

**COLORADO WORKS
TOWARDS
UNIVERSAL ACCESS**



*Colorado Works Practitioners
Resource Guide*

CONTENTS

I.	Background	page 1
II.	CDHS/CWP Policy Statement	page 1
III.	OCR ADA and Section 504 Guidance for TANF Programs	page 2
IV.	Applicable Laws	page 3
V.	Federal Definition of Disability	page 3
VI.	ADA/Section 504 Legal Requirements	page 4
VII.	Modify Policies, Practices and Procedures	page 8
VIII.	Adopt Non-Discriminatory Methods of Administration	page 15
IX.	Children and Household Members With Disabilities	page 19
X.	Miscellaneous Recommendations	page 20



**COLORADO DEPARTMENT OF HUMAN SERVICES
COLORADO WORKS PROGRAM
GUIDANCE ON THE ADA AND SECTION 504 AND ITS APPLICATION**

**COLORADO WORKS PRACTITIONERS
RESOURCE GUIDE**

I. BACKGROUND

In 1996, Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act. It specifically provides that federal civil rights laws, including Section 504 of the Rehabilitation Act (504) and the Americans With Disabilities Act (ADA) apply to the Temporary Assistance For Needy Families Program (TANF). In Colorado that program is the Colorado Works Program (CWP).

This guidance represents the Colorado Department of Human Services (CDHS)/CWP's interpretation of the ADA and Section 504 requirements as they apply to CWP. The basis for this interpretation is the Guidance provided by the U.S. Office of Civil Rights (OCR).

The purpose of the Resource Guide is to set out the basic legal, policy, procedure and practice requirements CDHS/CWP, counties and their contractors must follow. Examples of ADA and Section 504 best practices as they apply to CWP are also included. By following this guidance, CWP staff (in counties and/or agencies) can be confident they are in compliance with the ADA and Section 504.

This Resource Guide encourages the state, counties and their contractors to comply with non-discrimination mandates. The Guidance contains a detailed description of how the state and counties will comply as well as the necessary steps to ensure compliance. Steps include detailed written plans, investigative authority, compliance reviews, record-keeping training, standards for evaluating compliance and clear lines of responsibility.

II. CDHS/CWP POLICY STATEMENT

The Colorado Works Program (CWP) will promote the growth and development of all CWP Program participants to reach their maximum employment potential. To that end, the Colorado Works Program will promote the following national goals of disability policy:

- ★ Equality of Opportunity
- ★ Full Participation
- ★ Independent Living
- ★ Economic Self-Sufficiency

This Resource Guide has been developed in order to ensure the national goals are achieved through the following key concepts:

- ★ Inclusion of persons with disabilities and their advocates in the development of policies and procedures at the state and local levels

- ★ Self-Evaluation by the Colorado Department of Human Services and the County Departments of Human Services
- ★ Needs Assessment of Service Populations
- ★ Education and Training for All involved with CWP
- ★ Rights and Responsibilities of Applicants and Participants
- ★ Universal Access to the CWP Program and Reasonable Accommodations for Applicants and Participants
- ★ Monitoring and Enforcement
- ★ Partnerships and Linkages
- ★ Network Adequacy

The Guidance will lead CDHS/CWP and the County Departments of Human Services to, either directly or through contract or arrangement, utilize methods of program administration that do not have the purposes or effects of substantially impairing the accomplishment of the federal, state, and county objectives of the CWP Program with respect to persons with disabilities.

Note: TANF and CWP are used interchangeably throughout this document. TANF/CWP refers to all Colorado Works Programs including the basic cash grant program, state diversion, and county diversion.

III. OCR ADA AND SECTION 504 GUIDANCE FOR TANF PROGRAMS

OCR Guidance provides states and counties with help in understanding what Section 504 and the ADA require. It also provides direction on what OCR will consider legal, non-discriminatory behavior. OCR addresses a variety of circumstances. It specifically states that the guidance does not address the obligations of employers under either of the laws.

To provide states and counties with a better sense of how to implement the ADA and Section 504, OCR provides examples of best practices. While OCR specifically indicates that states are not precluded from developing alternative approaches to meeting the legal requirements, they do suggest ways states and counties can meet their obligations under Section 504 and ADA.

The overarching framework for OCR's analysis and Colorado's Guidance is based upon two key principles. These two principles underlie the analysis of what Section 504 and ADA mean for the TANF Program (CWP) in Colorado: Individualized treatment and effective and meaningful opportunity.

"Individualized treatment requires that individuals with disabilities be treated on a case-by-case basis consistent with facts [of their individual situations] and objective evidence. Individuals with disabilities may not be treated on the basis of generalizations and stereotypes." For example, it is not legal to deny TANF participants with disabilities access to any part of the TANF program "based on stereotypical views, unsupported by any individual assessments that people with disabilities are unable to participate in anything but the most rudimentary work activities."

This principle prohibits programs from excluding people with disabilities from CWP education, training, and other services and assistance based upon the assumption that people with disabilities can participate only in low-level activities.

