



**POLICY
NUMBER
037**

Administrative Policy

Title:	Work Requirement Penalties and Pre-Penalty Counseling		
Program:	Welfare Transition		
Effective:	January 21, 2004	Revised:	October 7, 2024

I. PURPOSE AND SCOPE

The purpose of this policy is to provide the Local Workforce Development Boards (LWDBs) with instructions to manage pre-penalty counseling and work penalties process(es) for Welfare Transition (WT) participants.

II. BACKGROUND

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, also known as the 1996 Welfare Reform Act, became law effective August 22, 1996. The PRWORA changed cash assistance from an open-ended entitlement program to a time-limited cash assistance program, created the federal Temporary Assistance to Needy Families (TANF) Program, which replaced the Aid to Families with Dependent Children and required work requirements of recipients in exchange for Temporary Cash Assistance (TCA). Note: Cash assistance is limited to a lifetime total of 48 months as an adult, unless otherwise provided by law

Families receiving TCA must participate in work activities¹ or comply with their Individual Responsibility Plan (IRP) or Alternative Requirement Plans (ARP), as a condition of

¹ Florida defines its work activities in its approved Work Verification Plan. The state uses the same definition for each work activity as described in the Deficit Reconciliation Act of 2005.

receiving TCA, unless they are exempt. Specific work activities must be done for the minimum number of hours assigned by the Local Workforce Development Board (LWDB). Work activities include but are not limited to: unsubsidized employment; subsidized private-sector employment or public-sector employment; work experience; on-the-job training (OJT); and community service programs.

The Department of Children and Families (DCF) imposes penalties, also known as sanctions, to Welfare Transition (WT) participants for noncompliance with work activities and failure to comply with the IRP and/or ARP. The request for penalties is made to DCF by the LWDB when an individual in a family receiving TCA fails to engage in required work activities.

House Bill 1267, effective July 1, 2024, amended section 414.065, F.S. to provide good cause for noncompliance with work requirements for a specified time period under certain circumstances.

III. AUTHORITY

[Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, Section 408](#)

[45 Code of Federal Regulations \(C.F.R.\) 261.30](#)

[Section 445.024, Florida Statutes \(F.S.\)](#)

[Section 414.065, F.S.](#)

[Florida Administrative Code 65A-4.205](#)

IV. POLICIES AND PROCEDURES

LWDBs must ensure that each mandatory adult participant in a family receiving TCA, who does not meet an exception, participates in work activities for a minimum number of hours each month as a condition of receiving cash benefits. Work activities are broken out into two categories – Core and Core Plus. Core activities can stand alone and do not require another activity to meet the work participation requirements. Core Plus activities must be accompanied by a minimum number of hours of participation in a core activity to meet the

Final Regulations, 45 CFR Parts 261, 262, 263 and 265, Reauthorization of the Temporary Assistance for Needy Families Program, Final Rule published Feb. 5, 2008.

work participation requirements. There are a total of twelve core and core plus work activities that a participant may be assigned to which includes:

Core Work Activities

- Unsubsidized Employment
- Subsidized Private Employment
- Subsidized Public Employment
- Vocational Education Training
- Providing Child Care Services
- Job Search and Job Readiness Assistance
- Work Experience
- Community Service
- On-the-Job Training (OJT)

Core Plus Work Activities

- Job Skills Training
- Education Directly Related to Employment
- Satisfactory Attendance in GED/Secondary Program

Failure of a participant to comply with work activities, without an exception or good cause, will result in penalties being applied.

A. Noncompliance Exceptions

The following are good cause exceptions to the non-compliance penalties; however, they do not constitute exceptions to the applicable time limits for receipt of TCA. Before the LWDB requests a sanction, a participant must be notified orally or in writing that he or she is subject to sanction and that action will be taken to impose the sanction, unless the participant complies with the work activity requirements. The participant must be counseled as to the consequences of noncompliance and, if appropriate, referred for services that could assist the participant to fully comply with program requirements. If the participant has good cause for noncompliance or demonstrates satisfactory compliance, the sanction may not be imposed.

