

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



October 29, 2004

ALL COUNTY LETTER NO. 04-48

TO: ALL COUNTY WELFARE DIRECTORS
 ALL CalWORKs PROGRAM SPECIALISTS
 ALL CalWORKs WELFARE-TO-WORK COORDINATORS

REASON FOR THIS TRANSMITTAL

- State Law Change
 Federal Law or Regulation Change
 Court Order
 Clarification Requested by One or More Counties
 Initiated by CDSS

SUBJECT: FINAL CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO
 KIDS (CalWORKs) WELFARE-TO-WORK (WTW) LEARNING DISABILITIES
 REGULATIONS

REFERENCE: ALL COUNTY LETTER (ACL) NOs. 01-70, 02-13, 02-35, 02-64, AND 02-88
 ALL COUNTY INFORMATION NOTICE (ACIN) NO. 1-16-02

The purpose of this letter is to transmit the CalWORKs WTW Learning Disabilities Regulations that became effective September 15, 2004, a questions and answers document clarifying learning disabilities policies and regulations, and the revised WTW 17, Waiver of CalWORKs Learning Disabilities Screening and/or Evaluation (5/04).

BACKGROUND

The initial CalWORKs learning disabilities policies and protocols were developed based on the recommendations by the Department's Advisory Workgroup on Learning Disabilities and transmitted to counties for implementation via ACL 01-70, dated October 17, 2001. They were subsequently modified in ACLs 02-13, 02-35, 02-64 and 02-88, and ACIN 1-16-02. The attached CalWORKs WTW Program regulations formalize these policies and protocols and include changes that were made due to:

- Public testimony that was received during the initial 45-day comment period, which ended with a public hearing, held on August 20, 2003;
- Additional public testimony that was received during two 15-day renote periods that took place from January 23, 2004 through February 6, 2004 and April 2 through April 16, 2004; and
- Technical changes that were identified as being required after departmental reviews.

CalWORKs LEARNING DISABILITIES REGULATIONS

Significant provisions of the CalWORKs learning disabilities regulations include sections that do the following:

- Define “learning disabilities” in the context of the CalWORKs WTW program. (Section 42-711.701.2(I)(2))
- Specify that counties must offer the screening to a WTW participant, both verbally and in writing, at the first WTW contact but no later than assessment. (Section 42-722.1)
- Require counties to provide information about the learning disabilities screening and evaluation to WTW participants, both verbally and in writing, at the first WTW contact. (Section 42-722.12)
- Specify the minimal information that counties must provide WTW participants regarding learning disabilities screening and evaluation to ensure they are adequately informed about the screening and evaluation process. (Section 42-722.121)
- Require that WTW participants who agree to, or request, a screening at any time during their WTW participation, must be screened before they are assigned to another WTW activity. (Section 42-722.14)
- Specify that WTW participants have good cause for not participating in their assigned activities, when their screening and/or evaluation appointment conflicts with their activity. (Sections 42-722.142 and .45)
- Provide guidance to counties on determining whether a limited-English proficient participant may have a learning disability, given that screening tools for these individuals are currently not available. (Section 42-722.15)
- Specify the priority of referrals when the county suspects that a participant has concurrent health, behavioral health, and learning disabilities problems. (Section 42-722.16)
- Specify the process for a county to follow when a participant declines a screening and/or evaluation and that a participant’s refusal to sign a waiver of a screening and/or evaluation is equivalent to a signed waiver. (Section 42-722.2)
- Instruct counties of their options when presented with learning disabilities evaluations that were conducted outside of the CalWORKs WTW program. (Section 42-722.24)
- Specify who may administer the learning disabilities screening tool and that only recognized and validated screening tools may be used. (Section 42-722.3)
- Specify the referral process for learning disabilities evaluations, including which participants must be referred to a learning disabilities evaluation, what a county should do if a participant declines or accepts an evaluation, and who may perform the evaluation. (Section 42-722.4).
- Specify the minimum and optional contents of a learning disability evaluation report and how a county must handle the results of the report. (Sections 42-722.51-.54)

- Specify that, unless exempt, individuals with a learning disability must meet CalWORKs participation requirements, which may include hours of participation in supplemental activities that are supportive of the participant's employment goals and consistent with his/her learning disabilities evaluation and WTW plan. (Section 42-722.61)
- Specify requirements regarding the good cause determination, compliance, sanctioning, and sanction curing processes for participants with a suspected or actual learning disability. (Section 42-722.7)
- Require that a sanction be rescinded if a person is identified as having a learning disability that was a contributing factor to noncompliance; and that the person will have a choice of receiving retroactive cash aid or prospectively resuming the receipt of cash aid as a remedy to the improper sanction. (Section 42-722.731)
- Specify the criteria that a participant must meet in order to be eligible to have a retrospective adjustment of his/her 18- or 24-month time clock, and how the county shall credit back the time, when the participant with a verified learning disability was improperly sanctioned. (Section 42-722.81-.83)
- Clarify the inter-county transfer process, related to WTW for a participant with an identified learning disability, including guidance on when the county must develop a new, or modify the existing, WTW plan, as needed, that reflects appropriate WTW activities and necessary reasonable accommodations. Any necessary changes to the previous plan would be based on the review of relevant documents received, the reevaluation of the original assessment, the discussions between the county and the participant, and the availability of resources in the second county. (Section 42-722.85)

ATTACHMENTS

Attachment II contain responses to questions that have been raised by counties during the implementation of the CalWORKs WTW learning disabilities policies and protocols.

Attachment III is the revised WTW 17 (5/04), Waiver of CalWORKs Learning Disabilities Screening and/or Evaluation. The form was revised to clarify the date on which services and accommodations begin, once a learning disability is determined.