"Effective and meaningful opportunity" means that "all individuals with disabilities must be afforded an opportunity to benefit from all CWP programs that is as effective as the opportunity the CWP agency affords to individuals who do not have disabilities."

This principle requires that CWP agencies provide universal access to persons with and without disabilities and requires that CWP agencies make reasonable accommodations or modifications unless doing so would result in a fundamental alteration to the program or be an undue financial and administrative hardship or burden. It also requires agencies to use criteria and methods of program administration that do not have a discriminatory effect.

IV. APPLICABLE LAWS

Congress provided a "clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities" when it adopted the Americans With Disabilities Act (ADA).

The ADA is extremely broad in scope: Title I covers private employment; Title II covers state and local government programs and services including public transportation (this provision is applicable to CWP); Title III covers privately owned places of public accommodations; Title IV covers telecommunications; Title V covers miscellaneous provisions.

Section 504 of the Rehabilitation Act of 1973, which also prohibits discrimination against persons with disabilities, applies to all entities that receive federal funds. This includes state and local government agencies operating the CWP programs as well as public and private entities that operate various aspects of the CWP programs.

Entities Subject to the ADA and Section 504

Law/Guidance: Title II-ADA and Section 504.

Public entities include the following:

- a. any state or local government
- b. any department, agency, special district or other instrumentality of a state or local government (for e.g., private entities with whom counties contract to provide services to participants in CWP programs).

V. FEDERAL DEFINITION OF DISABILITY UNDER THE ADA AND SECTION 504

An individual with a disability means a person who has a physical or mental impairment that substantially limits one or more major life activities

or

has a record of such impairment

or

is regarded as having such impairment.

Notes: ADA regulations give illustrative examples of impairments that are covered by the ADA.

The definition of disability under the ADA and Section 504 is different than the definition of disability used to determine eligibility in programs that provide cash assistance based upon disability, such as the SSI and SSD programs.

Action Steps (State and Counties):

CDHS/CWP has adopted a statewide rule that defines disability as stated immediately above (Reference Volume III, 3.605, Definitions). All counties and their contractors will use this definition in their CWP programs and policies however they may define disability more broadly if they so choose. Counties/contractors may not however be more restrictive.

Action Step

CDHS/CWP has adopted a rule that specifies the responsibility of counties and their contractors to comply with the ADA and Section 504 when implementing their CWP programs (Reference Volume III, 3.600.1).

VI. ADA/SECTION 504 LEGAL REQUIREMENT

Ensure Equal Access Through the Provision of Appropriate Services to People with Disabilities
OCR Guidance, Part D.1.

To comply with this ADA and Section 504 requirement, CWP agencies "must afford qualified individuals with disabilities an opportunity to participate in or benefit from programs that is equal to the opportunity agencies afford individuals without disabilities." OCR Guidance, Part D.1. To comply with this legal requirement, Colorado Works Programs must provide CWP beneficiaries/participants who have disabilities with appropriate services and assistance, and give these beneficiaries/participants an equal opportunity to benefit from the program's job placement, education, skills training, employment and other program activities.

A. Screening and Assessment

What should Screening and Assessment Procedures look like at the county level?

CWP agencies "must...ensure that individuals with disabilities have access to the entire range of TANF programs and services for which they are qualified...." In addition, the programs must be provided in the most integrated setting appropriate for individuals with disabilities." This means ensuring that individuals with disabilities "can participate in all programs and services for [CWP] beneficiaries, not just those that are designed solely for individuals with disabilities."

Noting that the TANF statute and regulations require TANF agencies to assess the skills, prior work experience, and employability of beneficiaries, OCR states, "it is critical that TANF beneficiaries with disabilities receive assessments that allows them equal opportunity to benefit from TANF Programs and the assessment process. Before reaching the assessment step, TANF agencies' trained personnel must do screenings and must use reliable

tools. At a minimum, intake workers should be able to recognize potential [or suspected] disabilities... and the need for further assessment." OCR Guidance, Part D.1.

"The [CWP] agencies must then use the information learned in the assessment when developing the person's individual responsibility plan/contract" and in determining the need for reasonable accommodations. *OCR Guidance, Part D.1; Eileen P. Sweeney, HHS Guidance Explains How Federal Laws Barring Discrimination Against People With Disabilities Apply in the State and County Programs, 2/26/01, page 7, FOOTNOTE 25.*

All screening, assessment, and planning tools, including Individual Responsibility Contracts (IRCs) should contain ADA related language in order to ensure that participants have the information they need if they have disabilities. ADA Language should include but not be limited to statements like, "Do you need help in completing the application process, additional services, reasonable accommodations, etc."

EXAMPLES OF BEST PRACTICES:

1. Utilize a combination of caseworker screening and assessment tools and other professional assessments to determine whether TANF beneficiaries face a variety of obstacles, including physical, emotional, learning, or behavioral disabilities based upon an initial screening by a trained caseworker;
2. Refer beneficiaries who report or appear to have disability related barriers to employment, for an in-depth assessment to a public, non-profit, and/or private vocational rehabilitation agency or mental health agency if the participant or staff person needs assistance in identifying what an individual needs. Please note that TANF resources can be utilized for these services, if a fee is required. The assessment should include recommendations and accommodations as appropriate. For example, a person with a suspected learning disability may need additional assessment;
3. Adopt a team approach to assessments, including a psychologist and other medical, vocational and rehabilitation experts who are trained in assessing adults with disabilities in the employment context.