1. **Noncompliance related to child care:** Temporary cash assistance may not be terminated for refusal to participate in work activities if the individual is a single parent caring for a child who has not attained 6 years of age, and the adult proves to the LWDB an inability to obtain needed child care for one or more of the following reasons, as required in 45 C.F.R. section 261.56(b):
 - a. Appropriate child care – An eligible child care provider as defined in 45 CFR 98.2 and section 1002.88, F.S. Child care options must have hours of

operation that meet the needs of the parent's work schedule and meet any special needs of the individual child.

- b. Reasonable distance – Reasonable distance depends on the geographic area and availability of public transportation. Staff must discuss and determine mileage and/or time needed for travel to and from the job site with the participant.
- c. Unsuitability of informal child care – Informal child care is suitable only to the extent such care is provided within the constraints of applicable federal and state laws, regulations, and requirements.
- d. Affordable child care arrangements - Annually, the Department of Education's (DOE) Division of Early Learning (DEL) Child Care Resource and Referral Network surveys all legally operating child care providers to obtain program and rate information. DEL combines the payment rate data with the Florida Department of Commerce's (FloridaCommerce) Bureau of Workforce Statistics and Economic Research data on the average salary of child care personnel and data from child care providers on the average cost of child care (materials, curricula, food, maintenance costs, and average cost of regulatory fees). This information is then submitted to the state's Early Learning Programs Estimating Conference. The conference uses the data to set the maximum reimbursement rates for the state.

2. **Noncompliance related to domestic violence:** An individual who is determined to be unable to comply with the work requirements because such compliance would make it probable that the individual would be unable to escape domestic violence or due to mental or physical impairment related to past incidents of domestic violence, must be excused from work requirements. However, the individual must comply with a jointly developed plan that specifies alternative requirements that prepare the individual for self-sufficiency, while providing for the safety of the individual and the individual's dependents. This plan is commonly referred to as the ARP.
3. **Noncompliance related to medical incapacity:** An individual who cannot participate in assigned work activities due to a medical incapacity the individual may be excused from the activity for a specific period, except that the individual must be required to comply with the course of treatment necessary for the individual to resume participation. The participant's medical incapacity must be verified by a physician licensed under chapter 458 or chapter 459, F.S. An individual for whom there is medical verification of limitation to participate in work activities must be assigned to work activities consistent with such limitations. Evaluation of an individual's ability to participate in work activities or development of a plan for work activity assignment must include vocational assessment or work evaluation. The department or a local workforce development board must require an individual to cooperate in medical or vocational assessment necessary to evaluate the individual's ability to participate in a work activity.

4. **Noncompliance related to outpatient mental health or substance abuse treatment:** If an individual cannot participate in the required hours of work activity due to a need to become or remain involved in outpatient mental health or substance abuse counseling or treatment, the individual may be exempted from the work activity for up to five hours per week, not to exceed 100 hours per year to participate in counseling or treatment. An individual may not be excused from a work activity unless a mental health or substance abuse professional certifies the treatment protocol and provides verification of attendance at the counseling or treatment sessions each week.
5. **Noncompliance due to medical incapacity by applicants for Supplemental Security Income (SSI) or Social Security Disability Income (SSDI):** An individual subject to work activity requirements may be exempted from work requirements if the individual provides information verifying that he or she has filed an application for SSI disability benefits or SSDI disability benefits and the decision is pending development and evaluation under social security disability law, rules, and regulations at the initial reconsideration, administrative law judge, or Social Security Administration Appeals Council levels.
6. **Other good cause exceptions for noncompliance:** Individuals who are temporarily unable to participate due to circumstances beyond their control may be excepted from the noncompliance penalties. As set forth in Rule 65A-4.205, F.A.C., other good cause reasons for failure to comply include the temporary inability to participate due to circumstances beyond the participant's control such as:
 - a. A family emergency due to the inability to find suitable child care for a sick child under age 12.
 - b. Hospitalization, medical emergency, or death of an immediate family member.
 - c. Natural disaster.
 - d. Lack of transportation.
 - e. Court appearance.
 - f. Caring for a disabled family member when the participant provided verification of the need for care and alternative care is not available.

The LWDB must determine exceptions to noncompliance penalties based on the information provided by the participant. The LWDB must document in the One-Stop Service Tracking (OSST) system any good cause or exception to noncompliance in the participant's case file. The LWDB must also secure and maintain a copy of supporting documentation.

