service that uses video conference technology over dedicated lines or wireless technology offering high-speed, wide-bandwidth video connection that delivers high-quality video.

21.61. (iii) "Wheelchair" means a manually-operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor or of both indoor and outdoor locomotion.

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NOTE: Authority cited: Section 12935(a), Government Code. Reference: Sections 11000, 11135, 11139.5, Government Code. 11136, 11137, 11139, 11139.8, 12901, 12903, 12926, 12926.1, 12940, and 12960, Government Code. Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code; Section 11135, et seq., California Government Code; Title II of the Americans With Disabilities Act of 1990, P.L. 101-336; Title VI of the Civil Rights Act of 1964, P.L. 88-352; United States Department of Agriculture (USDA), Food and Nutrition Service, FNS Instruction 113-7 Part IV, B. and K.; 28 CFR 35.104; and Title 24 of the California Code of Regulations (Access Code) Section 3105A(e).

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## **21-10~~747~~ DISSEMINATION OF INFORMATION 21-107**

### **.1 General Requirements**

Each county welfare department shall take appropriate steps to inform all applicants, recipients, community organizations, and other interested persons, including those whose primary language is other than English, and those with impaired hearing or vision or other disabling conditions, of the provisions of this dDivision and its applicability to the programs and activities for which the county welfare department receives federal or state financial assistance. Such notification shall also identify the name, email address, office telephone number, and office address of the employee(s) responsible for the county welfare department's compliance with this dDivision (see Section 21-201.1). If not immediately available, this information must be provided within ten (10) calendar days of the date requested.

### **.2 Specific Methods to be Utilized**

#### **.21 Posters**

.211 Posters on nondiscrimination provided by CDSS shall be prominently displayed in all waiting rooms and reception areas. The county welfare department shall place on the posters the name, email address, office telephone number, and office address of the person(s) in the CWD who is responsible for processing discrimination complaints. Posters dealing specifically with nondiscrimination in the Food Stamp Program shall be prominently posted in all certification and issuance offices. All posters and other public documents should be translated into appropriate languages to address the needs of LEP applicants/recipients.

.212 All instructional and directional signs posted in waiting areas and other places frequented by a substantial number of non-English-speaking-LEP applicants/recipients shall be translated into appropriate languages. Such signs, or an additional sign, shall state that applicants/recipients may request aid or services in their primary language.

## .22 Pamphlets

.221 Pamphlets supplied by CDSS, entitled "Your Rights Under California Welfare Programs," shall be made available in all CWD waiting rooms and reception areas and shall be distributed and explained to each applicant/recipient at intake and reinvestigation of eligibility. The pamphlets shall be in the primary languages of the CWD's applicant/recipient population, including alternate formats (e.g., cassette tapes or CDs, large print, Braille etc.).

## .23 Photographs and Illustrations

Photographs and other illustrations used to provide program information conveying the message of equal opportunity shall display applicants/recipients of different races, national origin, sexes, disabilities, etc., covered by this division.

## .24 Notice

The CWD shall implement procedures to ensure that applicants/recipients, community organizations, and other interested persons, including persons with impaired vision or hearing or other disabling conditions, are notified of and can obtain information about programs or program changes including, but not limited to, the following:

.241 Existence and location of benefits and services, and hours or days of operation;

.242 Activities and services accessible to individuals with disabilities;

.243 Basic eligibility requirements for public assistance;

.244 Prohibited acts of discrimination;

.245 Procedures for filing discrimination complaints;

.246 Rights and responsibilities of applicants/recipients; and

.247 The CWD's policy of nondiscrimination.

.25 Notice may be given by, but not limited to, the following methods: oral group presentations, face-to-face interviews, and printed materials, e.g., posters, pamphlets, etc.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code; United States Department of Agriculture (USDA), Food and Nutrition Service, FNS Instruction 113-7, Part VI, B. 1, 2, and 3; 28 CFR 35.106 and .107; 28 CFR 42.405(c); 45 CFR 80.6(d); 45 CFR 84.8; Title VI of the Civil Rights Act of 1964, P.L. 88-352; and Title II of the American With Disabilities Act of 1990, P.L. 101-336.

## **21-10~~959~~ DISCRIMINATORY PRACTICES PROHIBITED ~~21-109~~**

~~.1 In administering programs to which this division applies, county welfare departments may not, on the basis of race, color, national origin, religion, political affiliation, marital status, sex, age or disability, directly or through contractualcontractural, licensing, or other arrangements:~~

- ~~— .11 Provide aid, benefits, or services to an individual or group which is different than that provided to others unless such action is necessary to provide otherwise qualified individuals or groups with aid, benefits, or services that are as effective as those provided to others.~~
- ~~— The exclusion of an individual or group is not prohibited when the benefits or services of a program or activity are limited by federal statute or executive order to a specific class of individuals or group.~~
- ~~— Deny an individual any benefit or service.~~
- ~~— Subject an individual to separate treatment in any matter related to his/her receipt of any benefit or service.~~
- ~~— Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others.~~
- ~~—~~

### **HANDBOOK BEGINS HERE**

~~.111 The exclusion of an individual or group is not prohibited when the benefits or services of a program or activity are limited by federal statute or executive order to a specific class of individuals or group.~~

### **HANDBOOK ENDS HERE**

~~.12 Deny an individual any benefit or service.~~

~~.13 Subject an individual to separate treatment in any matter related to his/her receipt of any benefit or service.~~

~~.14 Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others.~~

~~.15 Treat an individual differently, whether he/she satisfies any admission, enrollment, eligibility, or other requirement or condition which individuals must meet in order to be provided any benefit or service.~~

## **CALIFORNIA-DSS-MANUAL-CFC**

### **CIVIL RIGHTS**

#### **21-109 DISCRIMINATORY PRACTICES PROHIBITED 21-109**

##### **.16 Programs**

~~Deny an individual an opportunity to participate in any program or activity through the provision of services or otherwise afford him/her an opportunity to do so which is different from that afforded others under the program or activity.~~

~~.17 Use criteria or methods of administration which have the effect of defeating or impairing the objectives of a program or activity.~~

~~.18 Deny an individual the opportunity to be a member of an advisory board which is an integral part of any program.~~

It is a prohibited practice for county welfare departments, in carrying out or failing to carry out any program or activity or providing, denying, or delaying any services or benefits directly or indirectly, through contractual, licensing or other arrangements, to treat in purpose or effect any person less unfavorably without legal justification on the basis of the protected class of the person, including by:

1. denying a person the opportunity or right to apply for, receive the benefits of, or participate in a program or activity;
2. affording a person the opportunity or right to apply for, receive the benefits of, or participate in a program or activity that is not full and equal to the program or activity afforded others;
3. providing a program or activity to a person that is not as effective in affording a full and equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others. In some situations, identical treatment may be discriminatory;
4. providing different or separate programs or activities to a person, or to any class of persons, than is provided to others, or providing programs or activities at a different time,

unless such action is clearly necessary to provide such persons with full and equal access as truly effective a program or activity as that provided to others;

5. aiding or perpetuating discrimination against a person by providing or transferring state support to a covered entity that discriminates in conduct, operation, or administration of any program or activity;
6. excluding a person from participation as a member of a planning or advisory board.  
Under this requirement, it is a discriminatory practice for a covered entity to fail to make reasonable efforts to achieve a representative board. However, such requirement is not deemed to impose adherence to a quota system;
7. limiting a person in the exercise or enjoyment of any right, privilege, advantage or opportunity enjoyed by others participating in or receiving any aid, benefit, or service resulting from a program or activity;
8. denying a person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities;
9. utilizing criteria or methods of administration that:
  - a. subject a person to discrimination on the basis of membership in, perception of membership in, or association with someone in a protected class;
  - b. defeat or substantially impair the accomplishment of the objectives of the covered entity's program or activity with respect to membership in a protected class. The objectives of a program or activity shall include its overall mission or purpose as reflected in sources, such as, relevant statutes, legislative intent and history, and regulations;
  - c. create, increase, reinforce, or perpetuate discrimination or segregation by another recipient covered entity based on membership in a protected class; or
  - d. create, increase, reinforce, or perpetuate discrimination or segregation based on membership in a protected class.
10. making or allowing selections or closures of sites or locations of facilities, or making, issuing, or denying permits for programs, services, activities or facilities that:
  - a. exclude from, denies the benefits of, or otherwise subject persons to discrimination under any program or activity;
  - b. defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to membership in a protected class.
11. interfering with admittance to or enjoyment of public facilities or the rights of an individual with a disability under any program or activity.

NOTE: Authority cited: Section 12935(a), Government Code. Reference: Sections 11000, 11135, 11139, 12926, 12926.1, and 12940, Government Code.

Commented [A40]: source: 11135 draft

## 2 Disability

1. Failure to take appropriate steps including providing accommodations or auxiliary aids to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others constitutes discrimination based on either disability or language proficiency.

a. For purposes of this section, "companion" means a family member, friend, or associate of an individual seeking access to a service, program, or activity of a public entity, who, along with such individual, is an appropriate person with whom the public entity should communicate.

b. Primary consideration should be given to the disabled individual's choice of auxiliary aid.

2. To ensure compliance with the nondiscrimination mandate, CWDs shall:

a. Screen each client for disabilities and language access needs, using the following script or something substantially similar:

"There are things [agency name] will ask you to do in order to get or keep your benefits. If you have a health problem that makes it hard for you to do something [agency] asks, you can ask for help. This is called an accommodation. This could be because of a physical or mental or emotional health problem or learning disability. Some of the things we'll ask you to do are:

- Read notices we send and follow instructions in them
- Fill out forms
- Come to the office for appointments
- Get and give us documents to prove whether you can get benefits
- Tell us about changes in your household or /case circumstances
- Meet deadlines

Do you think you might need help with any of these things, or something else, because of a health problem, disability, learning disability, or other issue?"

b. Track individual's requested accommodation, reason for accommodation, and accommodation provided.

i. CWDs shall engage in an interactive process to determine accommodations if they cannot provide the requested accommodation because it would entail an undue hardship or fundamentally alter the program according to the most up-to-date controlling interpretations of the ADA.

ii. If an individual is covered under the ADA, the only reason for not providing an accommodation is undue burden or fundamental alteration.

c. Give the individual oral and written notice of the accommodation they will receive and explaining the procedure for requesting an alternative accommodation.

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### 32 Location of Facilities

In determining the location of a facility, county welfare departments shall not make selections which have the effect of excluding individuals from, denying them the benefits of, or subjecting them to, discrimination under any programs to which this regulation applies.

~~.21 When units of the total available services are relocated to a new facility beyond the present facility's program area, the CWD shall ensure that services are provided in a manner equally as effective as were provided in the central facility.~~

~~.22 Prior to relocating a facility or units of a facility, a determination shall be made of other alternative services that will remain in the area, and the effect of the proposed relocation on the community.~~

~~.23 When selecting the location for a facility, the CWD shall consider the availability of transportation (public and private) used by the recipient population.~~

~~.24 When selecting the location for a public facility, the CWD shall select a building accessible to individuals with disabilities and persons who are elderly.~~

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 11135, Welfare and Institutions Code; Section 51, California Civil Code; Section 10000, California Government Code; Title II of the Americans With Disabilities Act of 1990, P.L. 101-336; Title VI of the Civil Rights Act of 1964, P.L. 88-352; and 45 CFR 80.1 and 80.3.

## **CALIFORNIA-DSS-MANUAL-CFC**

### **CIVIL RIGHTS**

#### .3 Practices Prohibited on the Basis of Age.

##### .31 Among other prohibited practices, it is prohibited for a covered entity to:

1. discriminate against or deny full and equal access to a person because of the person's actual or perceived age;
2. discriminate against or deny full and equal access to a person because of such person's association with persons of a particular age; or
3. discriminate against or deny full and equal access to a person because of such person's membership in an organization identified with, or seeking to promote the interests of persons of a specific age.

NOTE: Authority cited: Section 12935(a), Government Code. Reference: Sections 11135, 11136, and 11139, Government Code.

#### .4 Practices Prohibited on the Basis of Ancestry, Ethnic Group Identification, and National Origin

##### .41 Among other prohibited practices, it is prohibited for a covered entity to:

1. discriminate against or deny full and equal access to a person because of the person's actual or perceived ancestry, ethnic group identification, or national origin, including a person's primary language or accent;



2. discriminate against or deny full and equal access to a person because of such person's association with persons of a particular ancestry, ethnic group identification, or national origin;
3. discriminate against a person because of such person's membership in an organization identified with, or seeking to promote the interests of persons of a particular ancestry, ethnic group identification, or national origin, or because a person's name, or that of their spouse, is believed to reflect a particular ancestry, ethnic group identification or national origin;
4. to fail to take appropriate steps to ensure that alternative communication services are available to ultimate beneficiaries.

.42 Definitions:

–“Alternative communication services” means the method used for purposes of communicating effectively with a person with limited English proficiency who is unable to read or speak or write in the English language. “Alternative communication services” include, but are not limited to, the provision of the services of a multilingual employee or an interpreter for the benefit of an ultimate beneficiary; the provision of written materials in a language other than English; the provision of written materials in a format other than standard font written print, such as Braille, large font print, sign language visual formats and electronic formats; auxiliary aids and services; and notice to the limited English proficient person of the availability of free alternative communication services, including interpreter and translation services and where to file complaints if appropriate services are not provided.

“Multilingual employee” means a qualified employee of a covered entity who, in addition to their duties, is also proficient in oral communication skills in English and the target languages, as are necessary to accurately and readily interpret in a second language, and has received education and training in interpreter ethics, conduct, practice, and confidentiality. A multilingual employee need not be proficient in reading or writing skills in a second language except where such skills are a job-related necessity or necessary for orally interpreting a written document.

“Limited English proficient persons” (“LEP”) includes:

- a. persons who are non-English speaking or who do not speak English as their primary language or have limited ability to read, write, speak, or understand English;
- b. persons with developmental, mental health, or intellectual disabilities who have limited ability to understand English; and
- c. persons with manual or sensory disabilities, such as manual dexterity impairments, hearing or vision impairments, who have limited functional ability to read, write, or speak English presented in standard visual or oral formats;
- d. persons who are competent in English for certain types of communication (e.g., speaking or understanding) but are LEP for other purposes (e.g., reading or writing).

“Primary language” means the language used most frequently by a person to communicate, including sign language, or tactile sign language.

Commented [A42]: source:  
<https://www.justice.gov/sites/default/files/crt/legacy/2015/05/04/crtlap.pdf>

"Translator" means a person qualified and capable of translating a language in writing or sign. A qualified translator has received education and training in translator best practices, including ethics, conduct, practice, and confidentiality.

"Translation" is the replacement of a written text or sign, or recorded image, from one language (source language) into an equivalent written text or sign, or recorded image in another language (target language), accurately and with appropriate cultural relevance, and at the appropriate grade level. Although many of the same requirements apply to translators as for interpreters, the skill of translators is very different from that of interpreting. Competency of translations can often be ensured by: (i) having a second independent translator to check the work of the primary translator, including using a community review process to ensure the correct reading and literacy level and understandability of the document, and (ii) using "back translation" by having one translator translate the documents and a second one translate it back to English or the source language to check the appropriate meaning.

AUTHORITY: Section 12935(a), Government Code. Reference: Sections 11135, 11136, and 11139, Government Code. Section 12935(a), Government Code. Reference: Sections 11135, 11136, and 11139, Government Code.

#### .5 Practices Prohibited on the Basis of Color and Race

.51 Among other prohibited practices, it is prohibited for a covered entity to:

1. discriminate against or deny full and equal access to a person because of the person's actual or perceived color or race;
2. discriminate against or deny full and equal access to a person because of such person's association with persons of a particular color or race;
3. discriminate against or deny full and equal access to a person because of such person's membership in an organization identified with, or seeking to promote the interests of persons of a specific color or race, or because a person's name, or that of their spouse, is believed to reflect a given color or race.

AUTHORITY: Section 12935(a), Government Code. Reference: Sections 11135, 11136, and 11139, Government Code.

#### .6 Practices Prohibited on the Basis of Marital Status

.61 Among other prohibited practices, it is prohibited for a covered entity to:

1. discriminate against or deny full and equal access to a person because of a person's actual or perceived marital status;
2. discriminate against or deny full and equal access to a person because of such person's association with persons of a particular marital status; or

3. discriminate against or deny full and equal access to a person because of such person's membership in an organization identified with, or seeking to promote the interests of persons with a particular marital status.

#### .7 Practices Prohibited on the Basis of Religion

It is a discriminatory practice for a recipient of state support to discriminate against an ultimate beneficiary based on the nature of the ultimate beneficiary's religious beliefs.

.71 Among other prohibited practices, it is prohibited for a covered entity to:

1. discriminate against or deny full and equal access to a person because of the person's actual or perceived religion;
2. discriminate against or deny full and equal access to a person because of such person's association with persons of a particular religion;
3. discriminate against or deny full and equal access to a person because of such person's membership in an organization identified with, or seeking to promote the interests of persons with a particular religion; or;
4. to fail to make reasonable accommodation to the religious belief of an ultimate beneficiary where such accommodation can be made without undue hardship on the covered entity.

AUTHORITY: Section 12935(a), Government Code. Reference: Sections 11135, 11136, and 11139, Government Code.

#### .8 Practices Prohibited on the Basis of Sex or Sexual Orientation

.81 Among other prohibited practices, it is prohibited for a covered entity to:

1. discriminate against or deny full and equal access to a person because of the person's sex or sexual orientation, as defined in section XXX201-4;
2. discriminate against or deny full and equal access to a person because of such person's association with persons of a particular sex or sexual orientation, as defined in sections XXX201-4; or
3. discriminate against or deny full and equal access to a person because of such person's membership in an organization identified with, or seeking to promote the interests of persons with a particular sex or sexual orientation, as defined in sections XXX201-4.

AUTHORITY: Section 12935(a), Government Code. Reference: Sections 11135, 11136, and 11139, Government Code.

#### .9 Personal Information

In determining whether a person satisfies any criteria for receipt of an aid or benefit or participation in a program or activity, it is a prohibited practice for a covered entity to differentiate

on the basis of sex in inquiring about the family or marital status of such person. However, such person may be required to provide information relevant and necessary for determining whether such person satisfies validly imposed criteria for the aid or benefit, or participation in the program or activity in question.

NOTE: Authority cited: Section 12935(a), Government Code. Reference: Sections 11135, 11136, and 11139, Government Code.

.10 Pregnancy, Childbirth or Termination of Pregnancy.

Any practice of a covered entity concerning disability due to pregnancy, childbirth, recovery from childbirth or termination of pregnancy, or other physiological conditions related to the capacity to bear children not applied under the same terms and conditions, and in the same manner, as any other practice relating to any other temporary disability is a prohibited practice; except as otherwise provided by the Fair Employment Practice Act.

NOTE: Authority cited: Section 12935(a), Government Code. Reference: Sections 11135, 11136, and 11139 and 11139.5, Government Code.

.11 Parental, Family or Marital Status

Any practice of a covered entity concerning the actual or potential parental, family or marital status of an ultimate beneficiary which has the purpose or effect of differentiating on the basis of sex is a prohibited practice.