Federal Recommendations For Screening and Assessments:

Law/Guidance: *OCR Guidance, Footnote 35.*

Suggested Action Steps for Screening and Assessments (State and Counties):

1. CDHS/CWP recommends the following: Use of an initial screening tool and a more in-depth assessment tool when the use of an assessment tool is appropriate. Also screening and assessment will be defined so that the difference between the two is clear. The elements of adequate screenings and assessments be provided to all counties. A county may opt to use different tools, however counties must use tools that are designed for their

stated purpose (screening or assessment) and that meet the requirements of all applicable laws including the ADA. Personnel at any level using screening or assessment tools must be trained in their use. County workers/contractors must be able to recognize potential disabilities.

B. Services and Supports

What should Services and Supports look like at the county level?

CWP agencies have the "obligation to ensure that service providers have the requisite knowledge and expertise to serve beneficiaries with disabilities". If CWP agencies use contractors or vendors in their programs, it is the CWP agencies' responsibility to ensure that CWP beneficiaries are not subjected to disability-based discrimination. OCR Guidance, Part D.1, Footnote 26.

EXAMPLES OF BEST PRACTICES:

1. Arrange for appropriate counseling for persons with mental or emotional disabilities when those disabilities impact his or her ability to work;
2. Partner/contract with public, non-profit, and/or private agencies to provide assessment and follow-up services for long-term CWP beneficiaries;
3. Reimburse providers based upon payment rules that encourage them to work with CWP beneficiaries and to design programs that meet their needs. This practice may assist counties to meet the network adequacy requirement;
4. Provide access to specialized job training courses for CWP beneficiaries with highly individualized needs, such as speech or hearing impairments or cognitive challenges, if they choose not to participate in "mainstream" classes and request such services as an accommodation. At a minimum, the worker should offer such specialized classes if they appear to be appropriate. If counties do not have needed resources then CDHS will assist the county by providing the technical assistance in developing resources;
5. Conduct random exit interviews with all persons who are leaving CWP, including persons with disabilities, to determine if their needs are being met, to determine if additional support is needed, and to determine whether program modifications would better meet their needs;
6. Access and utilize national resources.

Federal Guidance For Services and Supports:

Law/Guidance: "Title II (ADA) regulations do not include specific training requirements for public entities, but as a practical matter, public entities will not be able to fulfill their obligations under the ADA without a comprehensive effort to train employees at every level of an agency or department. Congress noted the essential role of training in achieving Title II compliance... and noted the harmful consequences of failing to train public employees about their Title II obligations". See *Using Title II of the Americans with*

Disabilities Act on Behalf of Clients in TANF Programs, by Cary LaCheen. Georgetown Journal on Poverty Law and Policy, Volume VIII, Winter 2001, Number 1. "Effective training is one means of ensuring that there is not a gap between a TANF agency's written policies and procedures and the actual practice of employees in the front line interacting with persons with disabilities". See OCR Guidance, Page 32.

Suggested Action Steps For Services and Supports (State and Counties):

1. CDHS/CWP will train current staff, will hire persons, or contract/partner with entities that have awareness, knowledge and expertise necessary to serve persons with disabilities.
2. CDHS/CWP and counties will provide and/or secure training for county staff/contractors, county commissioners, and necessary others on ADA/Section 504 issues related to the CWP Programs. Such training will be offered as needed.
3. CDHS/CWP will advise counties to consider adjusting reimbursement rates as necessary for those who provide substantial services to persons with disabilities if their current resources do not offer sufficient choice to participants with disabilities.
4. CDHS/CWP will inform counties that they are responsible for any discriminatory actions of those contractors who provide services to CWP applicants/participants.
5. CDHS/CWP will encourage counties to follow up with applicants/participants to ensure that those with disabilities are not being discriminated against and are being appropriately served.
6. CDHS/CWP will encourage counties to establish Advisory Boards to identify problems related to assistance and services for persons with disabilities and to consider alternatives. The Board should include persons with disabilities, persons conversant on the issues, employers, and advocates, adult educators, etc. Such a Board can ensure the county system is responsive to the needs of persons with disabilities. If counties already have an Advisory Board, an increased awareness of benefits and services to persons with disabilities should be included in the purpose.
7. CDHS/CWP will advise counties to review current policies and practices to ensure equity and appropriate accommodation. Examples of such practices are payment of an incentive only for participants who meet the required federal participation hours and not those participating to the best of their ability but at a lesser level.
8. CDHS/CWP will advise counties that they must provide clear information to applicants and participants in appropriate formats that specific services

and assistance might be available at the time of application and at all other relevant times and that counties should advise participants how to access the available services and assistance.

9. CDHS/CWP will assist counties to develop a network of partners and resources to facilitate referrals for caseworkers and participants.