If a participant demonstrates limitations to assigned work requirements and IRP requirements, the LWDB must jointly develop an ARP with the participant. The ARP must include activities that the participant has the capacity to achieve. The LWDB must apply penalties to individuals who do not comply with the ARP.

B. Pre-Penalty Counseling

Individuals failing to comply with work activities will be mailed the Notice of Failure to Participate (FloridaCommerce WTP 2290) within two working days following the failure. This form notifies the participant of the failure and possible sanction by the LWDB. The notification must inform the individual that he or she has ten calendar days from the date the notification was mailed to contact the LWDB to provide a good cause reason as to why he or she did not comply with the work requirement.

During the ten-day period, the LWDB is required to make both **oral** and **written** attempts to contact and to counsel the participant. **Note:** This written correspondence is satisfied by the issuance of the Notice of Failure to Participate (FloridaCommerce WTP 2290). The LWDB must counsel the participant to:

- a. Determine if the participant had good cause for failing to meet the work requirement;
- b. Refer to or provide services, if appropriate, to assist with the removal of barriers to participation;
- c. Understand the consequences for failure to comply with work or alternative requirement plan activity requirements without good cause in accordance with Section 414.065, Subsection (1);
- d. Provide information regarding transitional benefits in accordance with Section 445.028(2), F.S., if the participant subsequently obtained employment; and
- e. Understand that compliance with work activity during ten-day period will avoid the imposition of a sanction. The LWDB must provide the participant with another work activity within the ten-day period, if it is impossible for the participant to comply with the original assigned activity.

If during the oral counseling, the participant does not choose to comply with the program requirements, staff must make an attempt to complete the required exit survey using Jotform. Additionally, to document the completion of the exit survey, staff must update the Skill Development screen in OSST with activity code 29 to include a start date, end date, and outcome. Note: If the participant refuses to provide responses for the exit survey, staff must document the participant's refusal and the staff's attempt to complete the exit survey via case notes.

If the participant indicates noncompliance due to having obtained employment, the LWDB must inform the participant about transitional and cash assistance severance

benefits that may be available to them. TCA recipients who have been determined ineligible for cash assistance for a reason other than noncompliance with work requirements are eligible for voluntary case management services via the LWDB. These services must include career planning, job search assistance, resume building, and basic financial planning that includes utilizing the OSST budget planner wizard and the [Career Ladder Identifier Financial Forecaster \(CLIFF\) Dashboard tool](#) to demonstrate future financial impacts of the participant's change in income and benefits over time. The LWDB must also follow the Local Operating Procedures (LOPs) for determining when participants have complied with work activity requirements outlined in their plan.

Case managers must also administer an exit survey using Jotform for participants leaving the program according to their LOP guidance.

If the participant does not contact the LWDB within the pre-penalty 10-day period, the LWDB staff must request the sanction. In this instance, staff is not required to complete the exit survey due to the lack of response by the participant.

C. Penalty Imposition

The LWDB must request a penalty for a noncompliant participant who does not meet an exception or demonstrate good cause for failure to comply with program requirements. The LWDB must document pre-penalty counseling and any additional steps taken to facilitate participant compliance prior to requesting a penalty. There are three levels of penalties or sanctions that may be applied to families with noncompliant individuals as follows:

1. First Noncompliance

TCA is terminated for the family for a minimum of ten days from the effective date of the sanction or until the participant complies with the work requirements.

2. Second Noncompliance

TCA is terminated for the family for one month or until the participant complies with the work requirements, whichever is later. When the noncompliant participant meets the work requirement, TCA must be reinstated to the date of compliance or the first day of the month following the penalty period, whichever is later. TCA may be continued for children, under age 16, through a protective payee.

3. Third Noncompliance

TCA is terminated for the family for three months or until the date the participant complies with the work requirements, whichever is later. When the participant meets this requirement, the program must reinstate TCA to the date of compliance

or the first day of the month following the penalty period, whichever is later. TCA may be continued for the children, under age 16, through a protective payee.