Note: Authority cited: Section 12935(a), Government Code. Reference: Sections 11135, 11136, and 11139, Government Code.

.12 Inquiries Regarding and Recording of Gender and Name.

1. Inquiries by a covered entity that directly or indirectly identify a person on the basis of sex, including gender, gender identity, or gender expression, or sexual orientation, are unlawful unless the covered entity establishes a permissible defense, including whether such a practice is required by state or federal law or an order of a state or federal court. For recordkeeping purposes, a covered entity may request a person to provide this information solely on a voluntary basis.
2. It is discrimination under this Division, if an ultimate beneficiary requests to be identified with a preferred gender, name, and/or pronoun, including gender-neutral pronouns, and a covered entity fails to abide by the person's stated preference.

3. A covered entity is permitted to use a person's gender or legal name as indicated in a government-issued identification document only if it is necessary to meet a legally-mandated obligation, but otherwise must identify the person in accordance with their gender identity and preferred name.

NOTE: Authority cited: Section 12935(a), Government Code. Reference: Sections 11135, 11136, and 11139, Government Code.

#### .13 Additional Rights

1. It is unlawful for a covered entity to inquire about or require documentation or proof of a person's sex, gender, gender identity, or gender expression as a condition of application or eligibility for, or receipt of, any benefit, program, activity, or service provided by the covered entity.
2. It is unlawful for a covered entity to deny any benefit, program, activity, or service to an individual based wholly or in part on the individual's sex, gender, gender identity, or gender expression.
3. It is unlawful for a covered entity to discriminate against or deny full and equal access to an individual who is transitioning, has transitioned, or is perceived to be transitioning.
4. It is unlawful for a covered entity to refuse any individual access to facilities that correspond to that individual's gender identity or gender expression, regardless of the individual's sex assigned at birth. Covered entities may not require individuals to undergo, provide proof or any medical treatment or procedure, provide any identity document, or to use facilities designated for use by a particular gender.

Note: Authority cited: Section 12935(a), Government Code. Reference: Sections 11135, 11136, 11139, 12920, 12921, 12926, and 12940, Government Code.

#### **21-106 Standards for Determining Discrimination and Unlawful Denial of Full and Equal Access**

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In order to determine whether a practice is discriminatory or unlawfully denies full and equal access, all sources of information may be used, including the sources of information and methods used by state and federal courts and agencies in determining whether a practice is discriminatory or denies full and equal access. The sources of information and methods used by federal courts and agencies shall be considered a floor and not a ceiling, consistent with the objective of Division 21 to provide the broadest protections for civil rights.

.1 Practices prohibited include facial discrimination, intentional discrimination, disparate impact discrimination, and denial of full and equal access.

1. Facial discrimination, sometimes referred to as express discrimination, is unlawful per se. Such discrimination includes and practices that classify individuals and provide them

aid, benefits, or services on the basis of their inclusion or exclusion from a protected class, except to the extent they lawfully benefit members of a protected class, such as by being part of a lawful affirmative action plan.

2. Practices that intentionally discriminate against individuals on the basis of membership in a protected class are prohibited. Intentional discrimination is established when a protected basis is a motivating factor in taking an adverse action even though other factors may have also motivated the practice. Intentional discrimination may be proved by direct or circumstantial evidence. "Intentional" discrimination includes "purposeful" discrimination.
3. Disparate impact discrimination is prohibited. "Disparate impact," "discriminatory effect," and "adverse impact" are used interchangeably. Disparate impact occurs when a facially neutral act or practice, regardless of intent,
  - a. has an adverse or disproportionate impact, or predictably results in an adverse or disproportionate impact, on members of a protected class;
  - b. creates, increases, reinforces, or perpetuates discrimination or segregation of members of a protected class; or
  - c. has the effect of violating any of the other prohibitions against discrimination. A practice with a disparate impact may nevertheless still be lawful if supported by a legally sufficient justification, as set out in California Government Code Section 14029.

NOTE: Authority cited: Section 12935(a), Government Code. Reference: Sections 11000, 11135, 12926, 12926.1, 12940, 12955, 12955.8, 14029 Government Code.

## **21-111 ACCESSIBILITY ~~21-111~~**

.1 The CWD shall ensure that programs and activities are readily accessible to individuals with disabilities.

### **HANDBOOK BEGINS HERE**

.11 The U.S. Department of Justice implementing regulations for Title II of the ADA are contained in 28 CFR Part 35. Appendix A of 28 CFR Part 36 contains the ADA Accessibility Guidelines (ADAAG), which govern the physical accessibility requirements for state and local governments. Title 24 of the California Code of Regulations (CCR), Parts 1, 2, 3, 5, 8, and 12 contains the regulations governing structural accessibility for individuals with disabilities in public facilities in the State of California. The above federal and state regulations provide the accessibility requirements for new construction, alterations, and for existing facilities.

.111 Some examples of ~~architectural~~ architectural changes in federal and state regulations that would make facilities accessible to individuals with disabilities are:

- (a) Installing ramps and handrails;

(b) Making curb cuts in sidewalks and entrances;

(c) Widening doors and/or installing accessible door hardware;

(d) Creating accessible parking spaces;

(e) Installing visual and auditory emergency alarms;

(f) Installing exterior signs at all inaccessible facility entrances directing individuals with disabilities to an accessible entrance or to a location where information about accessible facilities can be obtained.

(g) Affixing signs of appropriate size and contrast to identify a CWD to assist individuals with a visual impairment in locating offices.

.12 Each CWD, with instructions and assistance provided by the CDSS, shall evaluate its practices and policies to ensure they do not discriminate on the basis of disability.

.13 In choosing available methods for meeting the requirements of this section, the CWD shall give priority to those methods that offer programs and activities to individuals with disabilities in the most integrated setting appropriate.

.14 Each county welfare department shall establish procedures to ensure that communications with applicants/recipients and members of the public with disabilities are as effective as communications with others (see Section 21-115.41).

.2 When public areas (e.g., reception areas, waiting rooms, interview booths, public restrooms, and public drinking fountains) are provided, they shall be accessible to individuals with disabilities and identified by the international symbol of accessibility in compliance with Title 24 of the California Code of Regulations.

.3 When parking is provided to the general public, it shall be accessible to individuals with disabilities pursuant to local ordinance and/or Title 24 of the California Code of Regulations.

.4 CWDs may provide alternative methods that would be equally effective in making programs and activities accessible to individuals with disabilities, with prior written approval from CDSS.

.41 When alternative methods are proposed, the county welfare department director or his/her designee shall submit a written statement supporting their reasons for reaching that conclusion. This statement must be submitted to CDSS for review and approval prior to the implementation of this decision.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code; Section 51, California Civil Code; Sections 4450 and 11135, California Government Code; Title 24 of the California Code of Regulations, Parts 1, 2, 3, 5, 8, and 12; Title II of the Americans With Disabilities Act of 1990, P.L. 101-336; Appendix A, 28 CFR Part 36; and 28 CFR 35.150 and .151.

## **21-115 PROVISION FOR SERVICES TO APPLICANTS AND RECIPIENTS ~~21-115~~**

### **~~WHO ARE WITH LIMITED ENGLISH PROFICIENCY NON-ENGLISH SPEAKING OR WHO HAVE DISABILITIES~~**

County welfare departments shall ensure that effective bilingual/interpretive services are provided to serve the needs of individuals with limited English proficiency ~~non-English speaking population~~ and individuals with disabilities. The provision of bilingual/interpretive services shall be prompt without undue delays. This need shall be met as indicated below.

.1 A sufficient number of qualified bilingual employees shall be assigned to public contact positions in each program and/or location serving a substantial number of limited English proficient ~~non-English speaking~~ persons. These employees shall have the language skills and cultural awareness necessary to communicate fully and effectively and provide the same level of service to ~~non-English speaking~~ limited English proficient applicants/recipients as is provided to the client population at large.

.11 The number of public contact positions in each major occupational group shall be determined for each program and/or location whose ~~non-English~~ limited English proficient language cases equal or exceed five percent of the total cases for each program or location.

## **CALIFORNIA-DSS-MANUAL-CFC**

### **CIVIL RIGHTS**

## **21-115 PROVISION FOR SERVICES TO APPLICANTS AND RECIPIENTS 21-115**

### **~~WHO ARE NON-ENGLISH SPEAKING OR WHO HAVE DISABILITIES~~**

.12 In determining this percentage, primary language groups shall be considered individually, rather than cumulatively.

.13 To determine the percentage of ~~non-English language~~ limited English proficient cases in any program and/or location, divide the number of ongoing (continuing) ~~non-English language~~ limited English proficient cases for each primary language group by the total ongoing (continuing) cases in that program and/or location.



.14 To determine the required number of bilingual employees in a program and/or location, multiply the percentage of non-English-language cases by the number of public contact positions in each major occupational group in that program and/or location.

If application of the formula results in a whole number plus a fraction of less than one-half, it shall be rounded to the next lower number, e.g., 1.49 = 1.0. If the resultant fraction is one-half or greater, it shall be rounded to the next higher number, e.g., 1.50 = 2.0.

**HANDBOOK BEGINS HERE**

*EXAMPLE*

AFDC Program - Main Office

20 Eligibility Workers (EW)

x.08 Spanish Language Case Percentage

1.60 Equals Two Qualified Spanish Speaking

EW Contact Positions

**HANDBOOK ENDS HERE**

.141 When the computation (to determine required bilingual staffing) results in a need for less than one full-time position for a major occupational group in a program and/or location, the agency may provide services through the use of a qualified bilingual employee from another program within the same location.

*EXAMPLE:*

District Office

AFDC NAFS SOCIAL SERVICES Spanish Language Spanish Language Spanish Language

Cases 20% Cases 25% Cases 10%

Total EWs x1 Total EWs x2 Total EWs x1

Required .2 Required .50 Required .1

In the example above, one full time Spanish-speaking worker in any program would satisfy the requirements for all programs, provided that the worker would be available to interpret for the other two programs.

.15 When the percentage of ~~non-English-limited English proficient~~ cases in a program and/or location is less than five percent, the agency shall ensure that effective bilingual services are provided. This requirement may be met through utilization of paid interpreters, qualified bilingual ~~and multilingual~~ employees, contract interpreters (including telephonic interpreters), qualified employees of other agencies, ~~or interpreters from community organizations, or volunteer interpreter programs-community resources.~~

.16 Applicants/recipients may provide their own interpreter; however, the CWD shall not require them to do so. Only under extenuating circumstances or at the specific request of the applicant/recipient shall a CWD allow a minor (under the age of 18 years) to temporarily act as an interpreter. This provision does not apply to interpretive services for persons who are deaf.

.2 Forms and other written materials required for the provision of aid or services shall be available and offered to the applicant/recipient in the individual's primary language when such forms and other written material are provided by CDSS. When such forms and other written material contain spaces (other than "for agency use only") in which the CWD is to insert information, this inserted information shall also be in the individual's primary language.

.3 Each CWD shall ensure that administrative practices do not have the effect of denying individuals with limited English proficiency ~~non-English-speaking persons~~ and individuals with disabilities equal access to and participation in the available programs and activities.

#### .4 Auxiliary Aids

~~.41 .41-CWDs shall provide appropriate auxiliary aids and services where necessary to afford qualified individuals with disabilities, including applicants, participants, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity to persons who are deaf or hearing impaired, or persons with impaired speech, vision or manual skills where necessary to afford such persons an equal opportunity to participate in, and enjoy the benefits and services of programs or activities. Auxiliary aids and services may include: brailled material, taped text, qualified interpreters, large print materials, telecommunication devices for the deaf (TDDs) and other effective aids and services for persons with impaired hearing, speech, vision or manual skills. Compliance with this section can be accomplished through use of volunteer services from community organizations and individuals who are able to provide prompt effective services without undue delays using qualified interpreters.~~

#### ~~.42~~

1. CWDs shall provide an opportunity for individuals with disabilities to request auxiliary aids and services of their choice. CWDs shall give primary consideration to the requests of individuals with disabilities. 28 CFR 35.160 (Section by Section Analysis) provides that public entities, "shall honor the choice [of individuals with disabilities for auxiliary aids and services] unless it can demonstrate that another effective means of

Commented [A44]: New York: "Upon request, an LEP individual may also be permitted to use a minor, a family member or friend as an interpreter for routine matters, such as asking the location of the office, hours of operation or rescheduling an appointment."  
<https://drive.google.com/drive/u/0/folders/1wemv4700whiWyDOE6zNUP8aBnLn6XQc4>

communication exists or that use of the means chosen would not be required under [28 CFR Section 35.164].

2. The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place. In determining what types of auxiliary aids and services are necessary, a public entity shall give primary consideration to the requests of individuals with disabilities. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.
3. It is the covered agency's responsibility to provide the auxiliary aid. Therefore it shall not:
  - a. require an individual with a disability to bring another individual to interpret for him or her.
  - b. rely on an adult accompanying an individual with a disability to interpret or facilitate communication except—
    - i. in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available; or
    - ii. where the individual with a disability specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances.

—rely on a minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available, and with affirmative consent provided.

Commented [A45]: Language could be added indicating that the county worker should be provided some assurances re competency.

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#### **21-115 PROVISION FOR SERVICES TO APPLICANTS AND RECIPIENTS 21-115**

#### **WHO ARE NON-ENGLISH SPEAKING OR WHO HAVE DISABILITIES**

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~~421-28 CFR 35.160 (Section by Section Analysis) provides that public entities, "shall honor the choice [of individuals with disabilities for auxiliary aids and services] unless it can demonstrate that another effective means of communication exists or that use of the means chosen would not be required under [28 CFR Section 35.164]."~~

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.423 When telephone contact is necessary CWDs shall use a TDD, or equally effective telecommunications systems, to communicate with individuals with impaired hearing or speech.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections

10553 and 10554, Welfare and Institutions Code; Title II of the Americans With Disabilities Act of 1990, P.L. 101-336; Title VI of the Civil Rights Act of 1964, P.L. 88-352; and 28 CFR 35.160 and .161.

## **21-116 DOCUMENTATION OF APPLICANT/RECIPIENT CASE RECORDS ~~21-116~~**

.1 Each agency shall maintain case record documentation in sufficient detail to permit a reviewer to determine the agency's compliance with the requirements of Division 21.

.2 Each agency shall ensure that case record documentation identifies the applicant's/recipient's ethnic origin and primary language in accordance with Section 21-201.21. In those cases where the applicant/recipient is ~~non-English-speaking~~ limited English proficient, the agency shall:

.21 Document the individual's acceptance or refusal of forms or other written material offered in the individual's primary language ~~(HANDBOOK: see Section 21-115.2)}~~.

.22 Document the method used to provide bilingual services, e.g., assigned worker is bilingual, other bilingual employee acted as interpreter, volunteer interpreter was used, or client provided interpreter. When a minor (under 18 years of age) is used as an interpreter, the CWD shall so document the circumstances requiring temporary use of minors in the case record.

.23 When applicants/recipients provide their own interpreter, the CWD shall ensure that the applicants/recipients are informed of the potential problems for ineffective communication. The CWD shall document in the case record that the applicants/recipients were so informed.

.24 Consent for the release of information shall be obtained from applicants/recipients when individuals other than CWD employees are used as interpreters and the case record shall be so documented.

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#### **21-116 DOCUMENTATION OF APPLICANT/RECIPIENT CASE RECORDS 21-116**

.3 Upon obtaining information that identifies an applicant/recipient as disabled or upon identifying someone as needing an accommodation because of disability through the screening procedure outlined above in XXXX21-109, each CWD shall ensure that the case record is so documented. The CWD shall document, in writing, an applicant's/recipient's request for auxiliary aids and services (see Section 21-115.4).

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections

10553 and 10554, Welfare and Institutions Code; Title II of the Americans With Disabilities Act of 1990, P.L. 101-336; and 28 CFR 35.160(a) and (b)(2).

#### **21-117 STAFF DEVELOPMENT AND TRAINING 21-117**

.1 Each public contact employee shall receive training in the requirements of Division 21. These requirements of Division 21 shall be incorporated into the content of the CWD's orientation and continuing training programs. This shall include familiarization with the discrimination complaint process. CDSS will provide program guidelines and technical assistance upon request.

.2 Each CWD shall develop and/or provide cultural awareness training programs for all public contact employees. Cultural awareness training shall pertain to specific cultural characteristics of cultural groups served by the CWD to provide a better understanding of, and sensitivity to, the various cultural groups, including individuals with disabilities to ensure equal delivery of services. Whenever possible, training shall involve community organizations familiar with a specific culture.

### **HANDBOOK BEGINS HERE**

.21 In presenting materials relating to specific cultural characteristics, all efforts should be made to avoid stereotypes.

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.3 Appropriate agency staff shall be instructed in the investigation of discrimination complaints.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections

10553 and 10554, Welfare and Institutions Code; 28 CFR 35.160(a) and Subpart B; 80 CFR 80.1; and Title

VI of the Civil Rights Act of 1964, P.L. 88-352.

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### ~~21-201 COMPLIANCE PROCEDURES AND REPORTING-21-201~~

#### .1 Assignment of Resources to Implement Requirements of This Division

Responsibility for the implementation of nondiscrimination requirements shall be centralized within each agency. Each agency shall designate an employee as the Civil Rights Coordinator, and shall allocate adequate personnel and resources to implement the provisions of this ~~d~~Division and ensure nondiscrimination in the delivery of services. Methods and staff used to meet Division 21 requirements may vary from county to county. To determine agency compliance, the following factors will be considered:

.11 Level and quantity of personnel assigned to activities related to this ~~d~~Division.

.12 Comparison of the civil rights unit's workload, actual or anticipated, to the workload of other administrative units.

.13 Extent to which the existence and responsibilities of the civil rights unit has been publicized within the agency and to the public.

.14 Comparison of physical space and equipment assigned to civil rights personnel with that assigned to other offices of similar level in the agency.

#### .2 Compliance Reports

Each CWD shall keep timely and accurate compliance records. This information shall be submitted to CDSS whenever, and in such form as, CDSS may determine necessary. The information includes, but is not limited to, the following:

.21 Each CWD shall collect primary language and ethnic origin data by district offices in all AFDC, nonassistance food stamps, and social services programs covered by this ~~e~~D~~i~~vision. This data shall be collected for each head of household or, in social services cases, each primary recipient.

.211 Ethnic origin and primary language shall be determined by the applicant/recipient completing the appropriate section of the application forms. Should he/she decline to make a self-declaration, the worker will make a visual determination and record the information in the appropriate place on the form.

.212 Each CWD shall submit this information by countywide total to CDSS annually. Source data substantiating the compliance report is to be maintained by the district office.

#### .22 County Civil Rights Plans

All county welfare departments shall submit to CDSS an initial Civil Rights Plan and subsequent annual updates. Each plan shall function as a guide in developing the CWD's policy of providing equal delivery of benefits and services. The Civil Rights Plan and updates will be in such format and will contain such information as CDSS may determine necessary.

