

## Section 385.11 - Conciliation

### Table of Contents

Section 385.11 - Conciliation.....	1
Part A - The Regulations .....	2
Part B - Department Policy .....	8
Conciliation for Instances of Noncompliance.....	8
New York City .....	8
Districts Outside Of New York City.....	11
Supplemental Nutrition Assistance Program (SNAP): .....	12
Creating the Conciliation Notice .....	14
Dispute Resolution (Temporary Assistance) .....	15
Part C - Questions and Answers.....	16

## Part A - The Regulations

- a) Conciliation for refusal or failure to comply with public assistance work requirements for individuals not living in a city with a population of 1,000,000 or more people.
- 1) The social services official shall issue a conciliation notice to any applicant for or recipient of public assistance who has refused or failed to comply with the requirements of this Part. However, no notice of conciliation shall be issued to: an applicant deemed ineligible for public assistance pursuant to section 385.2(c)(1) of this Part; an applicant who is ineligible for public assistance pursuant to section 385.6(a)(7)(i) of this Part; an applicant who is ineligible for public assistance pursuant to section 385.7(a)(7)(i) of this Part; or an applicant who is ineligible for public assistance pursuant to section 385.9(e)(5) of this Part.
  - 2) Such notice shall:
    - i) indicate that a failure or refusal to participate has occurred;
    - ii) indicate the specific instance or instances of willful refusal or failure to comply without good cause with the requirements of this Title;
    - iii) indicate that the individual has a right to provide reasons for such failure or refusal to participate;
    - iv) Include an explanation of what constitutes good cause for non-compliance and acceptable forms of evidence that may warrant an exemption from work requirements including, but not limited to, evidence of domestic violence, and/or physical and/or mental health conditions. Such evidence may be provided at the conciliation conference;
    - v) include the necessary actions that must be taken to avoid a *pro rata* reduction in public assistance benefits; and
    - vi) indicate that, in the case of an applicant for or recipient of family assistance, the individual shall have 10 days from the date of the conciliation notice to request a conciliation, and in the case of an applicant for or recipient of safety net assistance, 7 calendar days from the date of the conciliation notice to request conciliation.
  - 3) If the individual does not contact the social services official within the periods set forth in paragraph (2) of this subdivision, the social services official shall issue a notice of denial or a 10-day notice of intent to discontinue or reduce public assistance. Such notice shall:

- i) be designed by the office; provided, however, that the social services official may submit for approval a local equivalent which meets the requirements of this paragraph;
    - ii) indicate the specific instance or instances of willful refusal or failure to comply without good cause with the work requirements of this Part;
    - iii) indicate the necessary actions that must be taken to avoid a *pro rata* reduction in public assistance benefits; and
    - iv) include a statement, approved by the commissioner and in accordance with the provisions of Part 358 of this Title, indicating that the individual has the right to a fair hearing related to such denial, discontinuance or reduction.
  - 4) If the individual contacts the social services official within the periods set forth in paragraph (2) of this subdivision, the individual shall be responsible for providing the social services official with reasons for his or her failure or refusal to comply.
    - i) if the social services official determines that the individual's refusal or failure to comply was willful and without good cause, the social services official shall issue a 10-day notice pursuant to the requirements of paragraph (3) of this subdivision;
    - ii) if the social services official determines that the individual's failure or refusal to comply was not willful or was with good cause, the procedure shall terminate.
  - 5) The conciliation period shall last no longer than 14 calendar days from the date on which an applicant for or recipient of safety net assistance requests conciliation, and no longer than 30 calendar days from the date of the conciliation notice issued to an applicant for or recipient of family assistance, unless the individual and the social services official agree that the conciliation period should last longer.
- b) Reengagement/conciliation; refusal to participate with public assistance work requirements for individuals living in a city with a population of 1,000,000 or more people.