CAMERA-READY COPIES AND TRANSLATIONS

For a camera-ready copy and/or an additional copy of an English form, please call the Forms Management Unit (FMU) at (916) 657-1907. If your office has internet access, you may obtain various forms from the California Department of Social Services web page at www.dss.cahwnet.gov.

Translations of this form are available. Completed translations in other languages are posted on an on-going basis on our website. Copies of the translated forms and publications can be obtained from the CDSS web page at: <http://www.dss.cahwnet.gov/cdssweb/FormsandPu274.htm>.

Page Four

Your Forms Coordinator is to distribute translated forms to each program and location. Each county shall provide bilingual/interpretive services and written translations to non-English or limited-English proficient populations as required by Dymally-Alatorre Bilingual Services Act (Government Code Section 7290 et seq.) and by State regulations in Manual of Policies and Procedures Division 21, Civil Rights Nondiscrimination, Section 115.

If you have any questions or need additional information, please contact the CalWORKs Employment Bureau, at (916) 654-2137.

Sincerely,

***Original Document Signed
By***

CHARR LEE METSKER
Acting Deputy Director
Welfare to Work Division

c: CWDA
CSAC

California Department of Social Services
California Work Opportunity and Responsibility to Kids
Welfare-To-Work Program

Learning Disabilities
Screening and Evaluation Policies and Protocols
(Manual of Policies and Procedures Chapter 42-722)

Questions and Answers

Screening and Referral for Evaluation

Question 1: Are counties required to offer learning disabilities screenings and evaluations to individuals who are exempt from the Welfare-To-Work (WTW) participation requirements? (See MPP Sections 42-722.11 and .13)

Answer: Yes, under some circumstances. Counties are required to offer learning disabilities screenings and evaluations to exempt CalWORKs recipients, who were not previously offered screenings and evaluations, when the exempt individual volunteers to participate in WTW activities.

Counties are also required to offer screenings and evaluations to individuals who lose their exempt status and become mandatory participants, if they were not previously offered screenings and evaluations.

The offer to be screened and evaluated must be made both verbally and in writing.

Question 2: Are counties required to offer learning disabilities screenings and evaluations to WTW participants who are working? (See MPP Sections 42-722.11 and .13)

Answer: Yes. Working CalWORKs welfare-to-work participants must be offered a learning disabilities screening and evaluation, like any other welfare-to-work participant. Being employed and having an employment history does not mean that an individual cannot have a learning disability.

Question 3: Does the county have to offer screenings and evaluations to 16- and 17-year old non-parenting teens who are required to participate in CalWORKs WTW because they lost their student exemption status? (See MPP Sections 42-42-722.11 and .13)

Answer: Yes. The county must offer a learning disabilities screening and/or an evaluation to these teens, since they are nonexempt CalWORKs WTW participants. For teens under age 18 who are screened as having potential learning disabilities, counties should refer them to a public school for a learning disabilities evaluation. Public schools are required by State law to provide assessments for special education services, which may include learning disabilities evaluations, at no charge, to children under age 18 and students up to age 21.

Question 4: Do participants have to be screened every year at annual redetermination? (See MPP Section 42-722.141)

Answer: No. Participants need only be screened once for learning disabilities during their participation in the WTW program.

Question 5 discusses what counties should do when an individual declines the offer of the learning disability screening and/or evaluation and refuses to sign the waiver form WTW 17.

Question 5: What should the county do when an individual declines the offer of the learning disability screening and/or evaluation and also refuses to sign the waiver form WTW 17? (See MPP Sections 42-722.21, .22 and .42)

Answer: When the participant declines the offer of a learning disabilities screening and/or evaluation, the county must: (1) inform the participant that his/her WTW activities will not include any accommodations for a learning disability; (2) inform the participant that he/she may ask for a learning disability screening and/or evaluation at a later time; and (3) review and discuss the waiver of the learning disabilities screening and/or evaluation with the participant and ask the participant sign the waiver.

A participant's refusal to sign the waiver is equivalent to a signed waiver when the refusal is documented by the county in the case file.

Counties are reminded that they must not sanction a participant because he or she refused to be screened and/or evaluated for learning disabilities. However, should a participant decline to be screened or evaluated, and subsequently refuses or fails to comply with program requirements, or fails to make satisfactory progress in his/her assigned activity, he/she shall not have good cause for the refusal or failure on the basis of being learning disabled, and shall be subject to the compliance and sanction requirements in accordance with MPP Sections 42-721.22 and 42-721.41, respectively unless he or she is determined to have a learning disability.

Question 6: In the absence of validated learning disabilities screening tools for LEP participants, how would the county know when to refer a LEP participant for a learning disabilities evaluation? (See MPP Sections 42-722.121(i), .15, and .33)

Answer: Counties are required to refer LEP participants with suspected learning disabilities for an evaluation. Until validated screening tools in other languages become available, there are steps that a county can take to determine if an LEP participant may have a potential learning disability and needs to be referred for an evaluation.

First, the county can ask an LEP participant some questions to help determine if the individual may have difficulties learning, such as:

- How many grades did you complete in school?
- Did you pass those grades?
- How many schools did you attend to complete those grades?

Not advancing many grades and frequently changing schools are not necessarily indications that an individual has a learning disability. However, they do reflect a lack of educational experience, and one would expect that an individual with this background would have a great deal of difficulty in successfully completing educational programs.

Second, the county can also ask some questions to determine if the individual may have a potential learning disability. Below are several examples:

- Do you have difficulty following instructions or directions either verbally or in writing?
- Did you experience problems learning in your native language, both spoken and written, while growing up, as compared to other children of the same age? If the response is yes, did the problems continue throughout your childhood and adolescence?
- What was easy for you to learn, and conversely, what was difficult to learn? If the participant indicates long-term learning difficulties in his/her native language, then this is an indication of a potential learning disability that needs to be explored further.