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#### ~~CIVIL RIGHTS~~

#### ~~21-201 COMPLIANCE PROCEDURES AND REPORTING 21-201~~

#### .23 County Civil Rights Impact Studies

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.231 The USDA requires that civil rights impact studies be completed "[b]efore making decisions that would substantially alter individual's access to [county] welfare offices..." to ensure against discrimination. This requirement is outlined in the USDA Administrative Notice 93-11, State Agency Local Welfare Hours, dated December 4, 1992. The Notice requires that the impact studies be available for review.

.232 The USDA, Office of Civil Rights Enforcement, issued Departmental Regulation #4300-4, Civil Rights Impact Analysis, dated September 22, 1993. The Regulation requires county welfare departments "...to establish internal systems to identify and address the civil rights implications of proposed policy actions before those actions are approved and implemented." The regulation identifies "policy actions" as those actions including but not limited to reorganizations, office consolidations, closures or relocations. "Major civil rights implications" are defined as "...those consequences of proposed policy actions which, if implemented, will

negatively or disproportionately affect minorities, women, or persons with disabilities who are employees, program beneficiaries or applicants for employment or program benefits in USDA-conducted or assisted programs by virtue of their race, color, sex, national origin, religion, age, disability, marital or familial status."

The Regulation requires agencies to:

"(1) Identify and address major civil rights impacts of proposed actions on minorities, women, and persons with disabilities before the actions are approved and implemented.

"(2) Establish internal procedures which implement this policy...[Examples are provided here.]

"(3) Refer proposed policy actions and supporting documentation which contain major civil rights impacts that cannot be resolved at the agency level to the Office of Advocacy and Enterprise for review...[Examples are provided here as to situations when a referral will be made.]

"(4) Certify to the Assistant Secretary for Administration that procedures to implement this policy have been established within 90 days of the effective date of this regulation."

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### ~~21-201 COMPLIANCE PROCEDURES AND REPORTING 21-201~~

#### .3 Compliance Reviews

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.31 In order to ensure compliance with civil rights laws and regulations, CDSS conducts routine on-site reviews of county welfare departments. The review includes, but is not limited to, the following:

.311 A review of case records for applicants/recipients who are non-English speaking or disabled and other case records as appropriate.

.312 Interviews with CWD staff.

.313 A contact with at least one community organization.

.314 A review of the program's or activity's accessibility to persons with disabilities.



.315 A review of program or activity information being provided to applicants/recipients, community organizations, or other interested persons.

.316 A review of applications, application instruction sheets, pamphlets, or other materials available to the public.

.317 A review of the CWD's complaint log to determine if civil rights complaints are processed in accordance with procedures outlined in Section 21-203.

.318 A review of appropriate documents to confirm an assurance of compliance agreement is included.

.32 On occasion, special compliance reviews may be necessary. These reviews may be unannounced and are conducted when:

.321 There is a need to follow up on noncompliance findings from a routine review requiring additional information and an in-depth examination of specific aspects of program operations and activities.

.322 Statistical data indicates that a particular group of people is not participating in or benefitting from a program or activity to the extent indicated by the population characteristics of that area.

.323 The Director of CDSS requests a review.

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**21-201 COMPLIANCE PROCEDURES AND REPORTING 21-201**

.324 Reports of noncompliance by federal, state, or other agencies need to be substantiated.

.325 A pattern of complaints of discrimination has developed.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections

10553 and 10554, Welfare and Institutions Code; United States Department of Agriculture (USDA), Food and Nutrition Service, FNS Program Instruction 113-7, Parts V, VII, and VIII;

USDA Departmental Regulation, Office for Civil Rights Enforcement, #4300-4, September 22, 1993; USDA, Administrative Notice 93-11, dated December 4, 1992 (State Agency Local Welfare Office Hours); 7 CFR 15.3(b)(3); 28 CFR

35.130(b)(4); 28 CFR 42.406(a), (b), (b)(4), (b)(6), (c), and (d); 28 CFR 42.407(b); 28 CFR 42.410; 45 CFR 80.3(b)(3); 45 CFR 80.6(b); and 45 CFR 84.4(b)(5). 21-203  
APPLICANT/RECIPIENT COMPLAINTS OF DISCRIMINATORY **21-203**

#### TREATMENT.

### **21-203 APPLICANT/RECIPIENT COMPLAINTS OF DISCRIMINATION**

County welfare departments are responsible for investigating discrimination complaints made by applicants/recipients or by their authorized representatives, and for investigating complaints remanded by CDSS, the U.S. Department of Health and Human Services, or the U.S. Department of Agriculture.

An applicant/recipient or his/her authorized representative may file a complaint of discrimination with the state or local county welfare department involved or directly with the appropriate agency of the federal government. Information concerning the complaint process shall be available to applicants/recipients and other interested persons and shall include procedures for filing complaints or appeals with CDSS, the U.S. Department of Health and Human Services or the U.S. Department of Agriculture. The complaint must be received not later than 180 days from the date of the alleged discriminatory act unless the filing date is extended by CDSS or the responsible federal agency.

When CDSS or the CWD lack jurisdiction over a complaint, CDSS or the CWD shall, whenever possible, refer the complaint to the appropriate governmental agency and/or advise the complainant of the lack of jurisdiction and explain the reason why it is outside the jurisdiction.

#### .1 Complainant's Right to a State Hearing (Fair Hearing)

This regulation does not limit or restrict a complainant's right to request a state hearing in accordance with Division 22. Should the complaint involve program issues, in addition to allegations of discriminatory treatment, program issues may be subject to a state hearing. It is the CWD's responsibility to advise the complainant of his/her right to a state hearing and the necessity to request such a hearing within 90 days as prescribed in Section 22-009, in addition to the filing of a complaint of discriminatory treatment. The complainant shall also be advised of the 10-day limitation for filing a request for a state hearing to receive aid paid pending.

.11 Should a complaint of discrimination arise during a state hearing, the Administrative Law Judge shall remand the complaint to the CWD for the preparation of a report in accordance with Section 21-203.12 and CDSS's Civil Rights Bureau (CRB) to be handled in investigation and handling in accordance with Division 21 regulations.

**Commented [A46]:** See recommendations in accompanying memo suggesting modifying this language to provide that ALJs have jurisdiction to address discrimination complaints that arise during fair hearings and limiting this jurisdiction to the effect the alleged discrimination had on the eligibility issue that is the subject of the state hearing.

## CALIFORNIA-DSS-MANUAL-CFC

### CIVIL RIGHTS

#### 21-203-APPLICANT/RECIPIENT COMPLAINTS OF DISCRIMINATIONNORY 21-203

##### .2 Procedures for Processing Discrimination Complaints

All complaints of discrimination will be addressed in accordance with the following procedures:

.21 The CWD shall maintain a control log in which all complaints of discrimination are entered by year and date the complaint was received. At a minimum the log shall provide:

.211 Complainant's name.

.212 Date complaint was received and the date of the alleged discriminatory act(s).-

.213 CDSS/CRB case number, if any.

.214 Program(s) involved.

.215 Basis of discrimination: age, race, sex, etc.

.216 Nature of the complaint.

.217 Resolution: completed investigation, withdrawal, failure to pursue, etc.

.218 Decision: discrimination or no discrimination.

.219 Date investigation completed or date complaint resolved.

.22 A complaint of discrimination shall be filed either verbally-orally or in writing.

.221 The CWD shall be permitted to ask the complainant to fill out a complaint form but shall not make it a condition of filing a complaint.

.222 The CWD shall accept complaints of discrimination filed anonymously.

.223 When a complainant refuses to put their complaint in writing because of fear of retribution or to maintain anonymity, or due to illiteracy, or is physically unable to put their complaint in writing, the person to whom the allegation is being made shall put the elements of the complaint in writing.

.224 The CWD shall make a reasonable effort to make contact with the complainant by mail and/or telephone to follow up on the initial complaint.

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### **CIVIL RIGHTS**

#### **21-203 APPLICANT/RECIPIENT COMPLAINTS OF DISCRIMINATORY 21-203**

.23 Within 20 calendar days of receipt of a complaint, the CWD/CDSS shall acknowledge the complaint by informing the complainant in writing that an investigation will be conducted.

.24 For those complaints requiring investigation by the CWD, the investigation, including any attempted resolution, shall be completed within sixty (60) calendar days following the receipt of the complaint. Within twenty (20) calendar days following the completion of the investigation, the CWD shall:

.241 Inform the complainant in writing of the results of the investigation, clearly stating the reason for the decision.

.242 Inform CDSS/CRB of the case resolution and of any corrective actions taken.

.243 Forward a complete copy of the investigation report to CDSS/CRB and attach copies of all correspondence sent to the complainant.

.25 For those complaints not requiring an investigation, the CWD shall:

.251 Inform the complainant, in writing, within 40 calendar days of receipt of the complaint that the complaint shall not be investigated and the reason(s) for not investigating.

.252 Inform CDSS/CRB of the case resolution, including a copy of the withdrawal form, letter to the complainant, etc.

.26 The complainant shall be informed of his/her rights as follows:

.261 The CWD shall inform the complainant that he/she may appeal a CWD decision to CDSS within 30 calendar days of the date on which the CWD mails, or otherwise provides the complainant with the decision.

.262 The CWD shall, in addition to informing the complainant of his/her appeal rights set forth in Section 21-203.261, also inform the complainant that he/she may appeal a CWD decision

resulting from a complaint based on race, color, national origin, political affiliation, religion, sex, age or disability to the United States Department of Agriculture (USDA), if the complaint involves the Food Stamp Program, within 30 calendar days of the date on which the CWD mails, or otherwise provides the complainant with the decision.

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#### **21-203 APPLICANT/RECIPIENT COMPLAINTS OF DISCRIMINATORY 21-203**

.263 The CWD shall, in addition to informing the complainant of his/her appeal rights set forth in Section 21-203.261, also inform the complainant that, after a CWD decision resulting from a complaint based on race, color, national origin, age or disability he/she may file his/her complaint with the United States Department of Health and Human Services (HHS), if the complaint involves programs other than the Food Stamp Program that receive financial assistance through HHS, within 180 calendar days of the alleged discriminatory act unless the filing date is extended by HHS.

.264 CDSS shall inform the complainant that a CDSS decision on a complaint or appeal, pursuant to Section 21-203.261, may similarly be appealed to the USDA pursuant to Section 21-203.262 and/or filed with HHS pursuant to Section 21-203.263.

.27 Nothing in these regulations shall preclude a complainant's pursuing remedies through civil proceedings.

#### **.3 Procedures for Investigation Complaints**

In order to maintain consistency in the conduct of investigations, the following procedures shall apply.

.31 The CWD/CDSS shall designate an employee to conduct investigations. In no case shall an employee be assigned to investigate a complaint involving actions taken by him/her or by an employee under his/her immediate supervision, or where that designated employee's responsibilities in another program or capacity within CWD/CDSS may result in a conflict of interest.

#### **.32 Interview with Complainant**

A face-to-face interview shall be conducted by the assigned investigator unless the client and CWD mutually agree it is neither necessary nor practical. When scheduling an interview with the complainant, the complainant shall be advised that a representative or counsel may be present at the interview. In addition, the complainant shall be requested to sign a consent form informing

the complainant that the information pertinent to the processing of a complaint will be shared with the appropriate CWD/CDSS and federal civil rights personnel in the investigation of the complaint as necessary.

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#### **21-203 APPLICANT/RECIPIENT COMPLAINTS OF DISCRIMINATORY 21-203**

.321 Prior to beginning the interview, the person assigned to investigate the case shall explain confidentiality requirements, and make reasonable efforts to ensure that the complainant is able to communicate effectively (refer to Section 21-115.4), using interpreters, readers, etc., if necessary. The following information shall be obtained during the interview:

- (a) Complainant's name, case number, address, email address, and telephone number.
- (b) Names of individuals responsible for the action, decision, or condition alleged to be discriminatory.
- (c) Date and place of alleged discriminatory treatment.
- (d) Basis of discrimination (e.g., race, sex, disability, etc.).
- (e) Nature of the action, decision, or conditions of the alleged discrimination.
- (f) Information known to the complainant in support of his/her allegation.
- (g) Names and contact information of possible witnesses whom the complainant wishes to have interviewed.
- (h) Other information specific to the complaint.
- (i) Any indications of reprisal, intimidation, or harassment as a result of the complaint.
- (j) Relief sought by the complainant.

.33 Interview with the employee alleged to have acted in a discriminatory manner.

When scheduling an interview with the employee, the employee shall be advised of the right to have a representative or counsel present.

.331 The investigator should identify the complainant and describe the nature of the complaint. The employee's statement should be taken concerning the complaint issues. The employee should be advised that such statements will be available to the complainant as part of the investigation.

## **CALIFORNIA-DSS-MANUAL-CFC**

### **CIVIL RIGHTS**

#### **21-203 APPLICANT/RECIPIENT COMPLAINTS OF DISCRIMINATORY 21-203**

##### **.34 Review of Issues Specific to the Complaint**

In reviewing the issues involved in the applicant/recipient complaint, the investigator shall:

.341 Review Division 21 regulations which pertain to the issues in the complaint and, if necessary, obtain clarification from CDSS.

.342 Review complaint documents concerning the discrimination issues.

.343 Interview witnesses as indicated by circumstances or the nature of the allegation.

##### **.35 Investigation of the General Environment**

In evaluating the general environment in which the alleged discriminatory action occurred, the investigator may:

.351 Select and review cases to compare the treatment of individuals with disabilities, members of the same race, national origin, etc., with cases selected from the general welfare population.

.352 Compare the treatment of recipients by the individual who allegedly discriminated with the treatment provided by other employees for a similar group.

.353 Interview the employee alleged to have discriminated.

.354 Interview the supervisor of the employee named in the complaint and survey the general environment in which the complaint arose. Record details which may indicate needed corrective action or exonerate the employees alleged to have discriminated.

.355 Review other supporting documents as appropriate.

##### **.4 Report of Investigation**

The investigation report shall address all issues raised by the complainant. Where there is insufficient evidence to make a decision whether discrimination occurred or not, further investigation shall be conducted until a decision can be made. The investigator shall ensure that such issues are fairly represented in the report.

## **CALIFORNIA-DSS-MANUAL-CFC**

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#### **21-203 APPLICANT/RECIPIENT COMPLAINTS OF DISCRIMINATORY 21-203**

##### **.5 Harassment, Coercion, Intimidation, and Retaliatory Acts Prohibited**

Commented [A47]: source: 11135 draft

No official or employee shall intimidate, threaten, harass, coerce or discriminate against any individual for the purpose of interfering with any right or privilege secured by these regulations or because he or she has made a complaint, testified, assisted or participated in any manner in any investigation, proceeding or hearing.

##### **.51 Harassment Prohibited**

(a) Harassment by a covered entity, related to any program or activity, on any protected basis is an unlawful practice.

(b) Harassment includes quid pro quo harassment and hostile environment harassment. The same conduct may constitute both quid pro quo and hostile environment harassment.

(1) Quid pro quo harassment. Quid pro quo harassment refers to an unwelcome request or demand to engage in conduct where submission to the request or demand, either explicitly or implicitly, is made a condition related to the attainment of any benefit, as defined in Section 14020 of this subchapter. An unwelcome request or demand may constitute quid pro quo harassment even if an individual acquiesces in the unwelcome request or demand.

(2) Hostile environment harassment. Hostile environment harassment refers to unwelcome conduct that interferes with or prevents the attainment of any benefit, constitutes any kind of adverse action, or creates a hostile, offensive, oppressive, or intimidating environment. Hostile environment harassment does not require a change in the terms, conditions, or privileges afforded by a covered program.



(A) Whether hostile environment harassment existed or exists depends on the totality of the circumstances.

(i) Factors to be considered in determining whether hostile environment harassment existed or exist include: the nature of the conduct; the context in which the incident(s) occurred; the severity scope, frequency, duration, and location of the conduct; and the relationship of the persons involved.

(ii) Neither psychological nor physical harm must be demonstrated to prove that a hostile environment existed or exists. However, evidence of psychological or physical harm may be relevant in determining whether a hostile environment exists or existed, and the amount of damages to which an aggrieved person may be entitled.

(iii) Whether unwelcome conduct created a hostile environment is viewed from the perspective of a reasonable person in the aggrieved person's position.

(3) Types of conduct. Quid pro quo and hostile environment harassment may be written, verbal, or communicated in other ways, and do not require physical contact. Such harassment includes:

(A) verbal harassment, including epithets, derogatory comments, or slurs;

(B) physical harassment directed at an individual, including assault, impeding or blocking movement, or any physical interference with normal movement;

(C) visual forms of harassment, including derogatory posters, cartoons, drawings, or other documents.

(D) unwelcome sexual conduct, or other unwelcome conduct, which need not be based on sexual desire, linked to an individual's sexual orientation or sex, including: pregnancy or medical conditions related to pregnancy, childbirth or medical conditions related to childbirth, breastfeeding or medical conditions related to breastfeeding; gender identity; and gender expression;

(E) any coercion, intimidation, threats, or interference with a person's exercise or enjoyment of any benefit secured by rights protected under the Act, this subchapter, or implementing regulations.

(F) taking any adverse action against a person in a manner that constitutes quid pro quo or hostile environment harassment, such as, representing to a person that a benefit is not available because of the person's response to a request or demand for a sexual favor;

(G) revealing private information to a third party about a person, without their consent, in a manner that constitutes quid pro quo or hostile environment harassment, unless such disclosure is required by federal or state law; or

(c) A single incident of harassment based on an individual's membership in a protected class may be sufficient to constitute hostile environment harassment or quid pro quo harassment.

(d) The fact that an alleged perpetrator may be a member of the same protected class as the aggrieved person is not by itself a defense to a claim of harassment.

(e) A covered entity shall be liable for harassment of a beneficiary by a third party if the covered entity knows or should have known of the conduct and fails to take immediate and appropriate corrective action.

(f) Persons protected. The prohibition on harassment extends to conduct that is based on an individual's membership in a protected class, being perceived as a member of a protected class, being associated with a member of a protected class or someone who is perceived to be a member of a protected class, or on account of having aided or encouraged any person in the exercise of the rights.

#### .52 Retaliation Generally

(a) It shall be unlawful for any covered entity to take adverse action against an aggrieved person because the person has engaged in protected activity.

(1) "Because of" means that the retaliation was a motivating factor in causing harm. Retaliation need not be the sole motivating factor.

(2) The adverse action need not be related directly to the nature of the protected activity.

(3) Retaliation may be established by direct evidence or circumstantial evidence, including the temporal proximity between the protected activity and the adverse action.

(b) Persons Protected. For purposes of a retaliation claim, an aggrieved person includes any person who has alleged that they have been subjected to adverse action due to engagement in a protected activity.

(1) A person does not have to be a member of a protected class in order to assert a claim for retaliation.

(2) A person does not need to allege or prove discrimination or denial of full and equal access, or prevail on a separate claim under any provision of the Act or these regulations, in order to assert a claim for retaliation.