(1) The social services official shall issue a reengagement/conciliation notice to any applicant for or a recipient of public assistance who has refused or failed to comply with the requirements of this Part. However, no notice of reengagement/conciliation shall be issued to: an applicant deemed ineligible for public assistance pursuant to section 385.2(c)(1) of this Part; an applicant who is ineligible for public assistance pursuant to section 385.6(a)(7)(i) of this Part; an applicant who is ineligible for public assistance pursuant to section 385.7(a)(7)(i) of this Part; or an applicant who is ineligible for public assistance pursuant to section 385.9(e)(5) of this Part.

(2) Such notice shall:

- (i) indicate that a refusal or failure to participate has occurred;
- (ii) indicate the specific instance or instances of willful refusal or failure to comply without good cause with the requirements of this Title;
- (iii) indicate that the individual has a right to provide reasons for such refusal or failure to participate or to avoid a *pro rata* reduction in public assistance benefits;
- (iv) include an explanation of what constitutes good cause for non-compliance and acceptable forms of evidence that may warrant an exemption from work requirements including, but not limited to, evidence of domestic violence, and/or physical and/or mental health conditions. Such evidence may be provided at the reengagement/conciliation conference;
- (v) indicate that the individual's case was reviewed before sending the notice required pursuant to this section and that the social services district has determined, based on the information available at the time of the review, that appropriate child care, transportation and accommodations for a disability as reasonably known to the social services district to have been appropriate to the individual were available at the time of the refusal or failure to participate;
- (vi) include the necessary actions that must be taken to avoid a *pro rata* reduction in public assistance benefits, including reengaging in work activities as assigned by the social services district for a minimum of 5 business days but no more than 10 business days. An individual may also avoid a *pro rata* reduction in public assistance benefits by documenting an exemption pursuant to section 385.2 of this Part; and
- (vii) indicate that the individual shall have 10 calendar days from the date of the reengagement/conciliation notice to request reengagement/conciliation.

(3) If the individual does not contact the social services official within 10 calendar days from the date of the reengagement/conciliation notice, the social services official shall make a finding of whether the alleged refusal or failure to comply was willful and without good cause. The social services district shall consider any evidence in the possession of the social services district indicating that the participant has good cause. If the individual is otherwise participating in work activities as assigned by the social services district, there shall be no finding of willfulness without good cause based on a single missed appointment or infraction. If the social services district determines that the noncompliance was willful and without good cause, the individual has not reengaged in work requirements as assigned by the social services district and the individual has not documented that he/she is exempt from the assigned work requirement, the social services district shall issue a notice of denial or a 10-day notice of intent to discontinue or reduce public assistance. Such notice shall:

(i) be designed by the office; provided, however, that the social services official may submit for approval a local equivalent form which meets the requirements of this paragraph;

(ii) indicate the specific instance or instances of willful refusal or failure to comply without good cause with the requirements of this Title;

(iii) indicate that the social services district has determined, based on the information available to the social services district at the time of the review, that appropriate child care, transportation and accommodations for a disability as reasonably known to the social services district were available at the time of the failure to participate;

(iv) indicate the necessary actions that must be taken to avoid a *pro rata* reduction in public assistance benefits including reengaging in work requirements as assigned by the social services district or documenting that he/she has become exempt from the requirement to participate in work activities pursuant to section 385.2 of this Part; and

(v) include a statement approved by the commissioner, and in accordance with the provisions of Part 358 of this Title, indicating that the individual has the right to a fair hearing related to such denial, discontinuance or reduction.

(4) If the individual contacts the social services official within the period set forth in paragraph (2) of this subdivision, the individual shall be responsible for providing the social services official with the reason(s) for his or her refusal or failure to comply.

(i) If the social services official determines that the individual's refusal or failure to comply was willful and without good cause and the individual does not reengage in work requirements as assigned by the social services district for a minimum of 5 business days but not more than 10 business days, the social services official shall issue a 10-day notice pursuant to the requirements of paragraph (3) of this subdivision.