VII. MODIFY POLICIES, PRACTICES, AND PROCEDURES TO PROVIDE EQUAL ACCESS UNLESS DOING SO WOULD RESULT IN A FUNDAMENTAL ALTERATION TO THE PROGRAM, OCR GUIDANCE, PART D.2. - LEGAL REQUIREMENT

"Program providers are required to make reasonable modifications to policies, practices, and procedures that deny equal access to individuals with disabilities unless a fundamental alteration in the program would result." __28C.F.R. Section 35.130 (b) (7); Alexander v Choate, 469 U.S. at 301. (Supreme Court decision concerning Section 504 stating that "reasonable accommodations in the grantee's program or benefit may have to be made to ensure meaningful access.") OCR Guidance Footnote 42.

A. Comprehensive Review of Policies, Procedures and Practices

Have you reviewed/update your policies and procedures in adherence to the ADA recently?

Based upon a comprehensive examination of their own policies, CWP agencies may find that the modifications that are required "may affect all stages of the CWP Programs, from application to training, education, and work stages." OCR Guidance, Part D.1. It is therefore imperative that CWP agencies conduct such an examination in order to ensure that CWP programs and services are accessible and that applicants and participants have meaningful opportunities to participate in the programs.

Federal Requirements Regarding Policies, Practices, and Procedures:

Law/Guidance: 28 C.F.R. Section 35.105(a)(1999),

Suggested Action Steps (State and Counties)

1. CDHS/CWP and counties will engage in self-evaluation of all aspects of the CWP Program during the County Review Process (CPR) from application process to the termination process, including but not limited to their policies, practices and procedures. As part of the self-evaluation process, CDHS will advise counties to engage in a general "needs assessment" of CWP participants in their counties and to identify the services and assistance they need.
2. Upon completion of the self evaluation (above) CDHS/CWP and counties will make the necessary modifications to statutes, rules, policies, practices and procedures, and county plans, in order to ensure ADA and Section 504 compliance in a timely manner.
3. Obtain public input regarding the self-evaluation/needs assessment, and revision to rules, policies, practices and procedures.

B. Application and Eligibility Process

How does someone apply for Colorado Works in your County?

"[CWP] agencies with a complicated application and application process must modify their application and process to ensure accessibility to individuals with disabilities including learning disabilities, developmental disabilities, low IQs, etc." OCR Guidance, Part D.2.

It is critical the Colorado Works agencies provide, directly or by arrangement, alternative formats and accommodations, including translators and interpreters for filling out a written application and for other key aspects of the application and orientation processes.

EXAMPLES OF BEST PRACTICES

A CWP agency could accomplish this by:

1. Modifying the application form itself;
2. Obtaining information needed to apply for benefits through a verbal interview;
3. Providing necessary assistance for individuals with disabilities to complete the application process or by similar means. For example, CWP agencies should be cognizant of the amount of time required by applicants and participants to attend mandatory appointments and meetings during the application process. The CWP agency cannot presume that everyone applying for CWP is able-bodied.
4. Counties could make applications available at places other than social services for easier access.

Suggested Action Steps Regarding Application/Process (State and County):

1. Review application forms, layouts, and processes. Simplify applications as well as the process of applying. The forms should be consumer friendly and understandable. They also should advise applicants of their rights under the ADA and Section 504.
2. Provide reasonable accommodations and alternatives to the normal and customary application process for persons with disabilities or language or literacy barriers.
3. Counties should explain the process and market program services and assistance in such a way that they are accessible and understandable to all applicants/participants. For example, use videos, language access lines, pamphlets, symbols, and graphics to facilitate understanding.

C. Federal Notice of Rights under the ADA/Section 504

What does someone have a right to know?

CWP agencies are required to notify applicants and participants of the rights afforded them.

The notice must also be available in a form that is accessible to persons with disabilities, for example, brochures, room signs, verbal review of notice, videos, ASL interpreters, and audiotapes.

Written notices must be designed to ensure that individuals are not denied effective notice because of a disability. Communication with people with disabilities must be as effective as communications with others.

CDHS/CWP and counties or their designees must ensure that county programs are utilizing notices that are compliant with ADA and Section 504 if the programs choose not to use the model notice. See Monitoring and Oversight, OCR Guidance, Page 33.

EXAMPLES OF BEST PRACTICES FOR NOTICE LANGUAGE:

1. Language should inform the person that if he/she has a physical or mental condition that limits one or more major life activities "you may have rights under Section 504 or the ADA. Physical or mental conditions include, for example, a learning disability, mental retardation, a history of drug or alcohol addiction, depression, a mobility impairment or a hearing or vision impairment."
2. Advise the person to request an accommodation if she/he has a disability and that the agency can help.
3. Give examples of how the participant can be helped:
 - We can call or visit if you are not able to come to the office due to a disability-related issue.
 - We can tell you what this letter means.
 - We can help you /provide accommodations if you cannot do something in your plan.
 - We can help you with an employability plan that allows you to work within your disability limitations.
 - We can help you appeal.
 - If you need some other kind of help, ask us.
4. CWP agencies should post signs alerting people with disabilities about how to obtain further assistance. OCR Guidance , Part D.2.; Eileen P. Sweeney, *HHS Guidance Explains How Federal Laws Barring Discrimination Against People With Disabilities Apply to State and County TANF Programs*, page 10.

