

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



May 4, 2000

ALL-COUNTY LETTER NO. 00-30

TO: ALL COUNTY WELFARE DIRECTORS
 ALL COUNTY WELFARE-TO-WORK
 COORDINATORS
 ALL COUNTY CHILD CARE COORDINATORS

REASON FOR THIS TRANSMITTAL

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

SUBJECT: CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO KIDS
 (CalWORKs) WELFARE-TO-WORK (WTW) PROGRAM SERVICES
 FOR LIMITED-ENGLISH PROFICIENT INDIVIDUALS

REFERENCE: ALL-COUNTY INFORMATION NOTICE (ACIN) I-70-99

CalWORKs provisions, with time limits on the receipt of aid, underscore the need for all individuals to have access to the CalWORKs WTW program and to receive the services that will best assist them in obtaining employment before their allowable time on aid expires. Because the lack of English language skills is often a barrier to obtaining and retaining employment, this letter is intended to provide guidance to counties and clarify policies regarding appraisal, job search, and related issues with respect to limited-English proficient CalWORKs WTW participants.

Division 21 Applicability to Welfare-to-Work Activities

Manual of Policies and Procedures (MPP) Section 21-115 (Attachment I) requires that "County Welfare Departments shall ensure that effective bilingual/interpretive services are provided to serve the needs of the non-English speaking population and individuals with disabilities." MPP Handbook Section 42-711.511 reminds counties that provisions regarding nondiscrimination and the communication needs of limited-English proficient individuals apply to WTW activities and services, including supportive services.

To comply with these provisions, counties must ensure that limited-English proficient individuals have equal access to job search services and other WTW activities, and that the WTW services are not discriminatory. Therefore, limited-English proficient individuals must be provided with appropriate bilingual or interpretive services in a language that the individuals understand.

These rules apply regardless of the counties' use of contractors. If the county chooses to use contractors, it must ensure that limited-English proficient individuals receive appropriate bilingual or interpretive services.

Appraisal and Referrals to Job Search as a First Activity

Pursuant to MPP Section 21-115, appraisals of limited-English proficient individuals must be conducted in a language that they understand by using appropriate and effective bilingual or interpretive services.

MPP Section 42-711.523 provides that during CalWORKs appraisal, individuals must provide information about their employment history and skills, the need for supportive services, and any other relevant information that the county requires in making an appropriate assignment to WTW activities.

CalWORKs WTW program regulations also specify that job search is generally the first activity to which counties assign participants after appraisal (MPP Section 42-711.532). However, in accordance with MPP Section 42-711.531(a), exceptions to this requirement include cases when the county determines that participation in job search will not be beneficial for an individual. Recipients for whom a determination has been made that job search is not likely to be beneficial shall not be required to participate in job search as their first CalWORKs activity.

An individual's proficiency in English is information that is relevant in making a determination as to whether job search will be beneficial. Referral of a limited-English proficient individual to job search activities without adequate interpretive services and translated materials sufficient to assist him or her to fully participate would not be an appropriate referral. Therefore, at appraisal, counties must evaluate the English language skills of limited-English proficient individuals to determine whether or not job search will be an appropriate activity for them.

When making the determination that job search is beneficial in the case of a limited-English proficient individual, a county must consider, at a minimum, all of the following factors on a case-by-case basis:

- a) The primary language, English language proficiency, and employability skills of the individual;
- b) Whether available jobs in demand occupations in the local area are suitable to the individual's level of English-language proficiency; and

- c) The county's job search program and whether it provides interpretive services and translated materials sufficient to assist the individual to fully participate.

If the county determines that job search will not be beneficial for an individual, the county should advise the individual of the reasons for this determination and promptly refer the individual to assessment. However, even if the county has determined that job search is not likely to be beneficial, the individuals may always choose to participate in job search. On the other hand, job search may be an appropriate first activity, if the county provides interpretive services and/or translated materials to assist the individual to fully participate and demand occupations in the local area are suitable to the individual's level of English-language proficiency.

Once individuals are assigned to job search, they shall be subject to the same requirements and have the same rights as other job search participants. Also, as with other recipients, job search activities should provide limited-English proficient individuals with the opportunity to be placed in jobs that will allow them to make progress toward self-sufficiency.

Pursuant to MPP Section 42-711.533(a), once an individual begins job search as his/her first activity, counties must shorten the job search period if the participant and the county agree that it would not be beneficial to continue in job search. For instance, if a limited-English proficient individual is having difficulty participating in job search or finding employment due to language-related issues, and the county and the individual agree that continuing in job search would not be beneficial, the county must shorten the job search period.