The county can also determine if a potential learning disability exists through observations of the participant's performance in the work and/or

classroom setting by observing and comparing the individual's abilities to that of his/her ethnic peer group.

In following the above steps, counties should use appropriate bilingual and/or bicultural staff who can best interpret the answers and actions of the LEP participant.

In recognition of the difficulty in determining if a LEP participant has a potential learning disability, counties can allow LEP individuals who request a learning disabilities evaluation to bypass screening and go directly to the evaluation.

Question 7: Counties are to refer a participant with a suspected learning disability to an evaluation, as soon as it is administratively feasible. However, in the State's learning disabilities training to county training staff, counties were instructed to first address health and behavioral health issues, before referring participants for a learning disabilities evaluation. Please clarify when an individual should be referred to the evaluation. (See MPP Sections 42-722.16 and .466)

Answer: In cases when individuals exhibit health, behavioral health, and learning disabilities problems, counties should address the health-and behavioral health-related issues first. When ACLs 01-70 and 02-64 were drafted and issued, the Department and other members of the Learning Disabilities Workgroup did not recommend that the order of referrals be prioritized. The learning disabilities specialists at Payne and Associates, Inc., the firm that was contracted to provide the State's training, later recommended addressing health (e.g., vision, hearing, head trauma problems, etc.) and behavioral health issues (e.g., mental health and substance abuse problems) first, to determine if a health problem, and not a learning disability, is the cause of an individual's learning problems. The final CalWORKs learning disabilities regulations reflect this recommendation.

To prevent counties from losing track of potentially learning-disabled participants, cases referred for health check-ups must be carefully monitored so that when health- and behavioral health-related problems are ruled out and/or resolved, counties can refer participants to a learning disabilities evaluation, if a learning problem continues to exist. To do this effectively counties must establish and maintain ongoing communications with health and behavioral health professionals to whom they refer participants.

Question 8: Can counties refuse to accept previous learning disabilities evaluations even if they contain the same components as the ones otherwise accepted by the county? (See MPP Sections 42-722.24, .25, and .26)

Answer: It is the Department's position that a county has the right to question the validity of any prior learning disabilities evaluation that is presented by an individual. Counties must maintain this right, given that some learning disabilities evaluations determine an individual's ability to function in a strictly educational environment, whereas, the the intent of the CalWORKs evaluation is to determine whether the individual has a learning disability that interferes with his or her ability to work and/or participate in other WTW activities.

Upon examination of the prior evaluation report, the county has the option to accept all or part of the evaluation and provide the necessary accommodations, as recommended. The county may also refer the participant to another learning disabilities evaluation to obtain either a second opinion or additional information.

Question 9: If a participant is screened as potentially having a learning disability and begins the evaluation process, but does not complete it, would we consider this participant to have declined the evaluation? (See MPP Sections 42-722.21, .22, .23, and .441)

Answer: Yes. If the participant clearly does not complete the evaluation, the county should have him/her sign the WTW 17, Waiver of CalWORKs Learning Disabilities Screening and/or Evaluation form. As in the case of declining an offer of a screening and/or evaluation, a participant's refusal to sign the waiver in this situation is equivalent to a signed waiver when the refusal is documented by the county in the case file.

However, before the county has the participant sign the waiver, it should discuss his/her reasons for not completing the learning disability evaluation with the participant, and then resume or reschedule the evaluation if the participant decides to continue with the process. The county shall not sanction the participant for failure to attend the evaluation.

Question 10: Would a participant who did not complete an evaluation be able to request an evaluation at a later date? If yes, do they just complete whatever had not been done earlier? (See MPP Section 42-722.23)

Answer: Yes. People who decline or do not complete the evaluation may request one at a later date.

The decision to allow a participant to continue the evaluation process from where he/she stopped is up to the evaluator, whether it is the same or different evaluation from before. If the evaluator considers the information from the previous completed steps to still be valid, restarting the evaluation process may not be necessary.

Question 11: Do evaluators have to provide a copy of the evaluation to the recipient? (See MPP Sections 42-722.531 and .532)

Answer: The learning disabilities regulations specify that evaluators must provide a learning disabilities evaluation report to the county, whether or not the report identifies a learning disability. The regulations also require that the county provide a copy of the report to the participant and inform him/her of the findings. This process was established to ensure that the learning disabilities evaluation would be taken into consideration during the CalWORKs assessment process and be used by the county to help develop the welfare-to-work plan.

Question 12: If a participant had a learning disability that was not properly identified and accommodated, and he/she was involved in multiple WTW activities and made satisfactory progress in some activities and not in others, is the individual eligible for an adjustment of the 18- or 24-month time clock? (See MPP Section 42-722.8)

Answer: Yes. The participant is eligible for an adjustment of the 18- or 24-month WTW time clock, as follows:

If the individual participated in multiple WTW activities in the same months, but did not make satisfactory progress in one or more of the activities, then the number of months that the individual spent in these activities are to be credited back.

If the individual participated in only one WTW activity in some months and a different activity in other months, then only the number of months in which the individual did not make satisfactory progress in an activity are to be credited back.

Question 13: What are the criteria for determining whether an individual has made satisfactory progress in a WTW activity? (See MPP Sections 42-722.221, .814, and .821)

Answer: Satisfactory progress continues to be determined by the service provider.

Miscellaneous Issues

Question 14: What should the county do when an individual disagrees with the learning disabilities evaluation that shows the presence of a learning disability? (See MPP Section 42-722.121(h), .531(d) and .532(d))

Answer: Counties should be aware of the sensitivity of this subject among clients who have learning disabilities, particularly in certain cultures. Explaining to a client that he or she has a learning disability requires patience and tact. The county has several courses of action when a client disagrees with the finding of a learning disability.

First, the worker can explain the benefits of having been determined to have a learning disability (e.g., eligible to receive appropriate services and accommodations/assistive technology). Second, the worker can also contact the learning disabilities evaluator to review the findings and include the participant in this discussion to allow opportunities for both him/her and the worker to ask questions of the evaluator.