Suggested Action Steps Regarding Notices:

1. CDHS/CWP and counties will review all notices to determine if they comply with ADA and Section 504.
2. CDHS/CWP will develop elements that must be contained in a model notice and will develop a model notice for the CWP Program that includes the best practice language set out above. CDHS/CWP will advise counties that if they include the identified elements or they use the model notice, they can be confident they are complying with ADA and Section 504.

3. CDHS/CWP will make available posters that inform persons with disabilities about how they can obtain further assistance and that they have rights under the ADA and Section 504. All counties will be required to display the posters in general public areas.
4. All participants will use the ADA/Section 504 complaint procedure that is being developed by CDHS. Applicants and participants must have access to CDHS civil rights forms.

D. Modifications in Education, Job Training, Work Requirements, and Time Limits
What modifications, if any, should be considered for someone with regard to Education, Work Requirements and Time Limits?

See OCR guidance, Parts B & D.1.

Reasonable accommodations or modifications to policies, practices, and procedures must be made for persons with disabilities when appropriate, unless a fundamental alteration of the program would result.

Each individual must be screened and then assessed on their own merits and ability to comply with CWP program requirements. Persons with disability-related barriers must be given the opportunity to fully comply with all CWP program requirements with reasonable accommodations when appropriate. Disability in and of itself, however, does not automatically require a modification or an accommodation. Individualized assessments will assist in determining the need for a modification or accommodation.

In addition, guidance regarding what is and is not a fundamental alteration of program services and assistance must be made available to counties by CDHS/CWP.

EXAMPLES OF BEST PRACTICES:

1. Provide appropriate services based upon the needs of participants, for example, a person with a learning disability is provided with specialized instruction so the person can comply with his/her employment plan or IRC.
2. Engage in on-going contact with the participant to ascertain whether a disability is affecting his/her ability to make progress toward an employment goal. For example, do follow-up if appointments or deadlines are missed and refer for additional assessment if appropriate.
3. Continue to broadly define work activities. For example, continue to use discretion in defining countable work activities; also continue to permit county defined work activities so that participants are able to obtain the services and assistance they need.
4. Engage participants in work activities they are able to do at the point-in-time of assessment with additions or deletions to activities based on on-going assessments.
5. Grant an extension from the 60-month time limit as appropriate if a participant is actively engaged in an IRC.

6. Support application to other programs as appropriate by informing and assisting CWP beneficiaries with the application process for other programs.

Federal Guidance:

OCR Guidance , Parts B & D.2 and .3.

Suggested Action Steps (State and County)

1. CDHS/CWP has adopted a rule that requires counties make reasonable accommodations as appropriate ---- when persons with disabilities need such accommodations unless a fundamental alteration to the program would result. (Reference Volume III, 3.600.18) OCR Guidance, Parts B & D.2.
2. Counties will develop written policies, practices and procedures that require caseworkers make reasonable accommodations as appropriate for persons with disabilities unless a fundamental alteration in the program would result. OCR Guidance , Part D.3 (see page 15, paragraph 1).
3. All participants, regardless of ability and/or disability, should be engaged in appropriate activities that lead to self-sufficiency and that are within their ability to perform, be it a countable work activity or a county-defined work activity. OCR Guidance, Part D.1

E. Sanctions

What considerations should be made under the ADA with regards to Sanctions?

Sanction policies may have a discriminatory impact on people with disabilities. In the opening summary of the Guidance, OCR indicates that the Guidance will help TANF agencies understand when it is inappropriate to sanction certain families. The 1996 welfare law provides that a state is subject to a penalty if it does not properly impose sanctions on individuals who refuse to participate in work. HHS noted that this penalty applies both to a state's failure to sanction or over-sanction.

EXAMPLES OF BEST PRACTICES:

1. Have caseworkers ask the following questions before imposing a sanction:
 - Does the participant have any barriers, including disability-related barriers to employment **that hinder his/her** participation in CWP ?
 - Have reasonable accommodations been offered to participants if they have suspected or diagnosed disabilities?
 - Was good cause offered for non-cooperation or non-compliance **before a participant was issued a sanction notice?**
2. Prevention /intervention occurs prior to the sanction being initiated. This process provides an opportunity to gather the appropriate information about the participant and their circumstances before imposing a sanction.
3. Contacts with participants are made through various methods - phone, mail, and in person to increase accessibility.

4. All service providers involved with participants are notified and given the opportunity to participate in case staffings.
5. Cases are referred to a qualified professional who is able to perform and/or set up further assessment to identify disability related employment barriers and make recommendations or suggest appropriate accommodations.
6. Counties can select the least punitive sanction time frames.
7. Counties develop clear procedures and methods regarding when sanctions or terminations may be appropriate and inappropriate.
8. CWP agencies modify sanction policies to advance the objectives of the county's CWP program. OCR Guidance, Part D.2.
9. A county uses all available means, including county defined work activities, to make reasonable accommodations for persons with disability related barriers to employment. For example, a county grants an extension to a person with disabilities who is unable to complete an education or training program within the state imposed time limit if failure to do so is the result of a disability; or a county finds an alternative means of financial support, in lieu of sanction/termination for a person with a disability who is unable to meet program requirements.