(ii) If the social services official determines that the individual's refusal or failure to comply was not willful or was with good cause or the individual reengages in work requirements as assigned by the social services district for a minimum of 5 business days but not more than 10 business days, the reengagement/conciliation procedure shall terminate.

(5) The reengagement/conciliation period shall last no longer than 30 calendar days from the date of the conciliation notice issued to a public assistance applicant or recipient, unless the social services official extends the conciliation period based on case specific circumstances.

(6) No notice shall be sent unless it has been determined that the individual is not exempt and that appropriate child care, transportation and accommodations for a disability as reasonably know to the social services district were available at the time of refusal or failure to comply.

- c) Conciliation for the grievances of individuals assigned to public assistance work activities.
- 1) The social services official must establish a conciliation procedure for the resolution of grievances initiated by individuals assigned to work activities.
  - 2) In establishing such procedure, the social services official must:
    - i) enter into an agreement with an independent entity;
    - ii) employ district staff at a supervisory level who are trained in mediation and who have no direct responsibility for an individual's case; or
    - iii) designate supervisory staff, who need not be trained in mediation who have no direct responsibility for an individual's case to serve as mediators for such grievances.
  - 3) Such procedure must afford the individual an opportunity to dispute an assignment to a work activity made in accordance with the provisions of this Part.
  - 4) The social services official shall provide for at least one meeting which includes the individual, appropriate social services staff and the mediator. Such meeting shall occur within 30 days of the day on which the individual submitted a grievance in writing to the social services official.
  - 5) No sanction relating to the subject dispute shall be imposed during the conciliation process, which shall begin on the day on which the individual submitted a grievance in accordance with the provisions of this subdivision and shall end on the day upon which written notice has been provided to the individual which indicates the results of the conciliation.
  - 6) If the individual's grievance is not resolved through conciliation, the individual shall be informed of the right to a fair hearing. Notwithstanding such right to a fair hearing, the individual shall be required to participate in work activities as assigned in accordance with the requirements of this Part during the adjudication process.

(d) Conciliation for refusal or failure to comply with Supplemental Nutrition Assistance Program (SNAP) work requirements.

(1) The social services official shall issue a conciliation notice to a SNAP recipient who has failed or refused to comply with SNAP work requirements.

(2) Such notice shall:

(i) indicate that a failure or refusal to participate has occurred;

(ii) indicate that the individual has a right to provide reasons for such failure or refusal to participate;

(iii) indicate that the individual has a right to avoid a reduction or discontinuance in SNAP benefits by timely demonstrating compliance with SNAP work requirements as determined by the social services district; and

(iv) indicate that the individual shall have 10 calendar days from the date of the notice to request a conciliation and/or an opportunity to timely demonstrate compliance with SNAP work requirements.

(3) If the individual does not contact the social services official within the time period set forth in paragraph (2) of this subdivision and provide a good cause reason for his or her failure or refusal to comply with SNAP work requirements, document an exemption from work requirements, or timely demonstrate compliance with SNAP work requirements, the social services official shall issue a 10-day notice of intent to discontinue or reduce SNAP benefits.

(4) If the individual does contact the social services official within the time period set forth in paragraph (2) of this subdivision, the individual shall be responsible for providing the social services official with reasons for his or her failure or refusal to comply, and may be required to produce documentation establishing such reasons as determined necessary by the social services district.

(i) If the social services official determines that the individual's failure or refusal to comply was with good cause, the conciliation procedure shall terminate.

(ii) If the social services official determines that the individual's failure or refusal to comply was without good cause, the social services official shall issue a 10-day notice of intent to discontinue or reduce SNAP benefits pursuant to paragraph (3) of this subdivision, unless the individual demonstrates compliance pursuant to paragraph (5) of this subdivision.

(5) Regardless of whether the individual provides reason for his or her failure to participate in SNAP work requirements, should the individual demonstrate compliance with SNAP work requirements as assigned and in the timeframe established by the social services district, then the conciliation procedure shall terminate.