Prior to, or at the start of, job search, counties should inform each participant, orally and/or in writing, that the job search period may be shortened if it will not be beneficial, and the process for shortening the job search period. For a limited-English proficient individual, this information must be in a language he/she understands.

Targeted Programs and Community Resources

Counties are encouraged to develop innovative programs to enhance the ability of limited-English proficient individuals to obtain employment and achieve self-sufficiency. For example, in addition to the requirements of MPP Section 21-115 regarding bilingual workers, counties may develop bilingual job clubs that are linguistically and culturally appropriate, if there are sufficient numbers of limited-English proficient participants who speak the same primary language. Counties may also want to develop linkages to businesses that provide employment that will lead to self-sufficiency and/or opportunities for individuals to increase their skills, such as English language acquisition. In creating these innovative programs, counties are encouraged to network with organizations and other community resources that have the capability to assist

them in meeting the employment and language needs of limited-English proficient individuals.

Health and Safety Standards and Other Requirements

MPP Sections 42-721.3 provides protections for all CalWORKs participants against conditions that violate applicable health and safety standards, workers' compensation, and other employment laws. Furthermore, in CalWORKs, employment is defined as work that is compensated at no less than the applicable state or federal minimum wage. Therefore, counties are reminded that they: 1) must not require individuals to participate in employment that does not meet minimum wage, health and safety, workers' compensation, and other employment law requirements; and 2) should not require limited-English proficient individuals to accept employment when their level of English proficiency will not allow the individuals to safely perform the work. For example, if the job requires an employee to use caustic or toxic materials, a person who cannot read or understand instructions regarding their proper use should not be referred to that job. Counties also should inform all participants, in a language that they understand, that they are not obligated to accept or continue employment that is not compliant with the above-mentioned laws or in which their level of English proficiency may create unsafe working conditions.

If you have any questions regarding this letter, please call Julieta Leon, Employment Bureau, at (916) 654-1785. For technical assistance in complying with Division 21, contact the CDSS Office of Civil Rights at (916) 654-2107.

Sincerely,

***Original Document Signed By
Bruce Wagstaff on 5/4/00***

BRUCE WAGSTAFF
Deputy Director
Welfare to Work Division

Attachment

c: CWDA
CSAC

**CIVIL RIGHTS
NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS**

TABLE OF CONTENTS

CHAPTER 21-100 NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Title VI Civil Rights Act 1964

	Section
Purpose	21-101
Scope of Division	21-103
Definitions	21-104
Dissemination of Information	21-107
General Requirements .....	.1
Specific Methods to Be Utilized .....	.2
Discriminatory Practices Prohibited	21-109
General .....	.1
Location of Facilities .....	.2
Repealed by Manual Letter No. CFC-96-03, effective 6/5/96 .....	.3
Accessibility	21-111
Provisions for Services to Applicants and Recipients Who Are Non-English Speaking or Who Have Disabilities	21-115
Documentation of Applicant/Recipient Case Records	21-116
Staff Development and Training	21-117

**CIVIL RIGHTS
NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS**

TABLE OF CONTENTS (Continued)

CHAPTER 21-100 NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Title VI Civil Rights Act 1964

	Section
Compliance Procedures and Reporting.....	21-201
Assignment of Resources to Implement Requirements of This Division.....	.1
Compliance Reports.....	.2
Compliance Reviews.....	.3
Applicant/Recipient Complaints of Discriminatory Treatment	21-203
Complainant's Right to a State Hearing (Fair Hearing) .....	.1
Procedures for Processing Discrimination Complaints .....	.2
Procedures for Investigation Complaints .....	.3
Report of Investigation.....	.4
Retaliatory Acts Prohibited .....	.5
Confidentiality of Information .....	.6
Retention .....	.7
Closure of Complaint Files.....	.8
Corrective Action.....	21-205

CHAPTER 21-100 NONDISCRIMINATION IN STATE AND FEDERALLY ASSISTED PROGRAMS**21-101 PURPOSE****21-101**

The purpose of Division 21 is to effectuate the provisions of [REDACTED] Title [REDACTED] the Civil Rights Act of 1964, [REDACTED] Section 504 of the Rehabilitation Act of 1973, as amended; [REDACTED] the Age Discrimination Act of 1975, [REDACTED] the Food Stamp Act of 1977, [REDACTED] and other applicable federal and state laws [REDACTED] to ensure [REDACTED] administration of public assistance and social services programs are nondiscriminatory, and that no person shall, because of race, color, national origin, political affiliation, religion, marital status, sex, age or [REDACTED] be excluded from participation [REDACTED], be denied the benefits of, or be subjected to discrimination under any program or activity 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.