(3) An aggrieved person may prevail on a retaliation claim even if:

(A) the aggrieved person was engaged in a protected activity challenging practices which the aggrieved person reasonably believed to be unlawful, whether or not those practices are determined to be unlawful, or

(B) the aggrieved person was participating in an activity which was perceived by the respondent as protected activity, whether or not it was so intended by the aggrieved person.

(c) "Protected activity" includes:

(1) making a complaint, testifying, assisting or participating in any manner in a proceeding, including any proceeding under Division 21-100, the California Fair Employment and Housing Act, California Civil Code Sections 51, 51.5, 51.7, 54 54.1, or 54.2, the Americans with Disabilities Act, the federal Civil Rights Act, Section 504 of the Rehabilitation Act, or any other state or federal civil right statutes;

(2) opposing practices prohibited by the Americans with Disabilities Act, the federal Civil Rights Act, or Section 504 of the Rehabilitation Act, including seeking the advice of the state, any state or local agency, the Department or Council, or a person employed or retained by a recipient who has authority to receive, transmit, investigate, or discover a complaint, or correct an alleged violation, whether or not a complaint is filed, and if a complaint is filed, whether or not the complaint is found to have merit;

(3) assisting or advising any person in seeking the advice of the state, any state or local agency, the Department or Council, or a person employed or retained by a recipient who has authority to receive, transmit, investigate, or discover a complaint, or correct an alleged violation, whether or not a complaint is filed, and if a complaint is filed, whether or not the complaint is found to have merit;

(4) participating in an activity that is perceived by the state, any state or local agency, or a recipient as opposition to discrimination or denial of full and equal access, whether or not so intended by the individual participating in the activity;

(5) contacting, communicating with or participating in a proceeding of a human rights or civil rights agency regarding discrimination or denial of full and equal access on a basis enumerated in this Division;

(6) assisting with or participating in the proceedings of the state, any state agency, or a recipient including involvement as a potential witness, which the state, any state or local agency, or a recipient perceives as participation in a proceeding alleging a violation of this Division;

(7) seeking information, formally under a Public Records Act request, or informally, regarding programs or activities of a state, any state agency, or a recipient; or

(8) requesting a reasonable accommodation or reasonable modification for an individual with a disability, or requesting an interactive process meeting, whether or not the request was granted.

(d) Violations of this section are considered a discriminatory practice.

NOTE: Authority cited: Section 12935(a), Government Code. Reference: Sections 11000, 11135, 11136, 11137, 11139, 12926, 12926.1, and 12940, Government Code.

#### .6 Confidentiality of Information

The identity of any complainant and the employee or official alleged to have discriminated must be confidential, except to the extent necessary to carry out the complaint process including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. (See Division 19.)

(a) Information concerning a request for a reasonable accommodation for a disability, or other information concerning disability, medical condition, or genetic information, shall be kept confidential by covered entities in accordance with the privacy protections afforded to medical

information under state and federal law, including the Confidentiality of Medical Information Act, California Civil Code sections 56-56.37, unless confidentiality is waived by the individual with a disability or disclosure is required by law.

(b) To the extent necessary to review a request for an accommodation, or to implement an accommodation, confidential information may be disclosed only to the covered entity's staff who are directly involved in the accommodation process or who are necessary to implement the accommodation. In the context of an adjudication, parties to the proceeding other than the

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#### .7 Retention

The CWD shall retain the written complaint, a record of its disposition, the investigation report, and related documents for a minimum of three (3) years from final disposition. All such records shall be maintained in a secure location with access limited to personnel assigned to the Civil Rights Program.

#### .8 Closure of Complaint Files

.81 Once CDSS receives notification of resolution of a discrimination complaint from a CWD, CDSS shall either approve final closure or request further action be taken before closure.

.811 If the CWD obtains a withdrawal of the complaint from the complainant or the complainant fails to cooperate in pursuing the complaint, the CWD may request final closure without a final report of investigation.

.82 The CWD shall not close out a complaint case without the approval of CDSS.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code; Section 51, California Civil Code; Section 11135, California Government Code; USDA, Food and Nutrition Service, FNS Instruction 113-7 Part X (A); 28 CFR 42.408(b), (c) and (d); and Title II of the Americans With Disabilities Act of 1990, P.L. 101-336.

#### .2 Types of Evidence and Proof in Intentional Discrimination Complaints

- Admissions, expressions of bias, or other direct evidence of discrimination often are probative of purpose or intent, but are not necessary to demonstrate that a practice is intentional discrimination.
- Circumstantial evidence may be relied upon to demonstrate intentional discrimination.
  - Probative sources of information or methods for determining whether discrimination has occurred include: information concerning the disproportionate or adverse effect of a practice on a protected class or decisions on comparable matters; the historical background of the challenged practice; specific antecedent events leading to the challenged practice; departures from normal procedures or

substantive conclusions; contemporary statements of decision-makers and other legislative or administrative history; a pattern of harm to the protected classes; information showing discrimination against members of a protected class based on statistical data that the practice has a disproportionate or adverse effect on members of the protected class and supporting anecdotal evidence; and the use of presumptions, burden shifting, and comparisons between a protected class and other individuals.

- Statistical data is one form of circumstantial evidence, but statistical evidence is not necessary to demonstrate that a program or activity constitutes intentional discrimination.
- Evidence of disparate impact discrimination, such as that set forth below in section 14029(a), may also be circumstantial evidence of intentional discrimination.
- Proof regarding different treatment of similarly situated persons is one way of raising an inference of intentional discrimination, but such proof is not the only way required to make a showing of intentional discrimination.
- Burdens of Proof in Intentional Discrimination Cases Based on Circumstantial Evidence
  - A complainant, plaintiff, or petitioner first has the burden of establishing a prima facie case of discrimination by showing that the aggrieved individual or individuals: (A) belong to a protected class; (B) were subject to adverse action; and (C) a causal connection or link exists between the individual's or individuals' protected class and the adverse action. A prima facie case establishes a rebuttable presumption of discrimination
  - If the complainant, plaintiff, or petitioner satisfies the burden of proof set forth in paragraph (c)(1) of this subsection, the respondent or defendant must then establish a legitimate, non-discriminatory reason for the adverse action.
  - If the respondent or defendant satisfies the burden of proof set forth in paragraph (c)(2) of this subsection, the burden shifts back to the complainant, plaintiff, or petitioner to demonstrate that the non-discriminatory reason(s) asserted by the respondent are pretextual or are false.

NOTE: Authority cited: Section 12935(a), Government Code. Reference: Sections 11000, 11135, 12926, 12926.1, 12940, 12955, and 12955.8, Government Code; *Mixon v. Fair Employment and Housing Comm.* (1987) 192 Cal.App.3d 1306; *Guz v. Bechtel National Inc.* (2000) 24 Cal.4th 317; *McDonnell-Douglas Corp. v. Green* (1973) 411 U.S. 792; *Village of Arlington Heights v. Metropolitan Housing Devel. Corp.* (1977) 429 U.S. 252; *Heard v. Lockheed Missiles & Space Co.* (1990) 44 Cal.App.4th 1735; *Pacific Shores Properties, LLC v. City of Newport Beach* (9th Cir. 2013) 730 F.3d 1142.

#### Types of Evidence and Proof in Disparate Impact Discrimination Cases

(a) Evidence of disparate impact may include statistical or anecdotal evidence that:

(1) a group of individuals, other than members of a protected class, and/or that they concurrently receive better or more effective benefits of the program or activity than members of a protected class, or that the same benefits are more burdensome to obtain for members of a protected class;

(2) the benefits of the program were reduced, less effective, or more burdensome to obtain when members of a protected class were eligible for, or participated in, a program or activity to a greater extent than in the past;

(3) the program or activity creates, increases, reinforces, or perpetuates segregation on the basis of membership in a protected class; or

(4) a particular condition to receiving benefits of the program disproportionately excludes individuals on the basis of membership in a protected class from participation in or receipt of the benefits of the program.

(b) Burdens of Proof in Disparate Impact Discrimination Cases:

(1) The aggrieved person or the Department has the burden of proving that an action, practice or practices caused or predictably will cause a disparate impact.

(2) Once the aggrieved person or the Department satisfies the burden of proof set forth in paragraph (1) of this subsection, the respondent has the burden of proving that the respondent had a legally sufficient justification under subsection (C) in this section.

(3) If the respondent satisfies the burden of proof set forth in paragraph (2) of this subsection, the aggrieved person or the Department may still prevail upon proving that the purpose for the challenged action or practice can be equally served by an action or practice that has a less discriminatory effect.

(c) Legally Sufficient Justification:

(1) A legally sufficient justification exists when the respondent proves that the action or practice is necessary to achieve a substantial, legitimate, and nondiscriminatory purpose sufficiently compelling to override the disparate impact, and that the action or practice effectively carries out the purpose it is alleged to serve.

(2) A legally sufficient justification must be supported by evidence and may not be hypothetical or speculative.

NOTE: Authority cited: Section 12935(a), Government Code. Reference: Sections 11000, 11135, 12926, 12926.1, 12940, 12955, and 12955.8, Government Code; Olmstead v. L.C. ex rel. Zimring (1999) 527 U.S. 581; Lau v. Nichols (1974) 414 U.S. 563; Committee Concerning Community Improvement v. City of Modesto (9th Cir. 2009) 583 F.3d 690.

Other Proof Provisions:

(a) A legally sufficient justification, as described in subsection 14029(c), is not a defense against a claim of intentional discrimination.

(b) The same information may be probative of more than one form of discrimination.

(c) The evidence and methods of proof described in this Article shall be construed as illustrative and not as limitations on the enforcement of Article 9.5, this subchapter, or other implementing regulations.

Note: Authority cited: Section 12935(a), Government Code. Reference: Sections 11000, 11135, 12926, 12926.1, 12940, 12955, and 12955.8, Government Code.

**CALIFORNIA-DSS-MANUAL-CFC**

**CIVIL RIGHTS**

**Regulations NONDISCRIMINATION 21-205**

**21-205 CORRECTIVE ACTION 21-205**

.1 Corrective action may be required as a result of an investigation, compliance review, or other determination by CDSS that a CWD is not in compliance with the requirements of Division 21.

.11 Such corrective action shall accomplish the following:

.111 Resolution of the problem which initiated, or was discovered as a result of an investigation or compliance review.

.112 Development of a policy or plan to ensure that problems of a similar nature do not reoccur.

.2 A CWD shall implement corrective action determined necessary as a result of an investigation, compliance review, or other determination within a reasonable time, as determined by CDSS after conferring with the CWD. In no event shall initial implementation be extended beyond 60 days.

.3 Sanctions for Noncompliance

Attempts shall be made at the outset to secure compliance by voluntary means, if such method is reasonably possible. The CWD and CDSS shall enter into a voluntary compliance agreement.

When a county welfare department fails to voluntarily comply with the requirements imposed by Division 21 or with applicable sections of state or federal statutes and regulations, fiscal sanctions or other legal remedies may be invoked in accordance with Welfare and Institutions



Code Section 10605, or Government Code Sections 11135 through 11139, when state financial assistance is involved, or the issue may be referred to the appropriate federal agency for further compliance action when federal financial assistance is involved.

.31 CDSS may also initiate procedures which include, but are not limited to:

.311 Actions to suspend or terminate CWDs from further program participation when state financial assistance is involved.

.312 Recommending appropriate sanctions to other state or local agencies whose jurisdiction is involved.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553, 10554, and 11475.1, Welfare and Institutions Code; United States Department of Agriculture (USDA), Food and Nutrition Service, FNS Instruction 113-7, Part XI, B and C; and Title VI of the Civil Rights Act of 1964, P.L. 88-352.

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## **CIVIL RIGHTS**

### **NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS**

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## **CHAPTER 21-100 NONDISCRIMINATION IN STATE AND FEDERALLY ASSISTED PROGRAMS**

### **21-101 PURPOSE**

- (a) The purpose of Division 21 is to effectuate the provisions of the following laws: Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Title II of the Americans With Disabilities Act of 1990, as amended; the Age Discrimination Act of 1975, as amended; the Food Stamp Act of 1977, as amended; California Civil Code, Section 51, et seq., as amended; California Government Code, Section 11135, et seq., as amended; California Government Code, Section 4450; and other applicable federal and state laws and their implementing regulations to ensure that the administration of public assistance and social services programs are

nondiscriminatory, and that no person shall, because of actual or perceived race, color, national origin, ancestry, ethnic group identification, political affiliation, religion, marital status, sex, age, gender, gender identity, gender expression, sexual orientation, medical condition, genetic information, military and veteran status, mental disability, or physical disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that is conducted, operated, or administered by the state or any state agency, funded directly by the state, or receives any financial assistance from the state.. Administrative methods/procedures which have the effect of subjecting individuals to discrimination or defeating the objectives of these regulations are prohibited.

- (b) All definitions and prohibitions set forth in the statutes listed in 21-101(a) are hereby incorporated by reference. Any act or omission which is contrary to said definitions and prohibitions constitutes a violation of this subchapter and is subject to the sanctions provided for in this subchapter. In the event of any conflict between the definitions and prohibitions of the provisions incorporated by this reference and the definitions and prohibitions set forth in this subchapter, the definitions and prohibitions set forth in this subchapter shall prevail.
- (c) This Division and other implementing regulations provide protections independent of those in federal anti-discrimination laws. Although federal laws provide the floor of protection relating to discrimination, this Division and implementing regulations afford additional protections to provide robust protection of protected classes in state and state-supported programs and activities, including by recognizing that this Division prohibits discrimination independently of guarantees of equal protection and the prohibition against denial of full and equal access. The provisions of this Division and other implementing regulations shall be construed liberally for the accomplishment of the purposes of this part.
- (d) This Division's prohibition against discrimination includes intersectional discrimination, discrimination on more than one basis, harassment, coercion, intimidation, and retaliation for exercising a protected right or refusing to engage in an act prohibited by Division 21.

AUTHORITY Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code; Section 51, California Civil Code; Sections 4450, 11135, 11136, and 12993, California Government Code; Title II of the American With Disabilities Act of 1990, Public Law (P.L.) 101-336; 42 USCA 2000d; as amended by the ADA Amendments Act of 2008 (ADA Amendments Act) (Pub. L. 110-325, 122 Stat. 3553 (2008)), Title II of the Americans with Disabilities Act Regulations; 28 CFR 35; and Title VI of the Civil Rights Act of 1964, P.L. 88-352.

### **21-103 SCOPE OF DIVISION**

These requirements shall apply to the California Department of Social Services (CDSS), all county welfare departments, and all other agencies receiving federal or state financial

assistance through CDSS for the administration of public assistance, food stamps, child support enforcement, fraud investigation, and social services.

When the laws of California prescribe stronger protections and prohibitions than federal laws, the entities covered by this Division are subject to the stronger protections and prohibitions.

.1 Civil Rights requirements addressing the Child Support Program in the county District Attorney's offices are covered in separate plans of cooperation (see MPP Division 12 (Administrative Standards for State IV-D Agency), Appendix I, Part IX, Civil Rights Component).

.2 Civil Rights requirements addressing welfare fraud investigations in the county by District Attorney's offices are covered in separate purchase of service agreements and plans of cooperation (see MPP Division 20 (Fraud and Suspected Law Violations), Section 20-007.111).

.3 CDSS reserves the right to interview staff, review, copy or obtain all data, records, reports, case files and other materials determined necessary in the conduct of discrimination complaint investigations and/or compliance reviews involving all agencies subject to the requirements of this Division.

.4 Contractor and Vendor Compliance: Contractors, vendors, consultants, and other providers of service who receive federal or state assistance through CDSS or through agencies covered by these regulations shall comply with nondiscrimination requirements of this Division.

.5 Written assurances of nondiscrimination in programs and activities receiving federal or state financial assistance shall be required. This requirement is fully applicable to all vendors, contractors, consultants, and other providers of service in addition to county welfare departments.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code; Section 11135(b), Government Code; Title VI of the Civil Rights Act of 1964, P.L. 88-352; and 28 CFR 42.407.

## **21-104 DEFINITIONS**

.1 The following definitions shall apply to the terms used in this Division:

1. . "Accessibility" generally refers to the usability of public facilities by individuals with disabilities. See 21.18 for a complete definition.
2. "Adverse action" includes any action that harms or has a negative effect on an aggrieved person, including denial or reduction in benefits, harassment, intimidation, threats, coercion, inferior or unfavorable treatment, discrimination, or any denial of full and equal

access.

3. "Age" means how old a person is or is perceived to be, or the number of years elapsed from the date of a person's birth or perceived to have elapsed from that date.
4. "Aggrieved person" includes any person who believes that they have been injured by a discriminatory practice or denial of full and equal access, or believes that they will be injured by a discriminatory practice or denial of full and equal access that is about to occur. "Aggrieved person" shall include any applicants for or recipients of public benefits from agencies covered by these regulations.
5. "Ancestry" means an individual's actual or self-identified family or ethnic origin, descent or lineage, nationality group, tribal affiliation, or geographical place of origin or country in which the individual or the individual's parents or ancestors originated, or the perception of the individual's ancestry.
6. "Assistance animal" means an animal that is necessary as a reasonable accommodation for an individual with a disability. Assistance animals include service animals and support animals. An assistance animal is not a pet. It is an animal that works, provides assistance, or performs tasks for the benefit of an individual with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of an individual's disability.
  - a. "Service animals" are animals that are trained to perform specific tasks to assist individuals with disabilities, including individuals with mental health disabilities. Service animals do not need to be professionally trained or certified, but may be trained by the individual with a disability or another individual. Specific examples include:
    - i. "Guide dog," as defined at California Civil Code section 54.1, or other animal trained to guide a blind individual or individual with low vision.
    - ii. "Signal dog," as defined at California Civil Code section 54.1, or other animal trained to alert a deaf or hard-of-hearing individual to sounds.
    - iii. "Service dog," as defined at California Civil Code section 54.1, or other animal individually trained to the requirements of an individual with a disability.
    - iv. "Miniature horses" meeting the requirements of 28 CFR 35.136(i) and 28 CFR 36.302(c)(9).
    - v. "Service animals in training," including guide, signal, and service dogs being trained by individuals with disabilities, persons assisting individuals with disabilities, or authorized trainers under California Civil Code sections 54.1(c) and 54.2(b).
    - vi. "Support animals" are animals that provide emotional, cognitive, or other similar support to an individual with a disability. A support animal does not need to be trained or certified. Support animals are also known as comfort animals or emotional support animals.
7. "Assistive technology" means technology designed to be utilized in an assistive technology device or assistive technology service.
  - a. "Assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to

increase, maintain, or improve functional capabilities of individuals with disabilities.