If the above efforts are not successful, the county needs to document these facts in the individual's case file and inform the individual of his/her right to request a fair hearing. Furthermore, it should be explained to the participant that: 1) he/she will be required to begin or resume his/her WTW assignment without the benefit of services or accommodations for the learning disability; and 2) should he/she subsequently refuse or fail to comply with program requirements, or fail to make satisfactory progress in his/her assigned activity, he/she shall not have good cause for the failure or refusal on the basis of being learning-disabled, and shall be subject to the compliance and sanction requirements in accordance with MPP Sections 42-721.2 and 42-721.4, respectively.

Question 15: There may be cases when counties or individuals must contact public schools to obtain records to verify attendance in K-12 special education classes. How long do schools retain student records? (See MPP Section 42-722.412)

Answer: According to the California Department of Education, public school records are kept permanently, but the individual needs to provide written authorization to the public schools for releasing this information to the county.

Question 16: Is the county permitted to send an individual to job search pending receipt of the medical, visual, and learning disability evaluations? (ACL 01-70, Page 17)

Answer: Yes. However, before a county can send an individual with a suspected or a verified learning disability to job search, it must determine that participation in job search will be beneficial for the individual. In making that determination, a county must consider, at a minimum, all of the following factors on a case-by-case basis:

1. The employability skills of the individual;
2. Whether available jobs in demand occupations in the local area are suitable to the individual's level of skills;
3. The individual's employment history and the effect that learning disabilities may have had on the individual's work history (e.g., numerous short-term and/or low wage non-skilled jobs); and
4. Whether the individual is aware of the types of jobs and job settings in which he/she can likely obtain and retain employment.

If the county determines that job search will not be beneficial for an individual with a suspected or verified learning disability, the county should advise the individual of the reasons for this determination and promptly refer the individual to assessment and a learning disabilities evaluation, if not already initiated. However, individuals may always choose to participate in job search even if the county has determined that job search is not likely to be beneficial, as long as it does not conflict with other WTW activities and assignments.

If the county determines that job search may be an appropriate first activity, counties should inform each participant with verified learning disabilities, orally and in writing, that the job search period may be shortened if it proves not to be beneficial, and the process for shortening the job search period. This informing process should be completed prior to, or at the start of, job search.

Question 17: Counties may have some difficulty in finding enough qualified professionals to conduct learning disabilities evaluations. Are there any suggestions on how to find more evaluators, particularly for our LEP population? (See MPP Section 42-722.46)

Answer: Payne & Associates, Inc., offered a few suggestions based on its many years of experience as professional learning disabilities consultants.

- Counties should first contact their local public school districts, which are good resources for locating evaluators and serving LEP students. Although most public schools focus on children in K-12, school psychologists may know of other professionals in the community that serve adults with learning disabilities. Public schools can also offer good leads for identifying bilingual learning disabilities evaluators.

Counties may also contact local colleges or universities that offer clinical or educational psychology or vocational rehabilitation counseling programs, which may provide low-cost learning disabilities evaluations during certain times of the year when the schools are actively seeking test subjects for their students. The evaluations are administered by graduate students under the close supervision of a qualified professional and are generally fairly comprehensive. However, to be sure their needs can be met, counties should ask the schools about the extent of the testing offered and whether comprehensive evaluation reports are provided.

- Counties are also encouraged to contact their local Department of Rehabilitation district offices, since they may provide assistance with evaluating LEP individuals to identify learning disability indicators and determine accommodations needed to help the individual succeed in his/her assigned WTW activities. The web site for locating the nearest Department of Rehabilitation office is www.rehab.cahwnet.gov.
- The local Learning Disabilities Association can provide counties with the names of qualified individuals who can conduct learning disabilities evaluations. Information about the association and learning disabilities is available through the association's website at www.ldanatl.org. Lastly, the learning disabilities training materials that were provided during CDSS' training sessions included a list of resources in California that may be of assistance to counties.

Question 18: Counties must provide a participant with written verification of his/her learning disability and need for reasonable accommodations, in addition to a copy of the learning disabilities evaluation report. Is the county or the learning disabilities evaluator supposed to provide this written verification? (ACL 01-70, Page 15)

Answer: The counties have the flexibility to determine whether they or the learning disabilities evaluator will provide the verification. Since this verification is written documentation of the participant's learning disability and need for reasonable accommodations and/or services, and is to be presented to employers, schools, etc., it is recommended that the

evaluator provide this verification on his/her office letterhead. However, if the verification is prepared by the evaluator, the county should be aware of the verification and assist the participant in obtaining the appropriate services and accommodations.

Question 19: Can licensed clinical social workers (LCSWs), licensed marriage and family therapists (MFTs), and disabled student program specialists (DSPSs) provide verification of learning disability for meeting WTW exemption requirements? (See MPP Sections 42-712.442 and 42-722.46)

Answer: For the purposes of exempting an individual from WTW requirements, LCSWs and MFTs are qualified to provide verification of a learning disability, if they are licensed by a state and have specialized training in diagnosing and treating learning disabilities. DSPSs at the local colleges and universities are not licensed and are precluded under State law from verifying a disability for WTW exemption purposes. However, DSPSs are qualified to conduct learning disabilities evaluations.

When verifying an individual's disability and whether he or she is actively seeking treatment, for WTW exemption purposes, the county has the ability to determine whether a specific licensed professional, such as an LCSW, MFT, or a marriage, family, and children counselor, possesses the qualifications to diagnose and treat learning disabilities. If the county determines that the person is not qualified, it may refer the recipient to a professional of its choice for a second opinion.