If a participant receiving temporary cash assistance who is otherwise exempted from noncompliance penalties fails to comply with the alternative requirement plan required in accordance with this section, the penalties mentioned in this section apply. In addition to penalties for TCA, the family's food assistance benefits will also have penalties applied for each noncompliance level.

D. Procedures for Local Workforce Development Boards

If an individual is non-compliant with a work requirement or the ARP, the LWDB staff member must:

1. Mail the Notice of Failure to Participate (FloridaCommerce 2290) to the participant within two working days after the first failure. This form notifies the participant of the failure and possible sanction by the LWDB. The notification must inform the individual that he or she has ten calendar days from the date the notification was mailed to contact the LWDB to provide a good cause reason as to why he or she did not comply with the work requirement.
2. During the ten-day period, the LWDB designee is required to make both **oral** and **written** attempts to contact and to counsel the participant. Note: This written correspondence is satisfied by the issuance of the Notice of Failure to Participate (FloridaCommerce WTP 2290). The written and oral attempts made via phone or through another locally determined method should be documented in the case notes in the OSST system. If the participant does not have a phone, or the number is disconnected, that should be documented as an attempt.
3. If the participant does not respond and the oral and/or written attempts are not successful, a sanction must be requested after allowing the 10 calendar days for the participant to respond.
4. If the oral/written contact is successful or the individual responds prior to the 10 calendar days, the LWDB must determine if good cause exists for the failure and clearly document this in OSST.
5. If good cause is determined, the sanction process ends. The pre-penalty will be ended with good cause and the end date in OSST would be the same as the failure date. A sanction should not be requested if good cause is established.
6. If the requirements of s. 445.024(2)(a)1. related to participation in adult general education or high school equivalency examination preparation are suspended pursuant to s. 445.024(2)(a)2., a participant in noncompliance because of such

suspension is considered to have good cause for noncompliance for up to 6 weeks after the change in the participant's work requirements. This timeframe allows the participant to transition from the adult general education or high school equivalency examination preparation courses to another activity without adverse impacts.

7. If the participant has subsequently obtained employment, the participant must be counseled regarding the transitional benefits that may be available and provided with information on how to access such benefits.
8. If good cause is not determined but the individual agrees to demonstrate satisfactory compliance:
 - a. Provide counseling regarding the consequences of noncompliance and determine services the participant will need that would assist him or her in becoming compliant.
 - b. Assign the participant to an activity or other work requirement. End the pre-penalty with "compliance" once the individual begins complying using the date they agreed to comply as the end date. It is important to develop an Alternative Requirement Plan, if appropriate.
 - c. If the individual complies and does not have another failure without good cause within 30 calendar days from the date of the first failure, the sanction process ends, and a sanction is not requested.

If a participant's cash assistance case is closed due to a sanction and the participant reapplies for cash assistance, DCF will refer the participant to the LWDB to comply. When the participant complies, the LWDB must send a request to DCF and DCF will lift the sanction and approve the benefits.

Any month a family receives a TCA payment, including payments to a protective payee, is considered a time-limited month. Any month for which a family does not receive a payment is not counted as a time-limited month for calculating time limits, even if the total absence of payment is due to a penalty for noncompliance. DCF is responsible for managing and calculating time limits.

The LWDB must inform participants during noncompliance counseling that continuation of TCA through a protective payee counts toward the family's cumulative time limit.

E. Protective Payee

Persons who are sanctioned under a level two or three penalty may request a protective payee to receive TCA on behalf of the children. DCF will designate the protective payee. If a sanctioned participant with a protective payee report that he or she has obtained employment, the participant is not eligible for transitional benefits or services. However, the LWDB must advise the participant to comply with the work requirements and serve the penalty period in order to get the sanction lifted. The LWDB may provide referrals to community agencies to assist the participant with securing support for retaining employment.

F. Failure to Demonstrate Satisfactory Compliance

Failure to demonstrate satisfactory compliance occurs when a participant has more than one failure within a 30-calendar day period without good cause. The LWDB must document a second failure to comply within the 30-calendar day compliance period in OSST. Good cause reported by the participant must also be recorded in OSST and the sanction request must not be made.

If good cause is not reported within three working days after the second failure occurs, the LWDB must request a sanction. A Notice of Failure to Demonstrate Satisfactory Compliance (FloridaCommerce WTP 2292) must be mailed to the participant within three business days from the date of the failure.