- b. "Assistive technology service" means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device.
8. "Associated with" means linked or related to a person who is or is perceived to be a member of a protected class, or who identifies with or advocates for a member of a protected class, or who expresses support or sympathy for, encourages, or participates in groups composed of or representing members of a protected class or groups organized for the protection or assertion of rights protected under this Division. "Associated with" includes an individual's current or prior social or professional relationship with, marriage to, or domestic partnership with a member of a protected class; an individual's familial relationship with a person who is a member of the class, including an adoptive, step, or foster care relationship; a person's relationship as an attendant, aide, or caregiver of an individual with a disability; membership in or association with an organization identified with or seeking to promote the interests of a protected class; attendance or participation in schools, clubs, associations, organizations, churches, temples, or mosques, generally associated with a protected class; being on the premises of a facility or building owned or rented by an entity, group, or person that has, or is identified with people who have, one or more characteristics of a protected class; or actual or perceived association of a person's name or other characteristics with a protected class.
9. "Assurance of Compliance Agreement" is a legal agreement in which a county welfare department agrees to administer a program or activity covered by this Division in accordance with all applicable civil rights laws and their implementing regulations.
10. "Authorized representative" means an individual or group that has written authorization from the applicant/recipient to act in his/her behalf (see MPP, Division 19, Section 19-005.2).
11. "Auxiliary aids and services" include:
  - a. communicating, written or orally, in plain language, simplified English
  - b. qualified interpreters; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, video relay services, video remote interpreting (VRI), or other telecommunications devices that make communication as equally effective as oral communication in English; videotext displays; accessible electronic and information technology; tactile sign language; or other equally effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing or assisting those individuals to communicate;
  - c. qualified readers; taped texts; audio recordings; Braille materials and displays; screen reader software; magnification software; optical readers; secondary

- auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision or assisting those individuals to communicate;
- d. qualified interpreters, speech-to-speech relay services, or other effective methods of making aurally delivered information available to individuals who have speech disabilities or assisting those individuals to communicate;
  - e. acquisition or modification of equipment or devices; and
  - f. other similar services and actions, including newly developed forms of electronic information systems and technology as they become available.
12. "Benefit" means anything offered or provided with the intention of or for the purpose of contributing to an improvement in condition, maintaining a condition, or preventing anticipated deterioration of a condition over time, including aid or services offered or provided by a covered entity.
13. "Color" means the actual or perceived physical characteristics of an individual's complexion, pigmentation, or skin tone.
14. "Community Organization" is any organization at the local level which interacts with applicants/recipients, such as a community action program, civic organization, migrant group, church, neighborhood council, local chapter of a community organization (e.g., NAACP), or other similar group.
15. "Contractor" includes a person or recipient that receives any state support under contract or subcontract. "Contractor" includes prime contractors and subcontractors at any tier.
16. "Covered entity" includes:
- a. the state or a state agency;
  - b. any entity or individual involved in carrying out any program or activity that is conducted, operated, or administered by the state or by any state agency;
  - c. any entity or individual, including local agencies, recipients, contractors, and grantees, that is funded directly by the state, or receives any state support;
  - d. a local agency, and any entity or individual involved in carrying out any program or activity of a local agency if any part of the local agency receives state support;
17. "Culturally aware persons" are those who possess knowledge and understanding of cultural environments, religious beliefs, life styles, self-concepts and language characteristics of the populations they serve. Such knowledge is necessary to effectively communicate and provide the same level of service being provided to the welfare population at large.
18. "Disability" means a physical or mental impairment that limits one or more major life activities of an individual, a record of such an impairment, or being regarded as having such an impairment. It includes any mental or physical disability as defined in this section, and shall be construed as follows:
- a. This Division provides protections that are independent from those in the federal Americans with Disabilities Act of 1990 (P.L. 101-3361) and the American with Disabilities Amendments Act of 2008 (P.L. 110-325) (collectively, "the ADA"), and may afford additional protections, but in no event shall be construed to provide fewer protections than the ADA. Notwithstanding the definitions of physical



disability and mental disability in this section, if the definition of “disability” used in the ADA would result in broader protection of the civil rights of individuals with a mental disability or physical disability, or would include any medical condition not included within those definitions, then that broader protection or coverage shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of, the definitions in this section.

- b. All definitions shall be interpreted in accordance with the expansive construction mandates of Section 12926.1 of the California Government Code. To the extent that codified definitions or interpretations are expanded in the future, such new, more expansive definitional mandates shall be incorporated into this Division. To the extent that such codified definitions or interpretations are narrowed or restricted in the future, the more expansive definitions referenced in this subparagraph shall nevertheless continue to govern this Division.
- c. “Mental disability” includes:
  - i. Having any mental or psychological disorder or condition, such as intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity.
  - ii. Any other mental or psychological disorder or condition not described above that requires special education or related services.
  - iii. Having a diagnoses, record, or history of a mental or psychological disorder or condition described above.
  - iv. Being regarded or treated as having, or having had, any mental condition that makes achievement of a major life activity difficult.
  - v. Being regarded or treated as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in [paragraphs i and ii].
- d. “Physical Disability” includes:
  - i. having any physiological disease, disorder, or condition, cosmetic disfigurement, or anatomical loss that affects one or more body systems (neurological, including immunological; musculoskeletal, special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic, skin; and endocrine systems), and limits a major life activity;
  - ii. any other health impairment not described in above that requires special education or related services;
  - iii. having a diagnosis, record, or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in subparagraph (i) or (ii) of this paragraph;
  - iv. being regarded or treated as having, or having had, any physical condition that makes achievement of a major life activity difficult; or
  - v. being regarded or treated as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment

that has no present disabling effect but may become a physical disability as described in subparagraph (i) or (ii) of this paragraph.

- e. “Having a record of such impairment” means has a history of, or has been misclassified as having, an impairment that limits one or more major life activities.
- f. “Perceived as having an impairment” means:
  - i. has an impairment that does not limit major life activities but that is treated or perceived as constituting a limitation;
  - ii. has an impairment that limits major life activities only as a result of the attitudes of others toward such impairment; or
  - iii. does not have an impairment but is treated or perceived as having such an impairment.
- g. The definition of disability in this subchapter shall be construed in favor of broad coverage of individuals under this subchapter, to the maximum extent permitted by the terms of this subchapter. Disabilities include contagious and noncontagious diseases; orthopedic, visual, speech and hearing impairments; traumatic brain injuries, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disabilities, developmental disabilities, autism or autism spectrum, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.
- h. Individuals are protected from discrimination and denial of full and equal access due to an actual or perceived physical or mental impairment that is disabling, potentially disabling, or perceived or regarded as disabling or potentially disabling (even if it has no present disabling effect), including when an individual is erroneously or mistakenly believed to have any physical or mental condition that limits a major life activity, whether or not the impairment actually limits or is perceived to limit a major life activity.
- i. Physical and mental disabilities include chronic or episodic conditions, such as HIV/AIDS, hepatitis, epilepsy, seizure disorder, diabetes, clinical depression, bipolar disorder, multiple sclerosis, and heart disease. An impairment that is episodic or in remission is a disability if it would limit a major life activity when active.
- j. The definitions of “physical disability” and “mental disability” require a “limitation” upon a major life activity, but do not require, as does the ADA, a “substantial limitation.” This distinction is intended to result in broader coverage under this subchapter than under the ADA.
- k. “Major life activities” shall be broadly construed and include physical, mental, and social activities; caring for one’s self; performing manual tasks, walking, seeing, hearing, speaking, breathing, eating, sleeping, standing, lifting, bending, learning, reading, concentrating, thinking, communicating, and working. Working is a major life activity, regardless of whether the actual or perceived working limitation implicates a particular employment or a class or broad range of employment.

- l. For purposes of subparagraph (f), a major life activity also includes the operation of a major bodily function, including functions of the immune system, normal cell growth, digestive, bowel, bladder, cardiovascular, genitourinary, hemic, neurological, lymphatic, brain, respiratory (including speech organs), circulatory, endocrine, and reproductive functions.
- m. A disability limits a major life activity if it makes the achievement of the major life activity difficult.
- n. An impairment that limits one major life activity need not limit other major life activities in order to be considered a disability.
- o. The determination of whether an impairment limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, unless the mitigating measure itself limits a major life activity, regardless of federal law under the ADA. Mitigating measures include:
  - i. medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;
  - ii. use of assistive technology and devices;
  - iii. reasonable accommodations or auxiliary aids or services; or (D) learned behavioral or adaptive neurological modifications.
- p. The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment limits a major life activity. As used in this subparagraph:
  - i. the term “ordinary eyeglasses or contact lenses” means lenses that are intended to fully correct visual acuity or eliminate refractive error; and
  - ii. the term “low-vision devices” means devices that magnify, enhance, or otherwise augment a visual image.
- q. “Disability” does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs. “Sexual behavior disorders” means pedophilia, exhibitionism, and voyeurism.
- r. “Current unlawful use of controlled substance or drugs” does not include an individual who:
  - i. has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated and is no longer engaging in such use;
  - ii. is participating in a supervised rehabilitation program and is no longer engaging in such use;
  - iii. is erroneously regarded as engaging in such use; or
  - iv. is using drugs taken under the supervision of a licensed health care professional, or other uses authorized by law.
- s. Notwithstanding other provisions of this subchapter, an individual shall not be denied health services, or services provided in connection with drug

rehabilitation, on the basis of current unlawful use of drugs if the individual is otherwise entitled to such services.

19. "Effective Communication" means communication sufficient to provide the LEP individual with substantially the same level of services received by individuals who are not LEP. For example, staff must take reasonable steps to ensure communication with an LEP individual is as effective as communications with others when providing similar programs and services.
20. "Ethnic group identification" means the actual or self-identified possession of the physical, cultural, or linguistic characteristics associated with a racial, cultural, or ethnic group or country, geographical place of origin, or the status of being a descendent of someone with such actual or self-identified characteristics, or the perception of a person's ethnic group identification. "Ethnic Group Identification" includes ancestry, color, national origin, and race.
21. "Gender" means sex, and includes a person's gender identity and gender expression, or a perception of any of the aforementioned.
22. "Gender identity" means each person's internal understanding of their gender, or perception of a person's gender identity, which may include male, female, a combination of male and female, neither male nor female, a gender different from the person's sex assigned at birth, or transgender.
23. "Gender expression" means a person's gender-related appearance or behavior, or the perception of such appearance or behavior, whether or not stereotypically associated with the person's sex assigned at birth.
24. "Genetic Information" means information about an individual's genetic tests, the genetic tests of an individual's family members, the manifestation of a disease or disorder in the individual's family members, or the perception of any of the aforementioned. Genetic information includes any request for, or receipt of, genetic services, or participation in clinical research that includes genetic services, by an individual or any family member of the individual. Genetic information does not include information about the sex or age of any individual.
25. "Includes" or "including" has the same meaning as "includes, but not limited to" or "including, but is not limited to."
26. "International Symbol of Accessibility" is the symbol specified in Title 24 of the California Code of Regulations (Access Code) Section 3105A.(e) used to identify facilities, restrooms, parking spaces, etc. as accessible to individuals with disabilities.
27. "Intersectional Discrimination" means discrimination on the basis of a combination of protected classes, i.e., where two or more bases for discrimination are alleged. Thus, an entity that is not unlawfully discriminating solely on the basis of race or gender still may be discriminating against individuals who are perceived as or identified as having a combination of more than protected basis, such as, Asian males.
28. "Individual with a disability" is any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairment or is regarded as having such an impairment.
29. "Physical Disability" includes having any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems:

neurological, musculoskeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin and endocrine.

30. "Mental Disability includes having any mental or psychological disorder, such as an intellectual disability, organic brain syndrome, emotional or mental illness and specific learning disabilities or any other mental or psychological disorder or condition not that requires special education or related services.
31. "Major life activities" include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
32. "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
33. "Is regarded as having an impairment" means:
  - a. Has a physical or mental impairment that does not substantially limit major life activities, but that is treated by the agency as constituting such a limitation;
  - b. Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or
  - c. Has none of the impairments defined in this section but is treated by an agency as having such an impairment.
34. "Major Occupational Group" shall include, but are not limited to, the following general positions/classifications: Social Service Supervisors, Eligibility Supervisors, Social Workers, Eligibility Workers, Welfare Aids, Receptionists, Clerical Employees. Agency personnel whose position/classification is not included but whose primary duties/responsibilities correspond to any one of the above shall be included in that major occupational group.
35. "Marital status" means an individual's actual or perceived pending state of marriage, non-marriage, domestic partnership, divorce or dissolution, separation, widowhood, annulment, or other marital state.
36. "Meaningful Access" is language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual. For LEP individuals, meaningful access denotes access that is not significantly restricted, delayed, or inferior as compared to programs or activities provided to English proficient individuals.
37. "Medical Condition" means any actual or perceived health impairment related to or associated with a diagnosis, record, or history of cancer; or genetic characteristics known to be a cause of a disease or disorder or associated with a statistically increased risk of developing a disease or disorder. "Genetic characteristics" means either of the following:
  - a. any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or that person's offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder; or
  - b. inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or that person's

offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.

38. "Military and veteran status" means a member or veteran of the United States Armed Forces, United States Armed Forces Reserve, the United States National Guard, and the California National Guard.
39. "National origin" includes:
- a. the individual's or ancestors' actual or perceived:
    - i. physical, cultural, or linguistic characteristics, or name associated with a national origin group;
    - ii. marriage to or association with persons of a national origin group;
    - iii. tribal affiliation;
    - iv. membership in or association with an organization identified with or seeking to promote the interests of a national origin group; and
    - v. attendance or participation in schools, churches, temples, mosques, or other religious institutions generally used by persons of a national origin group;
  - b. "National origin groups" include ethnic groups or people from particular geographic places of origin and countries, whether or not they are presently in existence.
  - c. "National origin" includes possessing a driver's license or identification card granted under Sections 12801.6, 12801.8, or 12801.9 of the Vehicle Code, or a driver's license or identification card identified with the term "Federal Limit Apply."
40. "Non-English Speaking" persons are defined as those whose primary language is other than English or those who have identified a need for interpretive services. Sign language is subject to this definition.
41. "Perceived membership in a protected class" means being regarded as, perceived as, or treated as a member of a protected class or as having the characteristics associated with being a member of a protected class, regardless of whether the perception is accurate.
42. "Practice" or "Practices" include any action or failure to act, rule, law, ordinance, regulation, guideline, decision, standard, project, policy, process, or procedure, whether written or unwritten or singular or multiple.
43. "Program or activity" includes all of the operations and facilities of, or services, benefits or aid provided by a covered entity, directly or indirectly.
44. "Protected class" and "protected basis" are used interchangeably. They refer to the bases on which individuals are entitled to protections against discrimination and denial of full and equal access. Protected bases include sex, race, color, religion, ancestry, national origin, ethnic group identification, age, disability (including mental and physical disability), medical condition, genetic information, marital status, gender, gender identity, gender expression, and sexual orientation. In the event the Legislature in the future recognizes a protected class or protected basis by legislation or regulation, that basis will be considered a protected class or protected basis pursuant to this Division, unless specifically excluded by the Legislature. All protected bases include a perception that a

person is a member of a protected class or has any of those characteristics, or that a person is associated with a person who is, or is perceived to be a member of a protected class. Discrimination or the denial of full and equal access on the basis of a protected class includes discrimination or denial of full and equal access on the basis of a stereotype about members of the protected class.

45. "Public contact positions" include, but are not limited to, the following positions and activities, regardless of particular job classification or title: CWD employees assigned to the front desk or registration counter, telephone operators, eligibility workers/supervisors, social service workers/supervisors, welfare service aides, vocational counselors, homemakers, fraud investigators, and any employee providing interpretive service on a continuing or as needed basis.
46. "Qualified bilingual employee" is defined as an employee who, in addition to possessing the necessary qualifications for the particular classification, is certified through a process approved or administered by CDSS to be proficient in oral and/or written communication in the non-English language of the persons to be served. This definition shall also apply to an employee who is certified in the use of sign language to communicate with individuals who are deaf or hearing-impaired.'
47. "Qualified individual with a disability" means:
  - a. an individual with a disability who, with or without reasonable accommodations to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity or contractor, or recipient of a public entity.
  - b. with respect to employment, a qualified individual with a disability is an applicant or employee who, with or without reasonable accommodations, can perform the essential functions of the job in question.
48. "Qualified interpreter" means a person qualified and capable of effective, accurate, and impartial rendition of spoken or signed communication from one language to another between people who speak, sign, read, or write in a different language, both receptively and expressively, using any necessary specialized vocabulary and with appropriate cultural relevance, either simultaneously or consecutively. "Interpretation" is the act of listening to spoken word, visual or tactile transmission of manual language, or reading something written in one language (source language) and expressing it accurately and with appropriate cultural relevance into another language (target language), either simultaneously or consecutively. Whether an interpreter is qualified to provide services requires more than self-identification as bilingual or multilingual. To be qualified an interpreter must: (i) demonstrate proficiency in and ability to communicate information accurately in both the source and target language; (ii) have knowledge in both languages of any specialized term, concepts, or any particularized vocabulary and phraseology peculiar to the program or services; (iii) understand and follow interpreters' and translators' confidentiality, ethics and impartiality rules; and (iv) understand and adhere to their roles as interpreters or translators. Qualified interpreters include, for example, sign language interpreters, oral transliterators, and cued-language

transliterators. Also, to be qualified an interpreter must have received adequate education and training in interpreter ethics, conduct, practice, and confidentiality. In some circumstances, effective communication may require that an individual be provided more than one interpreter.

49. "Qualified reader" means a person who is able to read effectively, accurately, and impartially using any necessary specialized vocabulary.
50. "Race" refers to the identification of a group of people as distinct from other groups based on supposed or presumed physical, cultural, or genetic characteristics, or the perception of an individual's race, without regard to whether those characteristics are immutable. "Race" is construed broadly to include classifications that might otherwise appear to be covered only by other protected bases, such as national origin or religion.
51. "Religion," "religious creed," "religious observance," "religious belief," and "creed" are used interchangeably under this subchapter to mean any actual or perceived traditionally recognized religion as well as beliefs, observances, or practices, which an individual sincerely holds and which occupy in their life a place of importance parallel to that of traditionally recognized religions. This includes all aspects of religious belief, observance, and practice, such as duties of the clergy or elders, and religious dress and grooming practices. Religion includes atheism, agnosticism, and an individual's choice not to adopt a traditional or specific religious belief.
  - a. "Religious dress practices" shall be construed broadly to include the wearing or carrying of religious clothing, head or face coverings, jewelry, artifacts, and any other item that is part of an individual's religious observance.
  - b. "Religious grooming practice" shall be construed broadly to include forms of head, facial, and body hair, or body markings, that are part of an individual's religious observance.
52. "Sex" includes pregnancy, childbirth, and breastfeeding; medical conditions related to pregnancy, childbirth, or breast feeding; recovery from childbirth or termination of pregnancy, or other conditions related to the capacity to bear children; gender; transgender; intersex; transition; sex stereotype; gender identity; gender expression; and perception by a third party of any of the aforementioned.
53. "Sexual Orientation" includes actual or perceived heterosexuality, homosexuality, bisexuality, and asexuality. This refers to a person's emotional, romantic, or sexual attraction toward other people, and may be described by terms including gay, lesbian, bisexual, straight, asexual, or queer.
54. "Sign Language" means the use of fingers and hands to communicate with individuals who are deaf or hard of hearing. There are multiple sign languages including:
  - a. "American Sign Language (ASL)," a visual language that does not share grammar, word order, or sentence structure with English.
  - b. "Manually Coded English," signs that are a visual code for spoken English.
  - c. "Pidgin Signed English," a visual language combining ASL and English that does not follow English grammatical structures exactly.
55. "Stereotype" means a belief about a person's appearance or behavior, gender roles, gender expression, or gender identity, or other roles, expressions or identities, or about an individual's ability or inability to perform certain kinds of work or to participate in or



benefit from programs or activities, or receive health or other services, based on a myth, bias or prejudice, assumption, social expectation, convention, statistical probabilities, or generalization about the individual or about other persons in a protected class.