Federal Guidance Regarding Sanctions:

OCR Guidance Summary; OCR Guidance, Parts D.2 and .3.

Suggested Action Steps (State and County)

1. CDHS/CWP will advise counties that they must develop a procedure for raising disability-related problems prior to sanctions being imposed. OCR guidance states that one of the procedural safeguards that is "integral to operating a non-discriminatory system is having a procedure in place for raising disability related problems prior to the imposition of a sanction." To do otherwise may result in the utilization of method of administration in sanctioning which has the effect of discrimination against a person with a disability. OCR Guidance, Part D.
2. Counties will make reasonable accommodations as appropriate, rather than sanctioning CWP participants who, due to their disabilities, are unable to comply with work or other program requirements. In addition, counties will be advised to ensure good cause issues are raised and addressed **prior** to sanctions being imposed. OCR Guidance Part D 3.
3. Counties will include disability related good cause guidance in their good cause policies.
4. Counties will educate participants about sanction policies, and should do so in alternative formats as needed or upon request, at the time of application as well as other relevant times while they remain in the CWP programs, for example., prior to being sanctioned.

5. CDHS/CWP will provide technical assistance to counties that will enable them to develop an educational training plan for their county staff and contractors regarding the utilization of reasonable accommodations in lieu of sanctions for individuals with possible disability related barriers.
6. CDHS/CWP will investigate methods to improve sanction data reporting requirements. For example, current sanctions are reported by the state and the counties as a point in time number of families being sanctioned. In order to understand the real impact of sanctions, it may be useful to know the cumulative number of sanctions.
7. CDHS/CWP will recommend that counties have a process in place to determine whether a family may be eligible for other services or assistance while they are being sanctioned and to provide information about other services and assistance that might be available while they are being sanctioned.

F. Case Management and Service Coordination

What are ADA considerations in regards to Case Management and Service Coordination strategies?

OCR recognizes the importance of case management and service coordination. They identify the key role that supportive services play for families with disabilities. OCR guidance addresses the multiple barriers these families will have to overcome in order to become self-sufficient and recognize that these services and supports are provided by a number of different governmental and non-profit agencies. OCR concludes that case management and service coordination are critical to the receipt of these services. Colorado's welfare reform law, specifically 26 C.R.S. Section 712 (7), requires CDHS/CWP develop case-management training for county staff and their contractors. By doing so, legislators acknowledged the critical importance of case management.

EXAMPLES OF BEST PRACTICES:

1. Counties will be encouraged to examine all cases that are approaching 24 and 60 month time limits for verification that the appropriate identification, assessment, accommodations, and services have been provided. If a county finds that it failed to provide the above in a timely manner, steps should be taken immediately to correct the situation in the fairest manner possible.

Suggested Action Steps for Case Management and Service Coordination:

1. CDHS/CWP will strongly encourage case management for all CWP participants, including those who have disabilities if they can benefit from it. It should also provide counties with training and technical assistance on the availability of TANF resources for services and benefits.

2. CDHS/CWP will assist counties in their efforts to ensure network adequacy.
3. CDHS/CWP will assist counties in identifying community resources with expertise in disability diagnosis and management.
4. CDHS/CWP will assist counties in developing a plan to ensure the development of collaborative relationships so that services needed by persons with disabilities are available/accessible in all parts of the state including rural areas that often do not have the adequate services available.
5. CDHS/CWP and counties should develop plans to ensure the collaboration of state and local agencies and providers that serve persons with disabilities. CDHS/CWP should strongly encourage cooperative efforts as a proven means of maximizing funding streams and program efficiencies that benefit all involved.
6. Counties will be encouraged to develop inter and intra-departmental relationships to facilitate transition from one program to another as needed and appropriate and to coordinate ongoing services.

**VIII. ADOPT NON-DISCRIMINATORY METHODS OF ADMINISTRATION (MOA) IN THE PROGRAM
ARE YOUR COUNTIES POLICIES, PRACTICES AND PROCEDURES CLEAR,
NON-DISCRIMINATORY AND USEFUL (DO THE PUZZLE PIECES FIT)?**

"A public entity may not directly or through contract or other arrangement, utilize criteria or methods of administration that among other things, have the impact of subjecting qualified individuals with disabilities to discrimination on the basis of disability or that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the public entity's program with respect to the individual with disabilities."

Suggested Action Steps (State and Counties)

1. Training

CDHS/CWP and counties will periodically provide comprehensive training on the ADA/Section 504 to all staff in order to ensure equal access to CWP programs for individuals with disabilities. Staff of service providers who have contractual/vendor relationships with CWP agencies should be encouraged to complete the training. Counties should also develop trainings for County Commissioners and others involved with CWP Programs to ensure compliance with the ADA/Section 504.