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, [REDACTED]

21-103 SCOPE OF DIVISION**21-103**

These requirements shall apply to the California Department of Social Services (DSS), 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.

HANDBOOK BEGINS HERE

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.

HANDBOOK ENDS HERE

- .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 [REDACTED] 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).

21-103	SCOPE OF DIVISION	21-103
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(Continued)

- .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

21-104	DEFINITIONS	21-104
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The following definitions shall apply to the terms used in this Division:

- a. (1) "Accessibility" refers to the usability of public facilities by individuals with disabilities.
- (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 division in accordance with all applicable civil rights laws and their implementing regulations.
- (3) "Authorized representative" 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).

- b. Reserved

- c. (1) "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.
- (2) "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.

21-104 **DEFINITIONS** **21-104**
(Continued)

- d. Reserved
- e. Reserved
- f. Reserved
- g. Reserved
- h. Reserved
- i.
 - (1) "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.
 - (2) "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.
 - (A) "Physical or mental impairment" means:
 - 1. 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; or
 - 2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities.
 - (B) "Major life activities" include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
 - (C) "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.
 - (D) "Is regarded as having an impairment" means:
 - 1. 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;
 - 2. 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

21-104 DEFINITIONS (Continued)

21-104

3. Has none of the impairments defined in this section but is treated by an agency as having such an impairment.

j. Reserved

k. Reserved

l. Reserved

m. (1) "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.

n. (1) "Non-English Speaking" persons are defined as those whose primary language is other than English and which language must be used to effectively communicate program information and requirements. Sign language is subject to this definition.

o. Reserved

p. (1) "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.

q. (1) "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.

(2) "Qualified interpreter" means an interpreter who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary.

r. Reserved

s. (1) "Sign Language" the use of fingers and hands to communicate with individuals who are deaf or hard of hearing.

(2) "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).

21-104 **DEFINITIONS** (Continued) **21-104**

- t. Reserved
- u. Reserved
- v. Reserved
- w. Reserved
- x. Reserved
- y. Reserved
- z. Reserved

NOTE: Authority cited: 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 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** **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 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, 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 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, office telephone number, and office address of the person in the who is responsible for processing discrimination complaints. with nondiscrimination in the Food Stamp Program shall be prominently posted in all certification and issuance offices.

21-107 DISSEMINATION OF INFORMATION
(Continued)**21-107**

.212 All instructional and directional signs posted in waiting areas and other places frequented by a substantial number of non-English-speaking 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, large print, 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

21-107 DISSEMINATION OF INFORMATION 21-107
(Continued)

HANDBOOK BEGINS HERE

- .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.

HANDBOOK ENDS HERE

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

21-109 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 contractual, 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.

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.

21-109 DISCRIMINATORY PRACTICES PROHIBITED
(Continued)**21-109**

- .16 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.

.2 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 [redacted] 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,

[redacted]

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 contain the ADA Accessibility Guidelines (ADAAG) which govern the physical accessibility requirements for state and local governments. Title 24, Parts 2, 3, 5, contains the regulations governing structural for in public facilities 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 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.

HANDBOOK ENDS HERE

.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.

21-111 ACCESSIBILITY **21-111**
(Continued)

- .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 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 35.150 and .151.

21-115 PROVISION FOR SERVICES TO APPLICANTS AND RECIPIENTS **21-115**
WHO ARE NON-ENGLISH SPEAKING OR WHO HAVE DISABILITIES

County welfare departments shall ensure that effective bilingual services are provided to serve the needs of the non-English speaking population and individuals with disabilities. The provision of . 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 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 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 language cases equal or exceed five percent of the total cases for each program or location.

21-115 PROVISION FOR SERVICES TO APPLICANTS AND RECIPIENTS WHO ARE NON-ENGLISH SPEAKING OR WHO HAVE DISABILITIES **21-115**

(Continued)

- .12 In determining this percentage, primary language groups shall be considered individually, rather than cumulatively.
- .13 To determine the percentage of non-English-language cases in any program and/or location, divide the number of ongoing (continuing) non-English-language 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	EWs
<u>x.08</u>	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.