Question 20: Can CDSS develop guidelines specifying the kinds of training and qualifications that are required to perform learning disability evaluations? (See MPP Section 42-722.46)

Answer: The Department is not establishing any additional policies regarding the training and qualifications of individuals who perform learning disabilities evaluations, other than what is required under MPP Section 42-722.46. This regulation requires that counties use trained, qualified learning disabilities evaluation professionals who utilize recognized and validated tools to perform the evaluations. As specified in the regulation, these evaluators may include, but are not limited to, qualified county staff or contractors from private firms, community colleges, state colleges or universities, adult education facilities, and the State Department of Rehabilitation. The county has the responsibility to establish the standards pertaining to evaluator qualifications, including the possession of appropriate credentials.

Amend Section 42-701.2(1) to read:

42-701 INTRODUCTION TO WELFARE-TO-WORK

42-701

.2 Definitions for Terms Used in This Chapter (Continued)

(1) (Continued)

(2) “Learning Disabilities” means a heterogeneous group of disorders manifested by significant difficulties in the acquisition and use of listening, speaking, reading, writing, reasoning, or mathematical abilities.

These disorders are intrinsic to the individual and presumed to be due to central nervous system dysfunction. Even though a learning disability may occur together with other handicapping conditions (e.g., sensory or mental impairment); or environmental retardation, social and/or emotional disturbance influences (e.g., cultural differences, insufficient/inappropriate instruction, psychogenic factors); it is not the direct result of those conditions or influences.

For the purposes of the CalWORKs Welfare-to-Work program, these disorders interfere with the participant’s ability to obtain or retain employment or to participate in welfare-to-work activities.

Authority Cited: Sections 10531, 10553, and 10554, Welfare and Institutions Code.

Reference: Section 8172, Education Code; Sections 10063, 10800, 11320, 11320.3(b)(3)(A), 11322.6, 11322.9, 11324.6, 11324.8, 11325.21, 11325.25, 11331.5, 11495, 11495.1, 11495.12, and 13280, Welfare and Institutions Code; and Sections 15365.50 and 15365.55, Government Code; and 42 U.S.C. 603(A)(5).

Adopt new Section 42-722 to read:

42-722 LEARNING DISABILITIES PROTOCOLS AND STANDARDS

42-722

.1 CalWORKs Welfare-to-Work Learning Disabilities Screening Requirements

.11 Counties must offer CalWORKs welfare-to-work participants a screening for learning disabilities at the first welfare-to-work contact (i.e., orientation or appraisal) or by no later than the assessment as described in Section 42-711.55.

.111 The offer of the screening and evaluation must be both verbal and in writing.

.12 Counties are required to provide information about the screening, both verbally and in writing at the first welfare-to-work contact, including a description, of the purpose and benefits of the screening and evaluation.

.121 Information that counties provide participants must include, but is not limited to, the following:

- (a) Most people with learning disabilities are intelligent and many are gifted;
- (b) Individuals with a learning disability may have difficulty reading, listening, understanding directions, writing, spelling, doing math, organizing things, getting along with others, expressing ideas out loud, paying attention, etc.;
- (c) Individuals with a learning disability can be taught to use their strengths and find ways to make it easier to learn and be more successful at school and on the job;
- (d) The county can help individuals get the appropriate welfare-to-work activity, including accommodations once a learning disability is identified;
- (e) The learning disabilities screening is a very simple and short test;
- (f) The screening will help the individual decide if they want a referral to a learning disability specialist for an evaluation to find out if a learning disability exists;
- (g) The areas that will be tested at evaluation are natural talents and abilities, ability to follow verbal and written information, achievement, and job and career interests. The specialist can help identify strengths and weaknesses so that the county can make referrals to the appropriate services and accommodations; and

- (h) Individuals have the right to file for a fair hearing pursuant to Section 42-721.5 if they disagree with a county action.
 - (i) Limited-English proficient CalWORKs welfare-to-work participants have the right to request a referral to a learning disabilities evaluation, pursuant to Section 42-722.414, when there is no screening tool in their primary language.
- .13 Counties that choose to offer a screening for learning disabilities later than the first welfare-to-work contact are still required to provide information about the screening and evaluation, as specified in Section 42-722.12, at the first welfare-to-work contact.
- .14 Participants who request or agree to a learning disabilities screening at any time during their welfare-to-work participation must be screened by the county before they are assigned to another welfare-to-work activity.
- .141 This provision applies only to participants who have not been previously screened.
- .142 Participants in welfare-to-work activities shall have good cause for not participating if their assigned activities, when their screening appointment conflicts with their activity.
- .15 For limited-English proficient CalWORKs welfare-to-work participants for whom no recognized and validated learning disabilities screening tools exist, as required by Section 42-722.42, the county must determine whether a potential learning disability exists.

HANDBOOK BEGINS HERE

- .151 Counties may use discussions with, and observation of, the participant to determine the existence of a potential learning disability.
- (a) Discussions with the limited-English proficient participant may include, but are not limited to:
 - (1) The participant's ability to follow instructions both verbally and in writing;
 - (2) Learning difficulty in his/her native language while growing up as compared to other children; and
 - (3) Subject areas that were easy for the participant to learn and conversely, subject areas that were difficult to learn.

- (b) Observation of the participant could include comparison of the participant's work habits and/or classroom ability to their peer group.

HANDBOOK ENDS HERE

.152 For the purposes of Section 42-722.15, the county shall determine whether limited-English proficient CalWORKs welfare-to-work participants may have a learning disability within the time frames cited in Section 42-722.11.

.153 If the county determines that a limited-English proficient CalWORKs welfare-to-work participants may have a potential learning disability, the county must refer the participant to a learning disabilities evaluation in accordance with Section 42-722.4.

.16 If during the learning disabilities screening and evaluation process, the county suspects that the participant has health, behavioral health, and learning disabilities problems, counties should address the health-related issues first.