For example, ongoing training will be arranged by CDHS/CWP and counties as needed in order to accommodate staff turnover. Developing a curriculum regarding ADA/Section 504 and the implementation of it could make the task of providing ongoing training easier.

2. Clear and Comprehensive Written Policies

Policies should describe in detail how staff should respond when a CWP participant has a disability whether suspected, identified, or reported. Policies should address all stages of the process starting from the application process through the termination process. It also should be noted that individualized assessments done by professionals and their recommendations are key to ensuring that persons with disabilities receive the services and assistance they need to move to self-sufficiency. These policies should be incorporated into a manual or handbook along with any rules promulgated by CDHS/CWP and counties. County policies must be provided to CDHS/CWP and must be made available to applicants and participants.

Federal Requirements:

After completing the self-evaluation, including the needs assessment of the CWP population, CDHS/CWP and counties must develop and/or modify rules, written policies, procedures, and practices in order to ensure compliance with ADA and Section 504.

CDHS/CWP or its designee (for example, attorney general) or the counties or their designees (for example., county attorney) should review and approve all county policies, practices and procedures in order to ensure compliance with ADA and Section 504.

3. Data Collection

Data collection is necessary for the following reasons:

- ★ Identification of service gaps
- ★ Determination of the scope of the program
- ★ Demonstration of the need for services, education and training
- ★ Acknowledgement of success
- ★ Encouragement of creative program planning for the future
- ★ Pro-active problem solving
- ★ Developing caseload management techniques based upon population needs
- ★ Developing agency and community partnerships
- ★ Maximum utilization of inter-agency and inter-departmental funds

Methods for collecting data:

- Self-evaluation process
- Screenings and/or assessments
- Client interactions
- Exit Interviews
- Pre and post sanction
- Revision of current forms particularly intakes and IRCs
- Review of conflict resolution and appeal matters
- Anonymous visits to counties

CDHS/CWP will assist counties in developing data and information systems that will capture the data necessary to determine how persons with disabilities are being served in the counties and whether the policies and objectives of the counties' programs are being achieved. Effective June 2002, the Colorado Automated Client Tracking Information System (CACTIS) requires barrier information, including accommodation and resolution data, to be reported for all CWP participants in all counties. Such data is reported on a regular basis to CDHS/CWP. Also counties may choose to track former participants. CDHS will review current automated systems to assure adequate data collection. CDHS will also review requirements for future automated systems for same. CDHS will attempt to collect relevant data during County Program Reviews, monitoring and site visits.

5. Monitoring and Oversight

Title II regulations do not discuss or specifically require compliance monitoring by public entities. However the need to monitor follows from other Title II requirements. As a practical matter, compliance monitoring is the only way of ensuring that public entities comply with Title II and ensuring that persons with disabilities have access to and is used by people with disabilities.

In order to ensure that policies, practices and procedures are not discriminatory, monitoring and oversight is necessary. OCR Guidance, Part B. c. CDHS/CWP will perform regular oversight and monitoring of CWP programs to ensure equal access for persons with disabilities, to ensure that the other goals of national disability policy are met and that policies, practices and procedures do not subject individuals with disabilities to discrimination. OCR Guidance, Parts B.c & D.3.

Methods for monitoring and enforcement include but are not limited to:

1. Evaluate the current needs of participants with disabilities;
2. Assess whether existing screening and assessment tools are adequate;
3. Determine whether the services and assistance provided are meeting the needs of participants;
4. Determine whether staff is knowledgeable about ADA/Section 504 policies and practices re the and how to implement them;
5. Determine whether sources of and arrangements for assistance are viable;
6. Periodic monitoring of counties is critical to ensure non-discriminatory practices and procedures.
7. Develop a procedure to assist counties in correcting any violations or potential violations and in modifying policies/ practices, and procedures.

8. Establish an Independent Review Board for all complaints including those related to disabilities.
9. Allow a consumer advocacy Board that includes persons with disabilities to review all state and county policies, practices, and procedures.

Federal Guidance Regarding Monitoring and Enforcement:

Law/Guidance: OCR Guidance, Part D.3.

OCR identifies procedural safeguards that are integral to operating a non-discriminatory system consistent with 504 and ADA. They include but are not limited to the following:

- A complaint process and procedures (mentioned above);
- Procedures for raising disability-related issues prior to sanctioning (mentioned above); and
- Establish and publish procedures for resolving complaints.

CDHS/CWP and counties will make every attempt to include persons with disabilities and their advocates in the development of policies, procedures, and practices, i.e. the development of their MOA Plans.

"One of the goals of disability policy articulated in the ADA is full participation by individuals with disabilities, their families and their representatives, in decisions affecting their lives at the individual and systems level.... At the systems level, full participation requires various forms of citizen participation in the design, implementation and evaluation of programs and policies.... 85 Iowa Law Review [2000] (pages 1691-1750, at 1724).

CDHS/CWP and counties will perform self-evaluations to determine if their CWP programs are in compliance with Section 504 and the ADA. Subsequently, CDHS/CWP and counties must identify steps they will take to ensure compliance. CDHS shall provide the counties with technical assistance concerning how to do a self-evaluation/needs assessment.