56. "Substantial Number" is defined as five percent or more persons of a program/location, who are non-English speaking, deaf, or hearing-impaired (see Section 21-115.12).
57. "Transgender" is a general term that refers to a person whose gender identity differs from the person's sex assigned at birth. A transgender person may or may not have a gender expression that is different from the social expectations of the sex assigned at birth. A transgender person may or may not identify as "transsexual."
58. "Transitioning" is a process some transgender people go through to begin living as the gender with which they identify, rather than the sex assigned to them at birth. This process may include, changes in name and pronoun usage, facility usage, or undergoing hormone therapy, surgeries, or other medical procedures.
59. "Ultimate beneficiary" means a person in a protected class who receives, applies for, participates in, or benefits from, or is unlawfully deterred or excluded from benefiting from, full and equal access to the benefits of, or employment with, or is subjected to discrimination under a program activity or service that is conducted, operated or administered by any covered entity.
60. "Video remote interpreting" ("VRI") service means an interpreting service that uses video conference technology over dedicated lines or wireless technology offering high-speed, wide-bandwidth video connection that delivers high-quality video.
61. (iii) "Wheelchair" means a manually-operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor or of both indoor and outdoor locomotion.

NOTE: Authority cited: Section 12935(a), Government Code. Reference: Sections 11000, 11135, 11139.5, Government Code. 11136, 11137, 11139, 11139.8, 12901, 12903, 12926, 12926.1, 12940, and 12960, Government Code. Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code; Section 11135, et seq., California Government Code; Title II of the Americans With Disabilities Act of 1990, P.L. 101-336; Title VI of the Civil Rights Act of 1964, P.L. 88-352; United States Department of Agriculture (USDA), Food and Nutrition Service, FNS Instruction 113-7 Part IV, B. and K.; 28 CFR 35.104; and Title 24 of the California Code of Regulations (Access Code) Section 3105A(e).

## **21-107 DISSEMINATION OF INFORMATION**

### **.1 General Requirements**

Each county welfare department shall take appropriate steps to inform all applicants, recipients, community organizations, and other interested persons, including those whose primary language is other than English, and those with impaired hearing or vision or other disabling conditions, of the provisions of this Division and its applicability to the programs and activities for

which the county welfare department receives federal or state financial assistance. Such notification shall also identify the name, email address, office telephone number, and office address of the employee(s) responsible for the county welfare department's compliance with this Division (see Section 21-201.1). If not immediately available, this information must be provided within ten (10) calendar days of the date requested.

## .2 Specific Methods to be Utilized

### .21 Posters

.211 Posters on nondiscrimination provided by CDSS shall be prominently displayed in all waiting rooms and reception areas. The county welfare department shall place on the posters the name, email address, office telephone number, and office address of the person(s) in the CWD who is responsible for processing discrimination complaints. Posters dealing specifically with nondiscrimination in the Food Stamp Program shall be prominently posted in all certification and issuance offices. All posters and other public documents should be translated into appropriate languages to address the needs of LEP applicants/recipients.

.212 All instructional and directional signs posted in waiting areas and other places frequented by a substantial number of LEP applicants/recipients shall be translated into appropriate languages. Such signs, or an additional sign, shall state that applicants/recipients may request aid or services in their primary language.

### .22 Pamphlets

.221 Pamphlets supplied by CDSS, entitled "Your Rights Under California Welfare Programs," shall be made available in all CWD waiting rooms and reception areas and shall be distributed and explained to each applicant/recipient at intake and reinvestigation of eligibility. The pamphlets shall be in the primary languages of the CWD's applicant/recipient population, including alternate formats (e.g., cassette tapes or CDs, large print, Braille etc.).

### .23 Photographs and Illustrations

Photographs and other illustrations used to provide program information conveying the message of equal opportunity shall display applicants/recipients of different races, national origin, sexes, disabilities, etc., covered by this Division.

### .24 Notice

The CWD shall implement procedures to ensure that applicants/recipients, community organizations, and other interested persons, including persons with impaired vision or hearing or other disabling conditions, are notified of and can obtain information about programs or program changes including, but not limited to, the following:

- .241 Existence and location of benefits and services, and hours or days of operation;
  - .242 Activities and services accessible to individuals with disabilities;
  - .243 Basic eligibility requirements for public assistance;
  - .244 Prohibited acts of discrimination;
  - .245 Procedures for filing discrimination complaints;
  - .246 Rights and responsibilities of applicants/recipients; and
  - .247 The CWD's policy of nondiscrimination.
- .25 Notice may be given by, but not limited to, the following methods: oral group presentations, face-to-face interviews, and printed materials, e.g., posters, pamphlets, etc.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code; United States Department of Agriculture (USDA), Food and Nutrition Service, FNS Instruction 113-7, Part VI, B. 1, 2, and 3; 28 CFR 35.106 and .107; 28 CFR 42.405(c); 45 CFR 80.6(d); 45 CFR 84.8; Title VI of the Civil Rights Act of 1964, P.L. 88-352; and Title II of the American With Disabilities Act of 1990, P.L. 101-336.

## **21-109 DISCRIMINATORY PRACTICES PROHIBITED**

It is a prohibited practice for county welfare departments, in carrying out or failing to carry out any program or activity or providing, denying, or delaying any services or benefits directly or indirectly, through contractual, licensing or other arrangements, to treat in purpose or effect any person less unfavorably without legal justification on the basis of the protected class of the person, including by:

1. denying a person the opportunity or right to apply for, receive the benefits of, or participate in a program or activity;
2. affording a person the opportunity or right to apply for, receive the benefits of, or participate in a program or activity that is not full and equal to the program or activity afforded others;
3. providing a program or activity to a person that is not as effective in affording a full and equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others. In some situations, identical treatment may be discriminatory;
4. providing different or separate programs or activities to a person, or to any class of persons, than is provided to others, or providing programs or activities at a different time,

unless such action is clearly necessary to provide such persons with full and equal access as truly effective a program or activity as that provided to others;

5. aiding or perpetuating discrimination against a person by providing or transferring state support to a covered entity that discriminates in conduct, operation, or administration of any program or activity;
6. excluding a person from participation as a member of a planning or advisory board.  
Under this requirement, it is a discriminatory practice for a covered entity to fail to make reasonable efforts to achieve a representative board. However, such requirement is not deemed to impose adherence to a quota system;
7. limiting a person in the exercise or enjoyment of any right, privilege, advantage or opportunity enjoyed by others participating in or receiving any aid, benefit, or service resulting from a program or activity;
8. denying a person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities;
9. utilizing criteria or methods of administration that:
  - a. subject a person to discrimination on the basis of membership in, perception of membership in, or association with someone in a protected class;
  - b. defeat or substantially impair the accomplishment of the objectives of the covered entity's program or activity with respect to membership in a protected class. The objectives of a program or activity shall include its overall mission or purpose as reflected in sources, such as relevant statutes, legislative intent and history, and regulations;
  - c. create, increase, reinforce, or perpetuate discrimination or segregation by another recipient covered entity based on membership in a protected class; or
  - d. create, increase, reinforce, or perpetuate discrimination or segregation based on membership in a protected class.
10. making or allowing selections or closures of sites or locations of facilities, or making, issuing, or denying permits for programs, services, activities or facilities that:
  - a. exclude from, denies the benefits of, or otherwise subject persons to discrimination under any program or activity;
  - b. defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to membership in a protected class.
11. interfering with admittance to or enjoyment of public facilities or the rights of an individual with a disability under any program or activity.

NOTE: Authority cited: Section 12935(a), Government Code. Reference: Sections 11000, 11135, 11139, 12926, 12926.1, and 12940, Government Code.

## .2 Disability

1. Failure to take appropriate steps including providing accommodations or auxiliary aids to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others constitutes discrimination based on either disability or language proficiency.

- a. For purposes of this section, “companion” means a family member, friend, or associate of an individual seeking access to a service, program, or activity of a public entity, who, along with such individual, is an appropriate person with whom the public entity should communicate.
  - b. Primary consideration should be given to the disabled individual’s choice of auxiliary aid.
2. To ensure compliance with the nondiscrimination mandate, CWDs shall:
  - a. Screen each client for disabilities and language access needs, using the following script or something substantially similar:
 

“There are things [agency name] will ask you to do in order to get or keep your benefits. If you have a health problem that makes it hard for you to do something [agency] asks, you can ask for help. This is called an accommodation. This could be because of a physical or mental or emotional health problem or learning disability. Some of the things we’ll ask you to do are:

    - Read notices we send and follow instructions in them
    - Fill out forms
    - Come to the office for appointments
    - Get and give us documents to prove whether you can get benefits
    - Tell us about changes in your household or case circumstances
    - Meet deadlines

Do you think you might need help with any of these things, or something else, because of a health problem, disability, learning disability, or other issue?”
  - b. Track individual’s requested accommodation, reason for accommodation, and accommodation provided.
    - i. CWDs shall engage in an interactive process to determine accommodations if they cannot provide the requested accommodation because it would entail an undue hardship or fundamentally alter the program according to the most up-to-date controlling interpretations of the ADA.
    - ii. If an individual is covered under the ADA, the only reason for not providing an accommodation is undue burden or fundamental alteration.
  - c. Give the individual oral and written notice of the accommodation they will receive and explain the procedure for requesting an alternative accommodation.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 11135, Welfare and Institutions Code; Section 51, California Civil Code; Section 10000, California Government Code; Title II of the Americans With Disabilities Act of 1990, P.L. 101-336; Title VI of the Civil Rights Act of 1964, P.L. 88-352; and 45 CFR 80.1 and 80.3.

### .3 Practices Prohibited on the Basis of Age.

.31 Among other prohibited practices, it is prohibited for a covered entity to:

1. discriminate against or deny full and equal access to a person because of the person's actual or perceived age;
2. discriminate against or deny full and equal access to a person because of such person's association with persons of a particular age; or
3. discriminate against or deny full and equal access to a person because of such person's membership in an organization identified with, or seeking to promote the interests of persons of a specific age.

NOTE: Authority cited: Section 12935(a), Government Code. Reference: Sections 11135, 11136, and 11139, Government Code.

### .4 Practices Prohibited on the Basis of Ancestry, Ethnic Group Identification, and National Origin

.41 Among other prohibited practices, it is prohibited for a covered entity to:

1. discriminate against or deny full and equal access to a person because of the person's actual or perceived ancestry, ethnic group identification, or national origin, including a person's primary language or accent;
2. discriminate against or deny full and equal access to a person because of such person's association with persons of a particular ancestry, ethnic group identification, or national origin;
3. discriminate against a person because of such person's membership in an organization identified with, or seeking to promote the interests of persons of a particular ancestry, ethnic group identification, or national origin, or because a person's name, or that of their spouse, is believed to reflect a particular ancestry, ethnic group identification or national origin;
4. fail to take appropriate steps to ensure that alternative communication services are available to ultimate beneficiaries.

.42 Definitions:

"Alternative communication services" means the method used for purposes of communicating effectively with a person with limited English proficiency who is unable to read or speak or write in the English language. "Alternative communication services" include, but are not limited to, the provision of the services of a multilingual employee or an interpreter for the benefit of an ultimate beneficiary; the provision of written materials in a language other than English; the provision of written materials in a format other than standard font written print, such as Braille, large font print, sign language visual formats and electronic formats; auxiliary aids and services; and notice to the limited English proficient person of the availability of free alternative communication services, including

interpreter and translation services and where to file complaints if appropriate services are not provided.

“Multilingual employee” means a qualified employee of a covered entity who, in addition to their duties, is also proficient in oral communication skills in English and the target languages, as are necessary to accurately and readily interpret in a second language, and has received education and training in interpreter ethics, conduct, practice, and confidentiality. A multilingual employee need not be proficient in reading or writing skills in a second language except where such skills are a job-related necessity or necessary for orally interpreting a written document.

“Limited English proficient persons” (“LEP”) includes:

- a. persons who are non-English speaking or who do not speak English as their primary language or have limited ability to read, write, speak, or understand English;
- b. persons with developmental, mental health, or intellectual disabilities who have limited ability to understand English; and
- c. persons with manual or sensory disabilities, such as manual dexterity impairments, hearing or vision impairments, who have limited functional ability to read, write, or speak English presented in standard visual or oral formats;
- d. persons who are competent in English for certain types of communication (e.g., speaking or understanding) but are LEP for other purposes (e.g., reading or writing).

“Primary language” means the language used most frequently by a person to communicate, including sign language, or tactile sign language.

“Translator” means a person qualified and capable of translating a language in writing or sign. A qualified translator has received education and training in translator best practices, including ethics, conduct, practice, and confidentiality.

“Translation” is the replacement of a written text or sign, or recorded image, from one language (source language) into an equivalent written text or sign, or recorded image in another language (target language), accurately and with appropriate cultural relevance, and at the appropriate grade level. Although many of the same requirements apply to translators as for interpreters, the skill of translators is very different from that of interpreting. Competency of translations can often be ensured by: (i) having a second independent translator check the work of the primary translator, including using a community review process to ensure the correct reading and literacy level and understandability of the document, and (ii) using “back translation” by having one translator translate the documents and a second one translate it back to English or the source language to check the appropriate meaning.

AUTHORITY: Section 12935(a), Government Code. Reference: Sections 11135, 11136, and 11139, Government Code Section 12935(a), Government Code. Reference: Sections 11135, 11136, and 11139, Government Code.

## .5 Practices Prohibited on the Basis of Color and Race

.51 Among other prohibited practices, it is prohibited for a covered entity to:

1. discriminate against or deny full and equal access to a person because of the person's actual or perceived color or race;
2. discriminate against or deny full and equal access to a person because of such person's association with persons of a particular color or race;
3. discriminate against or deny full and equal access to a person because of such person's membership in an organization identified with, or seeking to promote the interests of persons of a specific color or race, or because a person's name, or that of their spouse, is believed to reflect a given color or race.

AUTHORITY: Section 12935(a), Government Code. Reference: Sections 11135, 11136, and 11139, Government Code.

#### .6 Practices Prohibited on the Basis of Marital Status

.61 Among other prohibited practices, it is prohibited for a covered entity to:

1. discriminate against or deny full and equal access to a person because of a person's actual or perceived marital status;
2. discriminate against or deny full and equal access to a person because of such person's association with persons of a particular marital status; or
3. discriminate against or deny full and equal access to a person because of such person's membership in an organization identified with, or seeking to promote the interests of persons with a particular marital status.

#### .7 Practices Prohibited on the Basis of Religion

It is a discriminatory practice for a recipient of state support to discriminate against an ultimate beneficiary based on the nature of the ultimate beneficiary's religious beliefs.

.71 Among other prohibited practices, it is prohibited for a covered entity to:

1. discriminate against or deny full and equal access to a person because of the person's actual or perceived religion;
2. discriminate against or deny full and equal access to a person because of such person's association with persons of a particular religion;
3. discriminate against or deny full and equal access to a person because of such person's membership in an organization identified with, or seeking to promote the interests of persons with a particular religion; or
4. to fail to make reasonable accommodation to the religious belief of an ultimate beneficiary where such accommodation can be made without undue hardship on the covered entity.



AUTHORITY: Section 12935(a), Government Code. Reference: Sections 11135, 11136, and 11139, Government Code.

## .8 Practices Prohibited on the Basis of Sex or Sexual Orientation

.81 Among other prohibited practices, it is prohibited for a covered entity to:

1. discriminate against or deny full and equal access to a person because of the person's sex or sexual orientation, as defined in section 201-4;
2. discriminate against or deny full and equal access to a person because of such person's association with persons of a particular sex or sexual orientation, as defined in sections 201-4; or
3. discriminate against or deny full and equal access to a person because of such person's membership in an organization identified with, or seeking to promote the interests of persons with a particular sex or sexual orientation, as defined in sections 201-4.

AUTHORITY: Section 12935(a), Government Code. Reference: Sections 11135, 11136, and 11139, Government Code.

## .9 Personal Information

In determining whether a person satisfies any criteria for receipt of an aid or benefit or participation in a program or activity, it is a prohibited practice for a covered entity to differentiate on the basis of sex in inquiring about the family or marital status of such person. However, such person may be required to provide information relevant and necessary for determining whether such person satisfies validly imposed criteria for the aid or benefit, or participation in the program or activity in question.

NOTE: Authority cited: Section 12935(a), Government Code. Reference: Sections 11135, 11136, and 11139, Government Code.

## .10 Pregnancy, Childbirth or Termination of Pregnancy.

Any practice of a covered entity concerning disability due to pregnancy, childbirth, recovery from childbirth or termination of pregnancy, or other physiological conditions related to the capacity to bear children not applied under the same terms and conditions, and in the same manner, as any other practice relating to any other temporary disability is a prohibited practice; except as otherwise provided by the Fair Employment Practice Act.

NOTE: Authority cited: Section 12935(a), Government Code. Reference: Sections 11135, 11136, and 11139 and 11139.5, Government Code.

### .11 Parental, Family or Marital Status

Any practice of a covered entity concerning the actual or potential parental, family or marital status of an ultimate beneficiary which has the purpose or effect of differentiating on the basis of sex is a prohibited practice.

Note: Authority cited: Section 12935(a), Government Code. Reference: Sections 11135, 11136, and 11139, Government Code.

### .12 Inquiries Regarding and Recording of Gender and Name.

1. Inquiries by a covered entity that directly or indirectly identify a person on the basis of sex, including gender, gender identity, or gender expression, or sexual orientation, are unlawful unless the covered entity establishes a permissible defense, including whether such a practice is required by state or federal law or an order of a state or federal court. For recordkeeping purposes, a covered entity may request a person to provide this information solely on a voluntary basis.
2. It is discrimination under this Division, if an ultimate beneficiary requests to be identified with a preferred gender, name, and/or pronoun, including gender-neutral pronouns, and a covered entity fails to abide by the person's stated preference.
3. A covered entity is permitted to use a person's gender or legal name as indicated in a government-issued identification document only if it is necessary to meet a legally-mandated obligation, but otherwise must identify the person in accordance with their gender identity and preferred name.

NOTE: Authority cited: Section 12935(a), Government Code. Reference: Sections 11135, 11136, and 11139, Government Code.