.161 Participants referred to health-related evaluations prior to a learning disabilities screening and/or evaluation shall not be required to sign a waiver, in accordance with Section 42-722.213, until the health-related issues are identified and addressed and the participant subsequently declines the screening and/or evaluation.

.2 Participants who decline the learning disabilities screening/evaluation

.21 When the participant declines the learning disabilities screening referenced in Section 42-722.1 and/or the evaluation referenced in Section 42-722.4, the county must:

.211 Inform the participant that his/her welfare-to-work activities will not include any accommodations for a learning disability; and

.212 Inform the participant that he/she may receive a learning disabilities screening and/or evaluation upon request at any later time; and

.213 Read and discuss the waiver of the learning disabilities screening and/or evaluation with the participant and have the participant sign the waiver.

(a) A participants' refusal to sign the waiver is equivalent to a signed waiver when documented by the county in the case file.

.22 The county must not sanction a participant because of his/her refusal to be screened and/or evaluated for learning disabilities.

.221 Should a participant decline to be screened or evaluated, and subsequently refuse or fail to comply with program requirements, or to make satisfactory progress in his/her assigned activity, the participant shall not have good cause on the basis of being learning disabled for failing to comply with program requirements or make satisfactory progress, and shall be subject to the compliance and sanction requirements in accordance with Sections 42-721.2 and .4, respectively, unless determined to have a learning disability.

.23 Should the participant decline the learning disabilities screening and/or evaluation as described in Section 42-722.21, and request a learning disabilities screening and/or evaluation at a later time, the county must provide the screening and evaluation as soon as administratively possible.

.231 If the evaluation identifies the existence of a learning disability, the welfare-to-work assignment and/or welfare-to-work plan, as necessary, will be modified to provide appropriate services and accommodations to address the learning disability on a prospective basis only.

.24 Should the participant provide previous evaluation results that were conducted outside of the CalWORKs Welfare-to-Work program, the county has the option to:

.241 Accept all or part of the evaluation and provide the individual with any needed reasonable accommodations that are identified in the evaluation; or

.242 Not accept the evaluation and obtain a second opinion by referring the participant to another learning disabilities evaluation.

.243 In cases when previous evaluations do not provide sufficient information, refer the participant to additional testing.

.25 If the participant's previous evaluation is determined acceptable by the county, the participant shall not be required to sign the learning disability screening and evaluation waiver.

.26 A county must, at a minimum, verbally inform participants that it is accepting or rejecting all or part of a previous learning disabilities evaluation.

.27 If the participant meets the criteria in Sections 42-722.412 and .414, and is directly referred to an evaluation without going through the screening process, the participant shall not be required to sign a waiver.

.3 Providing Learning Disabilities Screening

.31 The county may choose who will administer the learning disabilities screening tool.

.311 Counties must select screeners for potential learning disabilities who have:

- (a) The training to appropriately administer the screening tool; and
- (b) To the degree possible, a working relationship with the participant (e.g., county employment case managers, social workers, and eligibility workers; and contracted service providers, etc.).

.312 Counties may contract with trained, qualified learning disabilities professionals to administer the screening tool.

.32 Counties must use only recognized and validated learning disabilities screening tools, if a validated tool exists in the participant's primary language.

.33 Counties must use bilingual and bicultural staff when determining whether a limited-English proficient individual has a potential learning disability.

.4 Referral Process for Disabilities Evaluation

.41 In accordance with Section 42-711.58, counties must refer CalWORKs participants who are suspected of having a learning disability for a learning disabilities evaluation. These participants include, but are not limited to, individuals who:

.411 Have been identified as potentially having a learning disability, based on the learning disabilities screening tool score;

.412 Were previously identified as having learning problems (e.g., in Special Education classes in grades kindergarten through 12); or

.413 Are suspected of having a learning disability, even though the results from the learning disabilities screening did not indicate a potential learning disability.

.414 Are limited-English proficient and request a referral to a learning disabilities evaluation if no validated screening tool exists in their primary language.

.42 If a participant declines the learning disabilities evaluation, the county must inform the participant of how his/her welfare-to-work assignment will be affected as provided in Section 42-722.21.

.43 If a participant agrees to an evaluation, the county must refer him/her to the evaluation as soon as administratively possible.

.44 Participants who are screened at the assessment, described in Section 42-711.55, and are found to have a potential learning disability and have agreed to an evaluation, must be evaluated prior to the completion of the assessment and the welfare-to-work plan.

.441 If the individual initially agrees to an evaluation but fails to attend evaluation without good cause, he/she will be deemed to have declined the evaluation and the assessment process will resume without benefit of the evaluation. The individual shall not be sanctioned as described in Section 42-722.22 for failure to attend the evaluation and shall be able to request a screening and/or evaluation at a later time as described in Section 42-722.23.

.45 Participants in welfare-to-work activities shall have good cause for not participating if their assigned activities, when their evaluation appointment conflicts with their activity.

.46 Counties must use trained, qualified learning disabilities evaluation professionals who use recognized and validated learning disabilities evaluation tools to identify learning disabilities and to determine the appropriate accommodations for individuals with learning disabilities.

.461 Learning disabilities evaluation professionals may include county staff who have the necessary training as learning disabilities specialists to administer and interpret validated test instruments.

.462 The county may contract with qualified learning disabilities evaluation professionals to perform the evaluations.

HANDBOOK BEGINS HERE

.463 Learning disabilities evaluation professionals with whom the county may contract include, but are not limited to, qualified individuals from the following sources:

- (a) Professional private/corporate contractors or providers;
- (b) Trained and qualified staff at community/state colleges or universities;
- (c) Trained and qualified staff from community-based organizations that serve individuals with learning disabilities;
- (d) Trained and qualified staff from adult educational facilities, or
- (e) Staff from the Department of Rehabilitation.