As part of the self-evaluation process, CDHS/CWP and counties must do needs assessments of their CWP population. The needs assessments should be designed to identify the prevalence of persons with disabilities in the CWP population and their needs. This is critical in order to determine, among other things, appropriate screening devices, comprehensive assessments, the nature and mix of services, supports, appropriate outcome measures, and the training of personnel necessary to accomplish the objectives of the state and the counties' programs. The only way to ensure effective and meaningful participation is to know how many people need to be served and what their needs are.

CDHS and counties must ensure that they have an ADA Resource Specialist who have the authority to ensure ADA and Section 504 compliance. 29 C.F.R. Section 37.54 (1999). That is, ensure that she/he has the knowledge and authority to monitor and

review policies, practices and procedures and to make any necessary changes that may be required.

All County and State ADA Resources specialists should coordinate their efforts to ensure ADA compliance.

OCR has recommended that CDHS and all county human services offices designate a Section 504/ADA Coordinator. That coordinator should be identified in writing and notice of their identities published.

CDHS/CWP and counties will develop monitoring and enforcement plans to ensure ADA and Section 504 compliance and will seek assistance, when necessary, from OCR and the CDHS Civil Rights Director about how to carryout these obligations.

CDHS/CWP and counties will evaluate their anti-discrimination policies and update or modify them as necessary.

CDHS/CWP and counties will disseminate anti-discrimination policies to participants, employees, and contractors.

CDHS/CWP will assist counties in creating a transition plan to coordinate continuity of services for those moving from CWP to SSI/SSDI or other systems.

EXAMPLES OF BEST PRACTICES:

1. Develop a procedure to assist counties in correcting or modifying any violations and penalties for non-compliance.
2. Establish a procedure for specific disability related barrier review for cases opened over a certain period of time or cases that historically have been opened and closed multiple times.
3. Establish a process for systematic review of sanctioned and closed cases to ensure appropriate actions are being taken in cases and establish a process to reverse wrongful sanctions and case closures.
4. Establish a random procedure to spot check case for the above reasons.
5. Ensure checking for disability related issues are part of all case reviews.
6. Establish a mechanism to establish or extend a person's time-clock if it is found that the county participated in discriminatory activities that impeded the individual's participation or employment.

IX. CHILDREN AND HOUSEHOLD MEMBERS WITH DISABILITIES HOW DO COUNTIES SERVE THE WHOLE FAMILY?

Law /Guidance: The ADA and Section 504 prohibit discrimination against a person based upon the known disability of an individual with whom the individual has a relationship or association. OCR concludes that where "a family has a child whose

disability affects the parents' ability to work, the CWP agency should modify its practices and procedures to facilitate participants' compliance with employment plans and other program requirements."

EXAMPLES OF BEST PRACTICES:

1. Grant a parent an extension of time to meet the work requirements until the specialized childcare required by for the child is available or until the state can help the parent identify appropriate childcare.
2. If childcare is unavailable then work with the parent to develop appropriate and meaningful employment from home if possible.
3. When a parent begins to work and then becomes unable to work because of the repeated need to leave work to care for the child with a disability, the CWP agency establishes procedures which ensure that the family is not sanctioned for the parent's inability to retain her job.

X. MISCELLANEOUS RECOMMENDATIONS

HOW WILL THE STATE ASSIST COUNTIES?

1. CDHS will provide all counties with federal ADA and Section 504 Guidance on an ongoing basis or ensure that counties are advised that the Guidance was sent and that an agency letter reflecting the need to comply with ADA/Section 504 will be sent.
2. CDHS/CWP will initiate a process for gathering, distributing and publicizing best practices in the area of ADA/Section 504 compliance. The method of sharing this information should be easily accessible to all counties and to other interested members of the public including participants. Utilization of the internet, for example, would make such information easily accessible.

ACKNOWLEDGEMENTS

The Colorado Department of Human Services/Office of Self-Sufficiency Colorado Works Division would like to recognize the many individuals who contributed their hard work, time and dedication to the development of this **Colorado Works Practitioners Resource Guide**.

Ann Mannering, UCHSC/Project Win
Carole Custer, CDHS/State Board
Colleen Jones, SSA
Donette Thayer, El Paso County Human Services
Gina Luby, Mesa County Workforce Center
Joe Barela , CDHS/Colorado Works
Judy Emery, UCHSC/Project Win
Kris Saurini, ARC of Adams County
Kristina Bulik-Holcum, Larimer County Workforce Center
Linda McCoy, CDFS/Division of Vocational Rehabilitation
Linda Olsen, Colorado Legal Services
Marie Valenzuela, CDLE
Mary Ellen Arthur, The Gathering Place
Mary Kay Cook, CDHS/ Colorado Works
Maureen Farrell, Colorado Center on Law and Policy
Rose Trujillo, CDHS/Civil Rights
Sabrina Hicks, CDHS/Civil Rights
Stacey Price-Farmer, Arapahoe/Douglas Works!
Tayra Doreste, Boulder County Workforce Center





cdhs

Colorado Department of Human Services
people who help people