### .13 Additional Rights

1. It is unlawful for a covered entity to inquire about or require documentation or proof of a person's sex, gender, gender identity, or gender expression as a condition of application or eligibility for, or receipt of, any benefit, program, activity, or service provided by the covered entity.
2. It is unlawful for a covered entity to deny any benefit, program, activity, or service to an individual based wholly or in part on the individual's sex, gender, gender identity, or gender expression.
3. It is unlawful for a covered entity to discriminate against or deny full and equal access to an individual who is transitioning, has transitioned, or is perceived to be transitioning.
4. It is unlawful for a covered entity to refuse any individual access to facilities that correspond to that individual's gender identity or gender expression, regardless of the individual's sex assigned at birth. Covered entities may not require

individuals to undergo, provide proof of any medical treatment or procedure, provide any identity document, or to use facilities designated for use by a particular gender.

Note: Authority cited: Section 12935(a), Government Code. Reference: Sections 11135, 11136, 11139, 12920, 12921, 12926, and 12940, Government Code.

## **21-106 Standards for Determining Discrimination and Unlawful Denial of Full and Equal Access**

In order to determine whether a practice is discriminatory or unlawfully denies full and equal access, all sources of information may be used, including the sources of information and methods used by state and federal courts and agencies in determining whether a practice is discriminatory or denies full and equal access. The sources of information and methods used by federal courts and agencies shall be considered a floor and not a ceiling, consistent with the objective of Division 21 to provide the broadest protections for civil rights.

.1 Practices prohibited include facial discrimination, intentional discrimination, disparate impact discrimination, and denial of full and equal access.

1. Facial discrimination, sometimes referred to as express discrimination, is unlawful per se. Such discrimination includes practices that classify individuals and provide them aid, benefits, or services on the basis of their inclusion or exclusion from a protected class, except to the extent they lawfully benefit members of a protected class, such as by being part of a lawful affirmative action plan.
2. Practices that intentionally discriminate against individuals on the basis of membership in a protected class are prohibited. Intentional discrimination is established when a protected basis is a motivating factor in taking an adverse action even though other factors may have also motivated the practice. Intentional discrimination may be proved by direct or circumstantial evidence. "Intentional" discrimination includes "purposeful" discrimination.
3. Disparate impact discrimination is prohibited. "Disparate impact," "discriminatory effect," and "adverse impact" are used interchangeably. Disparate impact occurs when a facially neutral act or practice, regardless of intent,
  - a. has an adverse or disproportionate impact, or predictably results in an adverse or disproportionate impact, on members of a protected class;
  - b. creates, increases, reinforces, or perpetuates discrimination or segregation of members of a protected class; or
  - c. has the effect of violating any of the other prohibitions against discrimination. A practice with a disparate impact may nevertheless still be lawful if supported by a legally sufficient justification, as set out in California Government Code Section 14029.

NOTE: Authority cited: Section 12935(a), Government Code. Reference: Sections 11000, 11135, 12926, 12926.1, 12940, 12955, 12955.8, 14029 Government Code.

## **21-111 ACCESSIBILITY**

.1 The CWD shall ensure that programs and activities are readily accessible to individuals with disabilities.

.11 The U.S. Department of Justice implementing regulations for Title II of the ADA are contained in 28 CFR Part 35. Appendix A of 28 CFR Part 36 contains the ADA Accessibility Guidelines (ADAAG), which govern the physical accessibility requirements for state and local governments. Title 24 of the California Code of Regulations (CCR), Parts 1, 2, 3, 5, 8, and 12 contains the regulations governing structural accessibility for individuals with disabilities in public facilities in the State of California. The above federal and state regulations provide the accessibility requirements for new construction, alterations, and for existing facilities.

.111 Some examples of architectural changes in federal and state regulations that would make facilities accessible to individuals with disabilities are:

- (a) Installing ramps and handrails;
- (b) Making curb cuts in sidewalks and entrances;
- (c) Widening doors and/or installing accessible door hardware;
- (d) Creating accessible parking spaces;
- (e) Installing visual and auditory emergency alarms;
- (f) Installing exterior signs at all inaccessible facility entrances directing individuals with disabilities to an accessible entrance or to a location where information about accessible facilities can be obtained.
- (g) Affixing signs of appropriate size and contrast to identify a CWD to assist individuals with a visual impairment in locating offices.

.12 Each CWD, with instructions and assistance provided by the CDSS, shall evaluate its practices and policies to ensure they do not discriminate on the basis of disability.

.13 In choosing available methods for meeting the requirements of this section, the CWD shall give priority to those methods that offer programs and activities to individuals with disabilities in the most integrated setting appropriate.

.14 Each county welfare department shall establish procedures to ensure that communications with applicants/recipients and members of the public with disabilities are as effective as communications with others ([see Section 21-115.41](#)).

.2 When public areas (e.g., reception areas, waiting rooms, interview booths, public restrooms, and public drinking fountains) are provided, they shall be accessible to individuals with disabilities and identified by the international symbol of accessibility in compliance with Title 24 of the California Code of Regulations.

.3 When parking is provided to the general public, it shall be accessible to individuals with disabilities pursuant to local ordinance and/or Title 24 of the California Code of Regulations.

.4 CWDs may provide alternative methods that would be equally effective in making programs and activities accessible to individuals with disabilities, with prior written approval from CDSS.

.41 When alternative methods are proposed, the county welfare department director or his/her designee shall submit a written statement supporting their reasons for reaching that conclusion. This statement must be submitted to CDSS for review and approval prior to the implementation of this decision.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code; Section 51, California Civil Code; Sections 4450 and 11135, California Government Code; Title 24 of the California Code of Regulations, Parts 1, 2, 3, 5, 8, and 12; Title II of the Americans With Disabilities Act of 1990, P.L. 101-336; Appendix A, 28 CFR Part 36; and 28 CFR 35.150 and .151.

## **21-115 PROVISION FOR SERVICES TO APPLICANTS AND RECIPIENTS WITH LIMITED ENGLISH PROFICIENCY OR WHO HAVE DISABILITIES**

County welfare departments shall ensure that effective bilingual/interpretive services are provided to serve the needs of individuals with limited English proficiency and individuals with disabilities. The provision of bilingual/interpretive services shall be prompt without undue delays. This need shall be met as indicated below.

.1 A sufficient number of qualified bilingual employees shall be assigned to public contact positions in each program and/or location serving a substantial number of limited English proficient persons. These employees shall have the language skills and cultural awareness necessary to communicate fully and effectively and provide the same level of service to limited English proficient applicants/recipients as is provided to the client population at large.

.11 The number of public contact positions in each major occupational group shall be determined for each program and/or location whose limited English proficient language cases equal or exceed five percent of the total cases for each program or location.

.12 In determining this percentage, primary language groups shall be considered individually, rather than cumulatively.

.13 To determine the percentage of limited English proficient cases in any program and/or location, divide the number of ongoing (continuing) limited English proficient cases for each primary language group by the total ongoing (continuing) cases in that program and/or location.

.14 To determine the required number of bilingual employees in a program and/or location, multiply the percentage of non-English-language cases by the number of public contact positions in each major occupational group in that program and/or location.

If application of the formula results in a whole number plus a fraction of less than one-half, it shall be rounded to the next lower number, e.g., 1.49 = 1.0. If the resultant fraction is one-half or greater, it shall be rounded to the next higher number, e.g., 1.50 = 2.0.

*EXAMPLE*

AFDC Program - Main Office

20 Eligibility Workers (EW)

x.08 Spanish Language Case Percentage

1.60 Equals Two Qualified Spanish Speaking

EW Contact Positions

.141 When the computation (to determine required bilingual staffing) results in a need for less than one full-time position for a major occupational group in a program and/or location, the agency may provide services through the use of a qualified bilingual employee from another program within the same location.

*EXAMPLE*

District Office

AFDC NAFS SOCIAL SERVICES Spanish Language Spanish Language Spanish Language

Cases 20% Cases 25% Cases 10%

Total EWs x1 Total EWs x2 Total EWs x1

Required .2 Required .50 Required .1

In the example above, one full time Spanish-speaking worker in any program would satisfy the requirements for all programs, provided that the worker would be available to interpret for the other two programs.

.15 When the percentage of cases in a program and/or location is less than five percent, the agency shall ensure that effective bilingual services are provided. This requirement may be met through utilization of paid interpreters, qualified bilingual and multilingual employees, contract interpreters (including telephonic interpreters), qualified employees of other agencies, interpreters from community organizations, or volunteer interpreter programs.

.16 Applicants/recipients may provide their own interpreter; however, the CWD shall not require them to do so. Only under extenuating circumstances or at the specific request of the applicant/recipient shall a CWD allow a minor (under the age of 18 years) to temporarily act as an interpreter. This provision does not apply to interpretive services for persons who are deaf.

.2 Forms and other written materials required for the provision of aid or services shall be available and offered to the applicant/recipient in the individual's primary language when such forms and other written material are provided by CDSS. When such forms and other written material contain spaces (other than "for agency use only") in which the CWD is to insert information, this inserted information shall also be in the individual's primary language.

.3 Each CWD shall ensure that administrative practices do not have the effect of denying individuals with limited English proficiency and individuals with disabilities equal access to and participation in the available programs and activities.

#### .4 Auxiliary Aids

.41 CWDs shall provide appropriate auxiliary aids and services where necessary to afford qualified individuals with disabilities, including applicants, participants, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity.

1. CWDs shall provide an opportunity for individuals with disabilities to request auxiliary aids and services of their choice. CWDs shall give primary consideration to the requests of individuals with disabilities. 28 CFR 35.160 (Section by Section Analysis) provides that public entities, "shall honor the choice [of individuals with disabilities for auxiliary aids and services] unless it can demonstrate that another effective means of communication exists or that use of the means chosen would not be required under [28 CFR Section 35.164].
2. The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place. In determining what types of auxiliary aids and services are necessary, a public entity shall give primary consideration to the requests of

individuals with disabilities. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.

3. It is the covered agency's responsibility to provide the auxiliary aid. Therefore it shall not:
  - a. require an individual with a disability to bring another individual to interpret for him or her.
  - b. rely on an adult accompanying an individual with a disability to interpret or facilitate communication except
    - i. in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available; or
    - ii. where the individual with a disability specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances.
  - c. rely on a minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available, and with affirmative consent provided.

.42 When telephone contact is necessary CWDs shall use a TDD, or equally effective telecommunications systems, to communicate with individuals with impaired hearing or speech.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code; Title II of the Americans With Disabilities Act of 1990, P.L. 101-336; Title VI of the Civil Rights Act of 1964, P.L. 88-352; and 28 CFR 35.160 and .161.

## **21-116 DOCUMENTATION OF APPLICANT/RECIPIENT CASE RECORDS**

.1 Each agency shall maintain case record documentation in sufficient detail to permit a reviewer to determine the agency's compliance with the requirements of Division 21.

.2 Each agency shall ensure that case record documentation identifies the applicant's/recipient's ethnic origin and primary language in accordance with Section 21-201.21. In those cases where the applicant/recipient is limited English proficient, the agency shall:

.21 Document the individual's acceptance or refusal of forms or other written material offered in the individual's primary language

.22 Document the method used to provide bilingual services, e.g., assigned worker is bilingual, other bilingual employee acted as interpreter, volunteer interpreter was used, or client provided



interpreter. When a minor (under 18 years of age) is used as an interpreter, the CWD shall so document the circumstances requiring temporary use of minors in the case record.

.23 When applicants/recipients provide their own interpreter, the CWD shall ensure that the applicants/recipients are informed of the potential problems for ineffective communication. The CWD shall document in the case record that the applicants/recipients were so informed.

.24 Consent for the release of information shall be obtained from applicants/recipients when individuals other than CWD employees are used as interpreters and the case record shall be so documented.

.3 Upon obtaining information that identifies an applicant/recipient as disabled or upon identifying someone as needing an accommodation because of disability through the screening procedure outlined above in 21-109, each CWD shall ensure that the case record is so documented. The CWD shall document, in writing, an applicant's/recipient's request for auxiliary aids and services (see Section 21-115.4).

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code; Title II of the Americans With Disabilities Act of 1990, P.L. 101-336; and 28 CFR 35.160(a) and (b)(2).

## **21-117 STAFF DEVELOPMENT AND TRAINING**

.1 Each public contact employee shall receive training in the requirements of Division 21. These requirements of Division 21 shall be incorporated into the content of the CWD's orientation and continuing training programs. This shall include familiarization with the discrimination complaint process. CDSS will provide program guidelines and technical assistance upon request.

.2 Each CWD shall develop and/or provide cultural awareness training programs for all public contact employees. Cultural awareness training shall pertain to specific cultural characteristics of cultural groups served by the CWD to provide a better understanding of, and sensitivity to, the various cultural groups, including individuals with disabilities to ensure equal delivery of services. Whenever possible, training shall involve community organizations familiar with a specific culture.

.21 In presenting materials relating to specific cultural characteristics, all efforts should be made to avoid stereotypes.

.3 Appropriate agency staff shall be instructed in the investigation of discrimination complaints.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code; 28 CFR 35.160(a) and Subpart B; 80 CFR 80.1; and Title VI of the Civil Rights Act of 1964, P.L. 88-352.

## **21-201 COMPLIANCE PROCEDURES AND REPORTING**

### **.1 Assignment of Resources to Implement Requirements of This Division**

Responsibility for the implementation of nondiscrimination requirements shall be centralized within each agency. Each agency shall designate an employee as the Civil Rights Coordinator, and shall allocate adequate personnel and resources to implement the provisions of this Division and ensure nondiscrimination in the delivery of services. Methods and staff used to meet Division 21 requirements may vary from county to county. To determine agency compliance, the following factors will be considered:

.11 Level and quantity of personnel assigned to activities related to this Division.

.12 Comparison of the civil rights unit's workload, actual or anticipated, to the workload of other administrative units.

.13 Extent to which the existence and responsibilities of the civil rights unit has been publicized within the agency and to the public.

.14 Comparison of physical space and equipment assigned to civil rights personnel with that assigned to other offices of similar level in the agency.

### **.2 Compliance Reports**

Each CWD shall keep timely and accurate compliance records. This information shall be submitted to CDSS whenever, and in such form as, CDSS may determine necessary. The information includes, but is not limited to, the following:

.21 Each CWD shall collect primary language and ethnic origin data by district offices in all AFDC, nonassistance food stamps, and social services programs covered by this Division. This data shall be collected for each head of household or, in social services cases, each primary recipient.

.211 Ethnic origin and primary language shall be determined by the applicant/recipient completing the appropriate section of the application forms. Should he/she decline to make a self-declaration, the worker will make a visual determination and record the information in the appropriate place on the form.

.212 Each CWD shall submit this information by countywide total to CDSS annually. Source data substantiating the compliance report is to be maintained by the district office.

### **.22 County Civil Rights Plans**

All county welfare departments shall submit to CDSS an initial Civil Rights Plan and subsequent annual updates. Each plan shall function as a guide in developing the CWD's policy of providing equal delivery of benefits and services. The Civil Rights Plan and updates will be in such format and will contain such information as CDSS may determine necessary.

### .23 County Civil Rights Impact Studies

.231 The USDA requires that civil rights impact studies be completed "[b]efore making decisions that would substantially alter individual's access to [county] welfare offices..." to ensure against discrimination. This requirement is outlined in the USDA Administrative Notice 93-11, State Agency Local Welfare Hours, dated December 4, 1992. The Notice requires that the impact studies be available for review.

.232 The USDA, Office of Civil Rights Enforcement, issued Departmental Regulation #4300-4, Civil Rights Impact Analysis, dated September 22, 1993. The Regulation requires county welfare departments "...to establish internal systems to identify and address the civil rights implications of proposed policy actions before those actions are approved and implemented." The regulation identifies "policy actions" as those actions including but not limited to reorganizations, office consolidations, closures or relocations. "Major civil rights implications" are defined as "...those consequences of proposed policy actions which, if implemented, will negatively or disproportionately affect minorities, women, or persons with disabilities who are employees, program beneficiaries or applicants for employment or program benefits in USDA-conducted or assisted programs by virtue of their race, color, sex, national origin, religion, age, disability, marital or familial status."

The Regulation requires agencies to:

"(1) Identify and address major civil rights impacts of proposed actions on minorities, women, and persons with disabilities before the actions are approved and implemented.

"(2) Establish internal procedures which implement this policy...[Examples are provided here.]

"(3) Refer proposed policy actions and supporting documentation which contain major civil rights impacts that cannot be resolved at the agency level to the Office of Advocacy and Enterprise for review...[Examples are provided here as to situations when a referral will be made.]

"(4) Certify to the Assistant Secretary for Administration that procedures to implement this policy have been established within 90 days of the effective date of this regulation."

### .3 Compliance Reviews

.31 In order to ensure compliance with civil rights laws and regulations, CDSS conducts routine on- site reviews of county welfare departments. The review includes, but is not limited to, the following:

- .311 A review of case records for applicants/recipients who are non-English speaking or disabled and other case records as appropriate.
- .312 Interviews with CWD staff.
- .313 A contact with at least one community organization.
- .314 A review of the program's or activity's accessibility to persons with disabilities.
- .315 A review of program or activity information being provided to applicants/recipients, community organizations, or other interested persons.
- .316 A review of applications, application instruction sheets, pamphlets, or other materials available to the public.
- .317 A review of the CWD's complaint log to determine if civil rights complaints are processed in accordance with procedures outlined in Section 21-203.
- .318 A review of appropriate documents to confirm an assurance of compliance agreement is included.
- .32 On occasion, special compliance reviews may be necessary. These reviews may be unannounced and are conducted when:
  - .321 There is a need to follow up on noncompliance findings from a routine review requiring additional information and an in-depth examination of specific aspects of program operations and activities.
  - .322 Statistical data indicates that a particular group of people is not participating in or benefitting from a program or activity to the extent indicated by the population characteristics of that area.
  - .323 The Director of CDSS requests a review.
  - .324 Reports of noncompliance by federal, state, or other agencies need to be substantiated.
  - .325 A pattern of complaints of discrimination has developed.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code; United States Department of Agriculture (USDA), Food and Nutrition Service, FNS Program Instruction 113-7, Parts V, VII, and VIII; USDA Departmental Regulation, Office for Civil Rights Enforcement, #4300-4, September 22, 1993; USDA, Administrative Notice 93-11, dated December 4, 1992 (State

Agency Local Welfare Office Hours); 7 CFR 15.3(b)(3); 28 CFR 35.130(b)(4); 28 CFR 42.406(a), (b), (b)(4), (b)(6), (c), and (d); 28 CFR 42.407(b); 28 CFR 42.410; 45 CFR 80.3(b)(3); 45 CFR 80.6(b); and 45 CFR 84.4(b)(5). 21-203 APPLICANT/RECIPIENT COMPLAINTS OF DISCRIMINATORY TREATMENT.

## **21-203 APPLICANT/RECIPIENT COMPLAINTS OF DISCRIMINATION**

County welfare departments are responsible for investigating discrimination complaints made by applicants/recipients or by their authorized representatives, and for investigating complaints remanded by CDSS, the U.S. Department of Health and Human Services, or the U.S. Department of Agriculture.

An applicant/recipient or his/her authorized representative may file a complaint of discrimination with the state or local county welfare department involved or directly with the appropriate agency of the federal government. Information concerning the complaint process shall be available to applicants/recipients and other interested persons and shall include procedures for filing complaints or appeals with CDSS, the U.S. Department of Health and Human Services or the U.S. Department of Agriculture. The complaint must be received not later than 180 days from the date of the alleged discriminatory act unless the filing date is extended by CDSS or the responsible federal agency.