.464 Basic evaluation test instruments that learning disabilities evaluators may use but are not limited to the following areas:

- (a) Aptitudes/information processing, e.g., Wechsler Adult Intelligence Scale (WAIS), Woodcock-Johnson;

- (b) Achievement, e.g., Wide Range Achievement Test (WRAT 3), Test of Adult Basic Education (TABE), Nelson-Denny (reading); and
- (c) Vocational interest, as needed, to assist in the development of the welfare-to-work plan.

HANDBOOK ENDS HERE

.465 If no recognized and validated evaluation tools exist in the participant's primary language, the learning disabilities evaluation professional, utilizing appropriate bilingual and/or bicultural staff, as necessary, must to the best of staff ability determine if a learning disability exists through:

- (a) The use of other evaluation tools that may provide pertinent information.
- (b) Discussions appropriately tailored to the individual's cultural background with, and/or observations of, the participant; and/or

.466 If a county staff person, service provider, learning disabilities professional, or the participant suspects that the participant suffers from another impairment that may be a barrier to participation (i.e., a health or behavioral health problem), in addition to or instead of a learning disability, the county also shall refer the participant to a professional who is licensed to diagnose that impairment in accordance with Section 42-722.16.

.5 Learning Disabilities Evaluation Report

.51 The learning disabilities evaluation report, at a minimum, shall include the following core information:

.511 Relevant vocational/educational background and history;

.512 General aptitude/cognitive level;

.513 Other issues, such as, physical/mental problems;

.514 Areas of strength;

.515 Areas of deficit; and

.516 A summary of the participant's condition and service needs including:

- (a) severity of disability;
- (b) areas of potential impact, including employment and participation in welfare-to-work activities;

- (c) rationale for learning disabilities determination/diagnosis;
- (d) recommendations for additional services, as appropriate;
- (e) if identified, any suspected conditions other than a learning disability so that the county can make the appropriate referral; and
- (f) Range of recommended accommodations/assistive technology to be included in the participant's welfare-to-work plan.

.52 The learning disabilities evaluation report may include, but is not limited to, the following optional information:

.521 Identification of local resources to assist recipients;

.522 Documentation of accommodation/assistive technology needs for other purposes (e.g., driver's license exam, GED exam); and

.523 Discussion of participant's short/long-term employment goals and general/specific vocational recommendations to the extent that the evaluator is qualified to address these issues.

- (a) If the learning disabilities evaluation report does not include a written discussion of the participant's short/long-term employment goals and general/specific vocational recommendations, the county will need to ensure that these issues are addressed in the assessment process as described in Section 42-711.55 in consultation with the learning disabilities evaluator, as necessary.

.53 County Response to the Learning Disabilities Evaluation Report

.531 If the learning disabilities evaluation report establishes that the participant does not have a learning disability or other disability that interferes with obtaining or retaining employment or participating in the CalWORKs program:

- (a) The county must provide a copy of the report and an explanation of the evaluation results to the participant;
- (b) The participant must begin/resume his/her welfare-to-work assignment;
- (c) The county must inform the participant that he/she will not be provided special accommodations while participating in his/her welfare-to-work assignment, since it was determined that he/she did not have a learning disability; and

(d) Inform the participant of the right to file for a state hearing if the participant disagrees with the county actions based on the evaluation, in accordance with Section 42-721.51.

.532 If the learning disabilities evaluation report establishes that the participant has a learning disability that interferes with obtaining or retaining employment or participating in a CalWORKs program, the county must:

(a) Provide a copy and an explanation of the evaluation report results to the participant, including any recommendations for reasonable accommodations identified in the evaluation;

(b) Discuss the appropriate welfare-to-work activities and reasonable accommodations needed to help the participant be successful in completing his/her welfare-to-work activities; and

(c) As necessary, develop or modify the welfare-to-work activities and/or welfare-to-work plan in accordance with Section 42-711.63 to reflect appropriate welfare-to-work activities and necessary reasonable accommodations based on the results of the assessment, the learning disabilities evaluation, and discussions between the county and the participant.

(d) Inform the participant of the right to file for a state hearing if the participant disagrees with the county actions based on the evaluation, in accordance with Section 42-721.51.

.54 Counties must treat participants' medical records and written learning disabilities evaluations as confidential documents that should only be shared with other counties, other learning disabilities evaluators, outside agencies, and welfare-to-work partner agencies on a "need-to-know" basis.

.541 Counties must obtain the participant's written consent to share this information with individuals or organizations outside of the county welfare department.

.6 Learning Disabilities Participation Requirements

.61 Unless exempt pursuant to Section 42-712, an individual with a learning disability must participate for the required number of hours as specified in Sections 42-711.41 or .42.

.611 For the purposes of Section 42-722.61, required hours may include participation in supplemental activities that are supportive of the participant's employment goals and consistent with the learning disabilities evaluation and welfare-to-work plan.

- (a) These activities may include, but are not limited to, adult basic education, literacy tutoring, and, if allowable under the county's CalWORKs plan or as a reasonable accommodation, study time for participants who are in educational programs that are not self-initiated.

.7 Identifying Participants With Learning Disabilities During Good Cause Determination, Compliance Process and/ or Stopping of a Welfare-to-Work Sanction

.71 If a learning disability is confirmed through an evaluation during a participant's good cause determination or compliance process, the county must determine if the disability contributed to the participant's failure to participate.

.72 If it is determined that the learning disability diminished the participant's ability to participate:

.721 The participant shall be considered to have good cause for his/her failure to participate in accordance with Section 42-713 or, if appropriate, be exempt from welfare-to-work requirements in accordance with Section 42-712;

.722 The participant shall not be considered to have an instance of noncompliance in accordance with Section 42-721.43; and

.723 As necessary, the county shall also review the welfare-to-work activity and/or welfare-to-work plan and modify it in accordance with Section 42-722.532(c).