If the participant fails to comply due to having obtained employment, the LWDB must verify the employment and enter the information in OSST and must administer the exit survey. The LWDB must record the name and address of the employer and person contacted, as applicable, date employment began, wages, the number of hours worked per week, and the type of work being performed. If the participant is not employed for a minimum of thirty hours per week and remains TCA-eligible, the LWDB must assign the participant to additional countable work activity hours.

The LWDB must also advise the participant of all available transitional benefits, to include the use of the OSST budget planner wizard and the [CLIFF Dashboard tool](#). A participant whose assistance is terminated due to a work program sanction is not eligible for transitional benefits.

G. Forgiveness Policy

Section 414.065, F.S. provides that if a participant fully complies with work activity requirements for at least 6 months, the participant must be reinstated as being in full compliance with program requirements for the purpose of sanctions imposed. If an individual is compliant for six months after a sanction is lifted due to compliance, any subsequent sanction would be treated as a level one. For example, if an individual fully complies for a minimum of six months after complying to have a level three sanction

lifted, the next sanction would be considered a level one.

The compliance period, as pertains to the forgiveness policy, does not have to be for six consecutive months. If the mandatory participant's case closes for any reason, other than a work penalty, the time the participant was in compliance with the WT program is counted towards the forgiveness period. The receipt of transitional services or the time during which the participant is in "transitional status" does not count as compliance towards the forgiveness period.

H. Local Operating Procedures

The LWDB must develop Local Operating Procedures (LOP) to guide the LWDB staff with policies related to pre-penalty counseling and work requirement penalties. LOPs are specific instructions that outline steps or activities to carry out the routine functions associated with pre-penalty counseling and work requirement penalties.

The LWDB must develop local operating procedures (LOPs) for implementing work penalties and pre-penalty counseling as appropriate to operate the program.

The LWDB must also include in its LOPs a frequency for which a staff member will follow up with a participant to determine whether an exception or good cause for noncompliance is ongoing.

I. State and Local Monitoring

The LWDB must enter data and case notes into the state's management information system accurately and timely. Services and activities provided through the Welfare Transition program will be monitored annually for compliance with programmatic requirements by FloridaCommerce. FloridaCommerce will monitor the requirements outlined in this policy and local operating procedures.

Additionally, LWDBs must establish local monitoring policies and procedures that include, at minimum:

- a. The roles of the participant and LWDB staff related to work requirement penalties and pre-penalties.
- b. Local monitoring procedures of work penalties and pre-penalty counseling to ensure that all parties are and remain in compliance.

V. DEFINITIONS

Alternative Requirement Plan – A written document that outlines alternative activities that the participant will be engaged in to move them towards program participation and/or employment. The plan is developed jointly by LWDB staff, and the participant and it remains in effect until it is no longer needed.

Exception – When a participant is excluded or excused from participating in work activities due to a temporary situation that has been defined as good cause not to participate.

Exemption - When a participant is not required to comply with the work activities due to meeting one of the specific reasons defined by Chapter 445.024(3), F.S.

Good Cause - The inability to participate in work requirements due to circumstances beyond the participant's control.

Individual Responsibility Plan - A mutually agreed upon plan between the LWDB staff and participant that outlines specific employment goals, services to be provided to participant, training, work activities, expectations of LWDB staff, and other specific information that the participant will be engaged to fulfill his/her work activity requirements.

Protective Payee - An individual assigned by DCF to receive public assistance payments on behalf of another person.

Sanction - A temporary reduction in cash benefits that is applied to a TANF case when a participant does not meet work participation requirements.

VI. REVISION HISTORY

Date	Description
10/07/2024	Revised and renamed to Work Requirement Penalties and Pre-Penalty Counseling; aligned to House Bill 1267.
01/21/2004	AWI Final Guidance 03-037, Work Penalties and Pre-Penalty Counseling, January 21, 2004, issued by the Agency for Workforce Innovation.

VII. ATTACHMENTS

[Notice of Failure to Participate and Possible Sanction FloridaCommerce WTP 2290](#)

[Notice of Failure to Demonstrate Satisfactory Participation, FloridaCommerce WTP 2292](#)