(6) The conciliation period shall last no longer than 30 calendar days from the date of the conciliation notice, unless the social services official determines that the conciliation period should last longer.

## Part B - Department Policy

### Conciliation for Instances of Noncompliance

Districts are required to offer conciliation when an applicant or recipient fails to comply with Temporary Assistance (TA) and/or SNAP work requirements (other than TA applicant assessment, TA applicant job search and applicant voluntary job quit/reduction in earning capacity) as assigned by the district. Conciliation for instances of noncompliance is a procedure designed to provide individuals who have failed to comply with employment requirements a chance to give the district reasons why they failed to comply and to show that the failure to comply was not willful and was with good cause.

Conciliation can be accomplished through a face-to-face meeting, telephone discussion or in writing by the individual. If conciliation takes place, the district must inform the individual in writing of the results. This notification can be done separately, or as a part of the denial notice for applicants or ten-day notice for recipients. District procedure for conciliation must be described in the local employment plan.

The conciliation period should last no longer than 14 calendar days from the date on which an applicant for or recipient of safety net assistance requests conciliation, and no longer than 30 days from the date of the conciliation notice issued to an applicant for or recipient of family assistance, unless the individual and the social services official agree that the conciliation period should last longer.

As specified in 18 NYCRR 385.11 and 385.12, the conciliation procedures for noncompliance with a TA work requirement differ for New York City versus districts outside of New York City. Districts must follow the appropriate TA conciliation procedures as described below.

#### New York City

When the New York City Human Resource Administration (HRA) discovers that an individual has failed to comply with a TA and/or SNAP work requirement (other than TA applicant assessment, TA applicant job search and applicant voluntary job quit/reduction in earning capacity) assigned by HRA, then HRA must offer the individual re-engagement/conciliation. The re-engagement/conciliation process must include the following steps:

**Case Record Review:** Prior to issuing the re-engagement/conciliation notice, HRA must first complete a review of the case record to confirm, based on the information available at the time of the review, that the individual was not exempt from work requirements and that any necessary supportive services and accommodations for a disability (if needed) were available at the time of noncompliance.

If HRA determines that the individual had good cause, was exempt at the time of the

noncompliance (other than failure to comply with the completion of an employment assessment) or that any necessary supportive service or accommodation for a disability was not available at the time of noncompliance, the re-engagement/conciliation process must be terminated, no re-engagement/conciliation notice should be sent, and a sanction should not be imposed.

If an individual is determined to be nonexempt, HRA should provide the necessary supportive services or accommodation and seek to re-engage the individual in work activities consistent with the individual's employment assessment and any documented work limitations.

If an individual is determined to be exempt from work requirements, HRA should determine the individual's current employability status, and if still exempt, determine if engagement in any treatment, medical care, or rehabilitation is appropriate.

**Issuance of Re-engagement/Conciliation Notice:** If HRA determines, based on the information available at the time of the case review, that the individual was not exempt, and that any necessary supportive services (e.g., childcare, transportation, and accommodations for a disability) were available at the time of noncompliance, the re-engagement/conciliation notice must be issued by HRA to inform the individual of the opportunity to avoid a TA sanction and a pro-rata reduction or discontinuance in TA benefits by demonstrating compliance with the assigned work activity, by documenting that they are exempt from work activities, or by showing good cause for the failure to comply.

The re-engagement/conciliation notice must:

- identify the specific act or acts of noncompliance (failure or refusal to participate) that has/have taken place;
- inform the individual of the right to avoid the pro-rata reduction in TA benefits through re-engagement (demonstrating compliance with assigned work requirements, by documenting an exemption consistent with 18 NYCRR §385.2 or by otherwise demonstrating that the noncompliance was not intentional or with good cause);
- indicate that HRA has reviewed the case record and based on the information available determined that the individual is not exempt from work requirements and that the necessary supportive services and accommodations for a disability were available at the time of the noncompliance;
- explain what would constitute good cause and provide examples of acceptable forms of documentation that may be provided to HRA to warrant an exemption or excused absence (e.g. medical note, letter from the court, etc.); and
- indicate that the individual has 10 calendar days to appear at the conciliation conference to explain why they did not participate in the assigned work requirement.