.73 If a learning disability is confirmed through an evaluation for an individual who is attempting to stop his/her welfare-to-work sanction, the county will determine whether the learning disability was a contributing factor to his/her noncompliance.

.731 If the learning disability was a contributing factor to the individual's noncompliance:

(a) The county will rescind the sanction and the participant shall not be considered to have an instance of noncompliance in accordance with Section 42-721.43; and

(b) The county will give the individual the choice of:

(1) receiving retroactive cash aid payments for the months the individual was improperly sanctioned; or

(2) prospectively resuming receipt of cash aid and welfare-to-work services, effective the date the participant is determined to be no longer sanctioned.

(c) If the individual chooses to receive aid for the rescinded sanction period, in accordance with Section 42-722.731(b)(1), all months in that period will be counted against the 60-month time limits, but not against the 18- or 24-month clock, in accordance with Section 42-722.8.

(d) As necessary, the county will review the welfare-to-work activity and/or welfare-to-work plan and modify it in accordance with Sections 42-722.532(c).

.74 If the county cannot determine from the evaluation report if the disability contributed to the participant's failure to participate, the county must consult with the learning disabilities evaluator or another learning disabilities specialist to make the determination.

.75 If the learning disability was not a contributing factor to noncompliance, the county shall continue the sanctioning process in accordance with Section 42-721.4.

.8 Retrospective Adjustment of the 18- and 24-Month Time Clock

.81 Counties must retrospectively adjust an individual's 18- or 24-month time clock when the participant meets all of the following criteria:

.811 Has a verified learning disability;

and

.812 One of the following:

(a) Was not screened and evaluated for learning disabilities before signing the welfare-to-work plan; or

(b) Was screened by the county, evaluated, and found to have a learning disability;

and

.813 Both of the following:

(a) Signed a welfare-to-work plan; and

(b) Participated in welfare-to-work activities, but without appropriate accommodations for his/her learning disabilities;

and

.814 Did not make satisfactory progress in welfare-to-work activities.

.82 When a participant meets the criteria in Section 42-722.81, the county will do the following:

.821 Credit back one full month to the 18- or 24-month time clock for every partial or full month that the individual participated in welfare-to-work activities without appropriate accommodations and did not make satisfactory progress in his or her welfare-to-work activities;

.822 Provide him/her with written notice of the number of months credited back to his/her 18- or 24-month welfare-to-work time clock, the number of months remaining on his/her 18- or 24-month time clock, and the reason for the adjustment; and

.823 Amend his/her welfare-to-work plan to include appropriate welfare-to-work activities, services and/or accommodations.

.83 Participants who refuse to be screened, evaluated, or accommodated are not eligible on the basis of a learning disability for an adjustment of their 18- or 24-month time clocks.

HANDBOOK BEGINS HERE

.84 Existing CalWORKs policies governing the 60-month time limit are unaffected by the retrospective adjustment of the 18- or 24-month time clock, pursuant to Sections 42-722.82 and .83.

HANDBOOK ENDS HERE

.85 If a welfare-to-work participant with an identified learning disability moves from one county to another:

.851 The first county must, with the participant's written permission, forward a copy of the written learning disabilities evaluation to the second county.

.852 The second county must develop a new, or modify the existing, welfare-to-work plan, as necessary, to reflect appropriate welfare-to-work activities and necessary reasonable accommodations based on the review of documents received, reevaluation of the original assessment, discussions between the county and the participant, and availability of resources.

.853 The participant shall not have good cause for failure to participate in the second county, based on the second county's failure to provide services and accommodations that are identified in the learning disabilities evaluation report as being necessary for the participant, when the participant refuses permission for the first county to forward the report.

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: Sections 10850, 11320.3(f), 11322.8, 11325.2(a), 11325.25, 11325.4, 11325.5, 11327.4, 11327.5, and 11454(a) and (b), Welfare and Institutions Code.

WAIVER OF CalWORKs LEARNING DISABILITIES SCREENING AND/OR EVALUATION

Read this form very carefully with your county worker. Be sure to ask questions about anything you do not understand. If you do not want to be screened or evaluated for learning disabilities at this time, you will be asked to sign this form and be given a copy to keep.

Benefits of a Learning Disabilities Screening and Evaluation

It is very important to screen and evaluate you for possible learning disabilities. If we find you have a learning disability, we will be better able to help you decide what activity is best for you.

Getting a screening and evaluation for learning disabilities can help you find, keep, and advance in a job that is right for you. The screening and evaluation can also get you the kind of help and services you will need to meet the welfare-to-work rules. For example, you may be able to do fewer hours in a welfare-to-work activity because of your learning disability. Or, you may be excused from welfare-to-work rules if your condition is so severe that it keeps you from regularly working or participating in welfare-to-work activities.

If You Do Not Want to Be Screened or Evaluated for Learning Disabilities at This Time:

1. You will not get any special treatment because of a learning disability until we know that you have one.
2. You will have to meet the welfare-to-work rules like any other person on CalWORKs who does not have a learning disability. If you do not meet the welfare-to-work rules, your cash aid and food stamps will be stopped or lowered. You can get them back again if you meet the rules or are excused from them.
3. You may change your mind and ask for a learning disabilities screening and evaluation at any time. And if you are later found to have a learning disability, the county:
 - Will get you the help and services you need starting from the date your worker discusses the evaluation findings with you and when you sign a new welfare-to-work plan that is necessary.
 - Will not add back time to your 18- or 24-month welfare-to-work time limit for months when you did not make satisfactory progress or benefit from your welfare-to-work activities because your learning disability was not identified or accommodated.

I have read this form and had it read to me. I understand the information on this form. I do not want to be screened or evaluated for learning disabilities at this time.

PRINTED NAME OF PARTICIPANT	SOCIAL SECURITY NUMBER
SIGNED NAME OF PARTICIPANT	DATE