HANDBOOK BEGINS HERE

EXAMPLE:

District Office

AFDC		NAFS		SOCIAL SERVICES	
Spanish Language Cases	20%	Spanish Language Cases	25%	Spanish Language Cases	10%
Total EWs	<u>x1</u>	Total EWs	<u>x2</u>	Total EWs	<u>x1</u>
Required	.2	Required	.50	Required	.1

HANDBOOK CONTINUES

21-115 **PROVISION FOR SERVICES TO APPLICANTS AND RECIPIENTS** **21-115**
WHO ARE NON-ENGLISH SPEAKING OR WHO HAVE DISABILITIES
(Continued)

HANDBOOK CONTINUES

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.

HANDBOOK ENDS HERE

- .15 When the percentage of non-English 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 employees, qualified employees of other agencies or 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 material 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 [redacted] shall ensure that administrative practices do not have the effect of denying non-English [redacted] equal access to and participation in the available programs and activities.
- .4 Auxiliary Aids
 - .41 CWDs shall provide auxiliary aids and services 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 [redacted] interpreters.
 - .42 CWDs [redacted] disabilities.

21-115 **PROVISION FOR SERVICES TO APPLICANTS AND RECIPIENTS WHO ARE NON-ENGLISH SPEAKING OR WHO HAVE DISABILITIES** **21-115**
(Continued)

HANDBOOK BEGINS HERE

.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]."

HANDBOOK ENDS HERE

.43 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

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, 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 [REDACTED] client provided interpreter. [REDACTED] 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.

21-116 DOCUMENTATION OF APPLICANT/RECIPIENT CASE RECORDS 21-116
(Continued)

- .3 Upon obtaining information that identifies an applicant/recipient as disabled, 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 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 [REDACTED] to ensure equal delivery of [REDACTED] possible, [REDACTED] involve community [REDACTED].

HANDBOOK BEGINS HERE

- .21 In presenting materials relating to specific cultural characteristics, all efforts should be made to avoid stereotypes.

HANDBOOK ENDS HERE

- .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 [REDACTED]

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 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 [redacted] shall keep timely and accurate compliance records. This information shall be submitted to [redacted] 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.

21-201	COMPLIANCE PROCEDURES AND REPORTING (Continued)	21-201
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.23 County Civil Rights Impact Studies

HANDBOOK BEGINS HERE

.231 The USDA requires that civil rights impact studies be completed "[b] 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."

HANDBOOK ENDS HERE

21-201 COMPLIANCE PROCEDURES AND REPORTING 21-201
(Continued)

.3 Compliance Reviews

HANDBOOK BEGINS HERE

- .31** In order to ensure compliance with civil rights laws and [REDACTED]
- .311** A review of case records for applicants/recipients who are non-English speaking or disabled [REDACTED]
- .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, [REDACTED]
- .316** A review of applications, application instruction sheets, pamphlets, or other materials [REDACTED]
- .317** A review of the [REDACTED]
- .318** A review of appropriate documents to confirm an assurance of compliance agreement is [REDACTED]
- .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 [REDACTED] characteristics of that area.
- .323** The Director of CDSS requests a review.

HANDBOOK ENDS HERE

21-201	COMPLIANCE PROCEDURES AND REPORTING (Continued)	21-201
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.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
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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 CDSS's Civil Rights Bureau (CRB) to be handled in accordance with Division 21 regulations.

21-203	APPLICANT/RECIPIENT COMPLAINTS OF DISCRIMINATORY TREATMENT (Continued)	21-203
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.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.

.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 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.**

21-203 APPLICANT/RECIPIENT COMPLAINTS OF DISCRIMINATORY TREATMENT (Continued) 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).
- .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 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, the date on which the CWD mails, or otherwise provides the complainant with the decision.

21-203 APPLICANT/RECIPIENT COMPLAINTS OF DISCRIMINATORY TREATMENT (Continued) 21-203

.263 The CWD shall, in addition to informing the complainant of his/her appeal rights set forth from a complaint based on race, color, national origin, age or resulting may the United States Department of Health and Human Services (HHS), programs 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.

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.

21-203 APPLICANT/RECIPIENT COMPLAINTS OF DISCRIMINATORY TREATMENT (Continued)**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 and telephone.
- (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) 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.

21-203 **APPLICANT/RECIPIENT COMPLAINTS OF DISCRIMINATORY TREATMENT** (Continued) **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.

21-203	APPLICANT/RECIPIENT COMPLAINTS OF DISCRIMINATORY TREATMENT (Continued)	21-203
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.5 Retaliatory Acts Prohibited

No official or employee shall intimidate, threaten, 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.

.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.)

.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),

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,