When CDSS or the CWD lack jurisdiction over a complaint, CDSS or the CWD shall, whenever possible, refer the complaint to the appropriate governmental agency and/or advise the complainant of the lack of jurisdiction and explain the reason why it is outside the jurisdiction.

### **.1 Complainant's Right to a State Hearing (Fair Hearing)**

This regulation does not limit or restrict a complainant's right to request a state hearing in accordance with Division 22. Should the complaint involve program issues, in addition to allegations of discriminatory treatment, program issues may be subject to a state hearing. It is the CWD's responsibility to advise the complainant of his/her right to a state hearing and the necessity to request such a hearing within 90 days as prescribed in Section 22-009, in addition to the filing of a complaint of discriminatory treatment. The complainant shall also be advised of the 10-day limitation for filing a request for a state hearing to receive aid paid pending.

.11 Should a complaint of discrimination arise during a state hearing, the Administrative Law Judge shall remand the complaint to the CWD for the preparation of a report in accordance with Section 21-203.12 and investigation and handling in accordance with Division 21 regulations.

### **.2 Procedures for Processing Discrimination Complaints**

All complaints of discrimination will be addressed in accordance with the following procedures:

.21 The CWD shall maintain a control log in which all complaints of discrimination are entered by year and date the complaint was received. At a minimum the log shall provide:

.211 Complainant's name.

.212 Date complaint was received and the date of the alleged discriminatory act(s).

.213 CDSS/CRB case number, if any.

.214 Program(s) involved.

.215 Basis of discrimination: age, race, sex, etc.

.216 Nature of the complaint.

.217 Resolution: completed investigation, withdrawal, failure to pursue, etc.

.218 Decision: discrimination or no discrimination.

.219 Date investigation completed or date complaint resolved.

.22 A complaint of discrimination shall be filed either orally or in writing.

.221 The CWD shall be permitted to ask the complainant to fill out a complaint form but shall not make it a condition of filing a complaint.

.222 The CWD shall accept complaints of discrimination filed anonymously.

.223 When a complainant refuses to put their complaint in writing because of fear of retribution or to maintain anonymity, or due to illiteracy, or is physically unable to put their complaint in writing, the person to whom the allegation is being made shall put the elements of the complaint in writing.

.224 The CWD shall make a reasonable effort to make contact with the complainant by mail and/or telephone to follow up on the initial complaint.

.23 Within 20 calendar days of receipt of a complaint, the CWD/CDSS shall acknowledge the complaint by informing the complainant in writing that an investigation will be conducted.

.24 For those complaints requiring investigation by the CWD, the investigation, including any attempted resolution, shall be completed within sixty (60) calendar days following the receipt of the complaint. Within twenty (20) calendar days following the completion of the investigation, the CWD shall:

.241 Inform the complainant in writing of the results of the investigation, clearly stating the reason for the decision.

.242 Inform CDSS/CRB of the case resolution and of any corrective actions taken.

.243 Forward a complete copy of the investigation report to CDSS/CRB and attach copies of all correspondence sent to the complainant.

.25 For those complaints not requiring an investigation, the CWD shall:

.251 Inform the complainant, in writing, within 40 calendar days of receipt of the complaint that the complaint shall not be investigated and the reason(s) for not investigating.

.252 Inform CDSS/CRB of the case resolution, including a copy of the withdrawal form, letter to the complainant, etc.

.26 The complainant shall be informed of his/her rights as follows:

.261 The CWD shall inform the complainant that he/she may appeal a CWD decision to CDSS within 30 calendar days of the date on which the CWD mails or otherwise provides the complainant with the decision.

.262 The CWD shall, in addition to informing the complainant of his/her appeal rights set forth in Section 21-203.261, also inform the complainant that he/she may appeal a CWD decision resulting from a complaint based on race, color, national origin, political affiliation, religion, sex, age or disability to the United States Department of Agriculture (USDA), if the complaint involves the Food Stamp Program, within 30 calendar days of the date on which the CWD mails or otherwise provides the complainant with the decision.

.263 The CWD shall, in addition to informing the complainant of his/her appeal rights set forth in Section 21-203.261, also inform the complainant that, after a CWD decision resulting from a complaint based on race, color, national origin, age or disability he/she may file his/her complaint with the United States Department of Health and Human Services (HHS), if the complaint involves programs other than the Food Stamp Program that receive financial assistance through HHS, within 180 calendar days of the alleged discriminatory act unless the filing date is extended by HHS.

.264 CDSS shall inform the complainant that a CDSS decision on a complaint or appeal, pursuant to Section 21-203.261, may similarly be appealed to the USDA pursuant to Section 21-203.262 and/or filed with HHS pursuant to Section 21-203.263.

.27 Nothing in these regulations shall preclude a complainant's pursuing remedies through civil proceedings.

### .3 Procedures for Investigation Complaints

In order to maintain consistency in the conduct of investigations, the following procedures shall apply.

.31 The CWD/CDSS shall designate an employee to conduct investigations. In no case shall an employee be assigned to investigate a complaint involving actions taken by him/her or by an employee under his/her immediate supervision, or where that designated employee's responsibilities in another program or capacity within CWD/CDSS may result in a conflict of interest.

### .32 Interview with Complainant

A face-to-face interview shall be conducted by the assigned investigator unless the client and CWD mutually agree it is neither necessary nor practical. When scheduling an interview with the complainant, the complainant shall be advised that a representative or counsel may be present at the interview. In addition, the complainant shall be requested to sign a consent form informing the complainant that the information pertinent to the processing of a complaint will be shared with the appropriate CWD/CDSS and federal civil rights personnel in the investigation of the complaint as necessary.

.321 Prior to beginning the interview, the person assigned to investigate the case shall explain confidentiality requirements, and make reasonable efforts to ensure that the complainant is able to communicate effectively (refer to Section 21-115.4), using interpreters, readers, etc., if necessary. The following information shall be obtained during the interview:

- (a) Complainant's name, case number, address, email address, and telephone number.
- (b) Names of individuals responsible for the action, decision, or condition alleged to be discriminatory.
- (c) Date and place of alleged discriminatory treatment.
- (d) Basis of discrimination (e.g., race, sex, disability, etc.).
- (e) Nature of the action, decision, or conditions of the alleged discrimination.
- (f) Information known to the complainant in support of his/her allegation.
- (g) Names and contact information of possible witnesses whom the complainant wishes to have interviewed.
- (h) Other information specific to the complaint.



(i) Any indications of reprisal, intimidation, or harassment as a result of the complaint.

(j) Relief sought by the complainant.

.33 Interview with the employee alleged to have acted in a discriminatory manner.

When scheduling an interview with the employee, the employee shall be advised of the right to have a representative or counsel present.

.331 The investigator should identify the complainant and describe the nature of the complaint. The employee's statement should be taken concerning the complaint issues. The employee should be advised that such statements will be available to the complainant as part of the investigation.

.34 Review of Issues Specific to the Complaint

In reviewing the issues involved in the applicant/recipient complaint, the investigator shall:

.341 Review Division 21 regulations which pertain to the issues in the complaint and, if necessary, obtain clarification from CDSS.

.342 Review complaint documents concerning the discrimination issues.

.343 Interview witnesses as indicated by circumstances or the nature of the allegation.

.35 Investigation of the General Environment

In evaluating the general environment in which the alleged discriminatory action occurred, the investigator may:

.351 Select and review cases to compare the treatment of individuals with disabilities, members of the same race, national origin, etc., with cases selected from the general welfare population.

.352 Compare the treatment of recipients by the individual who allegedly discriminated with the treatment provided by other employees for a similar group.

.353 Interview the employee alleged to have discriminated.

.354 Interview the supervisor of the employee named in the complaint and survey the general environment in which the complaint arose. Record details which may indicate needed corrective action or exonerate the employees alleged to have discriminated.

.355 Review other supporting documents as appropriate.

#### .4 Report of Investigation

The investigation report shall address all issues raised by the complainant. Where there is insufficient evidence to make a decision whether discrimination occurred or not, further investigation shall be conducted until a decision can be made. The investigator shall ensure that such issues are fairly represented in the report.

#### .5 Harassment, Coercion, Intimidation, and Retaliatory Acts Prohibited

No official or employee shall intimidate, threaten, harass, coerce or discriminate against any individual for the purpose of interfering with any right or privilege secured by these regulations or because he or she has made a complaint, testified, assisted or participated in any manner in any investigation, proceeding or hearing.

#### .51 Harassment Prohibited

(a) Harassment by a covered entity, related to any program or activity, on any protected basis is an unlawful practice.

(b) Harassment includes quid pro quo harassment and hostile environment harassment. The same conduct may constitute both quid pro quo and hostile environment harassment.

(1) Quid pro quo harassment. Quid pro quo harassment refers to an unwelcome request or demand to engage in conduct where submission to the request or demand, either explicitly or implicitly, is made a condition related to the attainment of any benefit, as defined in Section 14020 of this subchapter. An unwelcome request or demand may constitute quid pro quo harassment even if an individual acquiesces in the unwelcome request or demand.

(2) Hostile environment harassment. Hostile environment harassment refers to unwelcome conduct that interferes with or prevents the attainment of any benefit, constitutes any kind of adverse action, or creates a hostile, offensive, oppressive, or intimidating environment. Hostile environment harassment does not require a change in the terms, conditions, or privileges afforded by a covered program.

(A) Whether hostile environment harassment existed or exists depends on the totality of the circumstances.

(i) Factors to be considered in determining whether hostile environment harassment existed or exist include: the nature of the conduct; the context in which the incident(s)

occurred; the severity scope, frequency, duration, and location of the conduct; and the relationship of the persons involved.

(ii) Neither psychological nor physical harm must be demonstrated to prove that a hostile environment existed or exists. However, evidence of psychological or physical harm may be relevant in determining whether a hostile environment exists or existed, and the amount of damages to which an aggrieved person may be entitled.

(iii) Whether unwelcome conduct created a hostile environment is viewed from the perspective of a reasonable person in the aggrieved person's position.

(3) Types of conduct. Quid pro quo and hostile environment harassment may be written, verbal, or communicated in other ways, and do not require physical contact. Such harassment includes:

(A) verbal harassment, including epithets, derogatory comments, or slurs;

(B) physical harassment directed at an individual, including assault, impeding or blocking movement, or any physical interference with normal movement;

(C) visual forms of harassment, including derogatory posters, cartoons, drawings, or other documents.

(D) unwelcome sexual conduct, or other unwelcome conduct, which need not be based on sexual desire, linked to an individual's sexual orientation or sex, including: pregnancy or medical conditions related to pregnancy, childbirth or medical conditions related to childbirth, breastfeeding or medical conditions related to breastfeeding; gender identity; and gender expression;

(E) any coercion, intimidation, threats, or interference with a person's exercise or enjoyment of any benefit secured by rights protected under the Act, this subchapter, or implementing regulations.

(F) taking any adverse action against a person in a manner that constitutes quid pro quo or hostile environment harassment, such

as, representing to a person that a benefit is not available because of the person's response to a request or demand for a sexual favor;

(G) revealing private information to a third party about a person, without their consent, in a manner that constitutes quid pro quo or hostile environment harassment, unless such disclosure is required by federal or state law; or

(c) A single incident of harassment based on an individual's membership in a protected class may be sufficient to constitute hostile environment harassment or quid pro quo harassment.

(d) The fact that an alleged perpetrator may be a member of the same protected class as the aggrieved person is not by itself a defense to a claim of harassment.

(e) A covered entity shall be liable for harassment of a beneficiary by a third party if the covered entity knows or should have known of the conduct and fails to take immediate and appropriate corrective action.

(f) Persons protected. The prohibition on harassment extends to conduct that is based on an individual's membership in a protected class, being perceived as a member of a protected class, being associated with a member of a protected class or someone who is perceived to be a member of a protected class, or on account of having aided or encouraged any person in the exercise of the rights.

## .52 Retaliation Generally

(a) It shall be unlawful for any covered entity to take adverse action against an aggrieved person because the person has engaged in protected activity.

(1) "Because of" means that the retaliation was a motivating factor in causing harm. Retaliation need not be the sole motivating factor.

(2) The adverse action need not be related directly to the nature of the protected activity.

(3) Retaliation may be established by direct evidence or circumstantial evidence, including the temporal proximity between the protected activity and the adverse action.

(b) Persons Protected. For purposes of a retaliation claim, an aggrieved person includes any person who has alleged that they have been subjected to adverse action due to engagement in a protected activity.

(1) A person does not have to be a member of a protected class in order to assert a claim for retaliation.

(2) A person does not need to allege or prove discrimination or denial of full and equal access, or prevail on a separate claim under any provision of the Act or these regulations, in order to assert a claim for retaliation.

(3) An aggrieved person may prevail on a retaliation claim even if:

(A) the aggrieved person was engaged in a protected activity challenging practices which the aggrieved person reasonably believed to be unlawful, whether or not those practices are determined to be unlawful, or

(B) the aggrieved person was participating in an activity which was perceived by the respondent as protected activity, whether or not it was so intended by the aggrieved person.

(c) "Protected activity" includes:

(1) making a complaint, testifying, assisting or participating in any manner in a proceeding, including any proceeding under Division 21-100, the California Fair Employment and Housing Act, California Civil Code Sections 51, 51.5, 51.7, 54 54.1, or 54.2, the Americans with Disabilities Act, the federal Civil Rights Act, Section 504 of the Rehabilitation Act, or any other state or federal civil right statutes;

(2) opposing practices prohibited by the Americans with Disabilities Act, the federal Civil Rights Act, or Section 504 of the Rehabilitation Act, including seeking the advice of the state, any state or local agency, the Department or Council, or a person employed or retained by a recipient who has authority to receive, transmit, investigate, or discover a complaint, or correct an alleged violation, whether or not a complaint is filed, and if a complaint is filed, whether or not the complaint is found to have merit;

(3) assisting or advising any person in seeking the advice of the state, any state or local agency, the Department or Council, or a person employed or retained by a recipient who has authority to receive, transmit, investigate, or discover a complaint, or correct an alleged violation, whether or not a complaint is filed, and if a complaint is filed, whether or not the complaint is found to have merit;

(4) participating in an activity that is perceived by the state, any state or local agency, or a recipient as opposition to discrimination or denial of full and equal access, whether or not so intended by the individual participating in the activity;

(5) contacting, communicating with or participating in a proceeding of a human rights or civil rights agency regarding discrimination or denial of full and equal access on a basis enumerated in this Division;

(6) assisting with or participating in the proceedings of the state, any state agency, or a recipient including involvement as a potential witness, which the state, any state or local agency, or a recipient perceives as participation in a proceeding alleging a violation of this Division;

(7) seeking information, formally under a Public Records Act request, or informally, regarding programs or activities of a state, any state agency, or a recipient; or

(8) requesting a reasonable accommodation or reasonable modification for an individual with a disability, or requesting an interactive process meeting, whether or not the request was granted.

(d) Violations of this section are considered a discriminatory practice.

NOTE: Authority cited: Section 12935(a), Government Code. Reference: Sections 11000, 11135, 11136, 11137, 11139, 12926, 12926.1, and 12940, Government Code.

#### .6 Confidentiality of Information

The identity of any complainant and the employee or official alleged to have discriminated must be confidential, except to the extent necessary to carry out the complaint process including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. (See Division 19.)

(a) Information concerning a request for a reasonable accommodation for a disability, or other information concerning disability, medical condition, or genetic information, shall be kept confidential by covered entities in accordance with the privacy protections afforded to medical information under state and federal law, including the Confidentiality of Medical Information Act, California Civil Code sections 56-56.37, unless confidentiality is waived by the individual with a disability or disclosure is required by law.

(b) To the extent necessary to review a request for an accommodation, or to implement an accommodation, confidential information may be disclosed only to the covered entity's staff who

are directly involved in the accommodation process or who are necessary to implement the accommodation. In the context of an adjudication, parties to the proceeding other than the

#### .7 Retention

The CWD shall retain the written complaint, a record of its disposition, the investigation report, and related documents for a minimum of three (3) years from final disposition. All such records shall be maintained in a secure location with access limited to personnel assigned to the Civil Rights Program.

#### .8 Closure of Complaint Files

.81 Once CDSS receives notification of resolution of a discrimination complaint from a CWD, CDSS shall either approve final closure or request further action be taken before closure.

.811 If the CWD obtains a withdrawal of the complaint from the complainant or the complainant fails to cooperate in pursuing the complaint, the CWD may request final closure without a final report of investigation.

.82 The CWD shall not close out a complaint case without the approval of CDSS.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code; Section 51, California Civil Code; Section 11135, California Government Code; USDA, Food and Nutrition Service, FNS Instruction 113-7 Part X (A); 28 CFR 42.408(b), (c) and (d); and Title II of the Americans With Disabilities Act of 1990, P.L. 101-336.

NOTE: Authority cited: Section 12935(a), Government Code. Reference: Sections 11000, 11135, 12926, 12926.1, 12940, 12955, and 12955.8, Government Code; *Olmstead v. L.C.* ex rel. Zimring (1999) 527 U.S. 581; *Lau v. Nichols* (1974) 414 U.S. 563; *Committee Concerning Community Improvement v. City of Modesto* (9th Cir. 2009) 583 F.3d 690.

### **21-205 CORRECTIVE ACTION**

.1 Corrective action may be required as a result of an investigation, compliance review, or other determination by CDSS that a CWD is not in compliance with the requirements of Division 21.

.11 Such corrective action shall accomplish the following:

.111 Resolution of the problem which initiated, or was discovered as a result of an investigation or compliance review.

.112 Development of a policy or plan to ensure that problems of a similar nature do not reoccur.

.2 A CWD shall implement corrective action determined necessary as a result of an investigation, compliance review, or other determination within a reasonable time, as determined by CDSS after conferring with the CWD. In no event shall initial implementation be extended beyond 60 days.

### .3 Sanctions for Noncompliance

Attempts shall be made at the outset to secure compliance by voluntary means, if such method is reasonably possible. The CWD and CDSS shall enter into a voluntary compliance agreement.

When a county welfare department fails to voluntarily comply with the requirements imposed by Division 21 or with applicable sections of state or federal statutes and regulations, fiscal sanctions or other legal remedies may be invoked in accordance with Welfare and Institutions Code Section 10605, or Government Code Sections 11135 through 11139, when state financial assistance is involved, or the issue may be referred to the appropriate federal agency for further compliance action when federal financial assistance is involved.

.31 CDSS may also initiate procedures which include, but are not limited to:

.311 Actions to suspend or terminate CWDs from further program participation when state financial assistance is involved.

.312 Recommending appropriate sanctions to other state or local agencies whose jurisdiction is involved.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553, 10554, and 11475.1, Welfare and Institutions Code; United States Department of Agriculture (USDA), Food and Nutrition Service, FNS Instruction 113-7, Part XI, B and C; and Title VI of the Civil Rights Act of 1964, P.L. 88-352.