

DEPARTMENT OF SOCIAL SERVICES  
744 P Street, Sacramento, CA 95814



July 8, 1988

ALL-COUNTY INFORMATION NOTICE NO. I-61-88

To: ALL COUNTY WELFARE DIRECTORS

SUBJECT: Questions and Answers on the Refugee Demonstration Project/  
Refugee Cash Assistance (RDP/RCA) Conciliation Process

REFERENCE: All-County Letter No. 87-92 and 87-125, MPP 69-209.5

The purpose of this letter is to provide County Welfare Departments with questions and answers relating to the RDP/RCA Conciliation Process which was implemented on July 1, 1987 as a result of the Dang, et. al vs. McMahon, et. al court order.

Questions regarding the information provided in the attachments should be directed to your County Program Operation Analyst at (916) 323-2131.

  
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Deputy Director  
Welfare Program Division

cc: Dr. Sharon Fujii  
CWDA

## QUESTIONS AND ANSWERS ON THE CONCILIATION PROCESS

1. QUESTION:

Can an RDP/RCA client be sanctioned without benefit of conciliation when he/she fails to attend the conciliation interview appointment?

ANSWER:

If an RDP/RCA client fails to attend the conciliation interview appointment and makes no attempt to contact the County Welfare Department (CWD) and reschedule the appointment prior to the interview date, the CWD may issue a Notice of Action and sanction the client. If the client thinks he/she had good cause for not contacting the CWD, he/she can appeal the sanction.

2. QUESTION:

Should the proposed conciliation plan (RS 39) be mailed to the client rather than hand delivered during the good cause interview?

ANSWER:

The following policy instruction supersedes instructions in All-County Letter (ACL) 87-125 dated 9/14/87. The conciliation plan must always be mailed to the client after the CWD makes a cause determination regardless whether the CWD has made a silent cause determination or conducted a face-to-face interview with the client. In other words, the CWD is not to begin developing the conciliation plan with the client at the cause determination interview, but instead, is to mail the conciliation plan to the client after the interview is conducted.

3. QUESTION:

Should the conciliation interview take place if the County is not able to provide an interpreter to the client?

ANSWER:

If there is no interpreter available at the time of the original conciliation interview, conciliation should be postponed to a later date when an interpreter is available, keeping in mind that cause determination/conciliation must be completed within 30 calendar days. (See section 69-209.51).

4. QUESTION:

Should referrals for sanctions be made only if the client fails to cooperate in meeting the conditions of the conciliation agreement?

ANSWER:

No. In accordance with RDP/RCA regulation Section 69-209.52, conciliation may be terminated at any time during the conciliation process, and the client sanctioned if the situation is such that this would be an appropriate action.

5. QUESTION:

What happens when a client violates the conciliation plan for a reason other than his/her original act of noncooperation/nonparticipation? Should he/she be referred for sanctioning?

ANSWER:

No. If a client violates the conciliation plan for a reason other than the original act of noncooperation/nonparticipation, he/she is entitled to one more cause determination/conciliation.

If the client violates the conciliation plan for the same reason as the original act of nonparticipation, the client should be sanctioned.

Example: A client initially does not attend an Employment Services (ES) activity because he/she wants to attend English-as-a-Second Language (ESL) before he/she searches for employment. The client is referred to the CWD by the Central Intake Unit (CIU) for a cause determination/conciliation interview. The CWD determines that the client does not have good cause and during conciliation resolves the dispute with the client. The CWD and the client agree to a conciliation plan which specifies the client must attend ES. The client fails to attend ES for a second time because he was ill and was not able to attend. One more cause determination/conciliation is required before the client is sanctioned. If good cause is found, the client is still responsible for completing the terms of the original conciliation plan. A limited-time extension for completion of the plan may need to be granted to the client with good cause.

6. QUESTION:

What guidelines/criteria will the State provide in writing, for use by the conciliation specialist in determining what constitutes an acceptable conciliation plan?

ANSWER:

A conciliation plan should include:

a. Instruction for the Next Assignment

The CWD must contact the CIU and/or Service Provider for information regarding the specific training to which the recipient has been referred. (The plan can only be used to resolve the individual act of noncooperation or participation by the recipient.)

b. Deadline Dates for Plan of Action

The plan must be time-limited, and shall be completed no later than 30 days after the date the CWD is informed of the recipient's noncooperation with the employment and employment-directed education/training requirements.

NOTE: Failure to complete the conciliation process within the 30-day timeframe will be considered noncompliance with program administration requirements. However, a conciliation process for a particular case that exceeds 30 days is not invalid. The County should not "abandon" such a case, but should complete the conciliation process as soon as possible.

c. Examples of Conciliation Plans

- You are to go to the training class at XYZ service provider from 8:00 a.m. to 12 noon each day on November 5, 6, and 7, 1988. (The CWD must use a copy of the conciliation plan to refer the client to the service provider.)
- You are to go to the CIU on November 2, 1988 at 10:00 a.m. to be reassessed and referred for training/employment services. (The CWD must use an RS 3 to refer the client to the CIU.)

- Job Quit

You are to increase your job search activities and agree to accept the next job you are offered as long as the CIU and/or Employment Services provider thinks the job is right for you. You also agree that you will not quit the new job you take as you did before.

- Job Refusal

You are to increase your job search activities and agree not to refuse the next job you are offered that the CIU and/or Employment Services provider thinks is right for you.

7. QUESTION:

What criteria should be used in selecting between the CWD plan/recommendation and the client's own plan? What criteria will be provided to enable the Eligibility Technician (ET) to evaluate the client's plan?

ANSWER:

If a client proposes his own conciliation plan, the CWD must consider the plan, and adopt it if it is apparent that the plan accomplishes the same objective as the CWD proposed plan. The plan must be relevant to the unresolved issue and specify the activity in which the client must participate to show willingness to remain in the program. The CWD must consult with the CIU and/or Service Provider on issues relative to whether the client's proposed plan is reasonable and attains the purpose of conciliation which is to get the client to participate in employment and employment-directed education training assignments.

8. QUESTION:

Will conciliation procedures apply to "job quit" or "job refusal" actions on the part of the client? For example, if a client was placed in a job and quit without good cause, does the ET apply a voluntary quit sanction or is conciliation required?

ANSWER:

When the CWD makes a determination that an individual did not have good cause for a job refusal or job quit based on MMP Section 69-208.63, the CWD must conciliate the dispute before a Notice of Action is issued for sanctioning purposes.

9. QUESTION:

How many times can the client go through a conciliation process?

ANSWER:

There are no limits to the number of times the client can enter conciliation.

10. QUESTION:

If the client's proposed plan is acceptable (agreed to by the CWD and the CIU/Service Provider), who will monitor the client's participation?

ANSWER:

Every conciliation plan, regardless of who proposed the plan, is to be monitored by the agency responsible for managing the client through his/her service plan.

11. QUESTION:

Can a pattern of noncooperation be established that can lead to sanctioning action?

ANSWER:

If a client has multiple instances of noncooperation over a period of time, they are to be treated as separate incidences for purposes of conciliation and sanctioning. However, per MMP Section 69-209.52, conciliation may be terminated sooner by either the CWD or the recipient if any time it is apparent to either that the dispute cannot be resolved. Additionally, please refer to Question #5 for instructions pertaining to violation of the conciliation plan.

If additional instances of noncooperation occur after a noncooperation report has been sent to the CWD and before the CWD begins the cause determination interview, all of the noncooperation acts can be addressed at the same interview. If the noncooperation acts are the same as the original act of noncooperation, the CWD can develop one conciliation plan. If the noncooperation acts are different from the original act of nonparticipation, the CWD must develop a separate conciliation plan for each act.

12. QUESTION:

Can leeway be given to clients who may appear to be uncooperative but actually are handicapped by other barriers? These barriers may include lack of English ability, lack of transportation, and unfamiliarity with public transportation.

ANSWER:

Clients who appear to be uncooperative but actually have barriers to participation (child care and transportation) would have good cause for not cooperating with participation requirements (see MPP 69-209.4). The inability to speak English can be considered a barrier to participation when refugees do not comply because they do not understand what is expected of them. These instances would also be covered under MPP 69-209.4. However, if a client has been identified as having a barrier during the conciliation process, the CWD should attempt to eliminate the barriers or notify the CIU of the specific barrier, whichever is appropriate. The ability of a client to meet CIU requirements is judged on an individual basis. A services plan is developed by the CIU after extensive individual interviews and testing of the client. The service plans developed by the CIU are designed to be attainable by the individual client. If the CWD determines the employment or employment-directed education/training is in excess of the client's mental or physical capacity, then good cause should be found for the client. The finding must be based on adequate medical testimony of a physician or licensed or certified psychologist indicating that participation would impair the individuals physical or mental health (MPP 69-209.4).

13. QUESTION:

Does it matter who in the CWD performs the conciliation function from a program point?

ANSWER:

The Refugee and Immigration Programs Branch has no program requirements specifying that particular classifications should perform the conciliation function in the CWD.

## FISCAL RELATED QUESTIONS AND ANSWERS

14. QUESTION:

Does it matter who in the CWD performs the conciliation activity from a fiscal point?

ANSWER:

Yes. The Department must be advised if a County plans to use split-function caseworkers to perform the conciliation activity. A split-function caseworker is one who performs case management activities in more than one function, and must therefore complete more than one time study document. The conciliation activity is within the Employment Services function and is time studied on the Employment Services Time Study (DFA 52). If a worker who performs conciliation activities also performs activities that must be recorded on a time study document other than the DFA 52, then he/she is considered a split-function caseworker. For example, a caseworker who determines RRP-AFDC eligibility and performs conciliation activities must time study on both the Eligibility and Nonservice Time Study - DFA 43 and the DFA 52 as appropriate.

Counties must obtain prior, written approval to use the split-function method. Counties must send such requests to Don Morishita, Chief, Fiscal Policy and Procedures Bureau, State Department of Social Services, 744 P Street, M.S. 8-100, Sacramento, CA 95814.

15. QUESTION:

Since conciliation costs are claimed to the Employment Services Function, does this mean that a split-function involving conciliation would require continuous time studying by CWDs?

ANSWER:

The State's policy is to limit approval of the split-function method for Employment Services to the caseworkers assigned to specific programs in other functions, e.g., RDP or RRP eligibility workers would be granted approval to perform RDP/RCA conciliation activities. We believe this provides Counties with the flexibility to administer programs as they deem most effective, while preserving the current cost allocation plan which requires a minimum of split-function workers. Split function waivers under the above described situations would NOT require the County to continuously time study.

There appears to be some confusion regarding the requirement for Counties to continuously time study. ACL No. 86-62 discusses the requirement that, per the Department of Health and Human Services, Division of Cost Allocation, all casework staff must continuously time study where the split-function method is used for the Greater Avenues for Independence Program. This requirement does NOT extend to other programs or activities within the Employment Services Function.