For individuals who participate in the conciliation appointment HRA must evaluate good cause and whether the noncompliance was willful. The individual is responsible for notifying HRA of the reasons for refusing or failing to comply with a work requirement and for providing documentation to support any claim of good cause, or exemption from work requirements. Since the determination of good cause may be based upon the credible explanation provided by the client, with or without supporting documentation, good cause may be granted without documentation in some circumstances and should be noted in the case record.

There should be no finding of willful and without good cause based on the refusal or failure to comply with a single appointment or work requirement if the individual is otherwise participating in work activities as assigned by HRA. If it is determined that the individual did not have good cause and that their actions to not comply with work requirements were willful, HRA must inform the individual of the ability to avoid the TA sanction by demonstrating compliance with an assigned work activity for a minimum of five business days but no more than 10 business days. Demonstrating compliance means that the individual engages in the assigned work activity and fully participates as assigned by HRA for at least five business days. If the individual indicates an agreement to comply, HRA must immediately re-engage the individual in work activities. Engagement in the assigned work activity for five business days, as assigned by HRA, will demonstrate that the individual is willing to comply with TA and SNAP work requirements and permit the individual to avoid a work-related sanction. If the individual participates as assigned for at least five business days, no sanction should be imposed.

Note: Individuals should not be terminated from a work activity during the re-engagement/conciliation process, unless HRA determines that the work activity is no longer consistent with the individual's employment assessment or any documented work limitations, or the activity is no longer available. This will help ensure that an individual has the ability to immediately re-engage during the re-engagement/conciliation process.

For individuals who do not respond to the re-engagement/conciliation notice within the 10-day time limit, HRA must determine, based on the information available to the district, whether the alleged refusal or failure to comply was willful and without good cause without the individual's input. If the individual is otherwise participating in work activities as assigned by HRA, there shall be no finding of willfulness without good cause based on a single missed appointment or infraction.

The re-engagement/conciliation process for the specific act of noncompliance cited in the re-engagement/conciliation notice must end once HRA confirms that the individual demonstrated compliance by appearing at the assigned work activity and participating for a minimum of 5 business days. The individual would thereafter be expected to continue to participate as assigned. Any subsequent act of noncompliance with assigned work requirements would be considered a separate instance of noncompliance and must be addressed through a separate re-engagement/conciliation and sanction process.

The re-engagement/conciliation period shall last no longer than 30 calendar days from the issuance date of the conciliation/re-engagement notice, unless the HRA extends the period based on case specific circumstances.

TA applicants and recipients who do not respond to the re-engagement/conciliation notice, refuse to or do not demonstrate compliance as assigned by HRA for a minimum of 5 business days may be subject to a non-durational TA and/or durational SNAP sanction in those instances where the worker determines that the individual intentionally and without good cause refused or failed to comply with an assigned work requirement.

## Districts Outside Of New York City

When the district discovers that a TA applicant or recipient individual has failed to comply with a TA and/or SNAP work requirement (other than TA applicant assessment, TA applicant job search and applicant voluntary job quit/reduction in earning capacity), it must send the individual a notice which indicates that there has been a failure to comply and that the individual has ten days to respond. Such notice must:

- identify the specific act or acts of noncompliance (failure or refusal to participate) that has/have taken place;
- inform the individual of the right to avoid the pro-rata reduction in TA benefits by documenting an exemption consistent with 18 NYCRR §385.2 or by otherwise demonstrating that the noncompliance was not intentional and was with good cause;
- explain what would constitute good cause and provide examples of acceptable forms of documentation that may be provided to districts to warrant an exemption or excused absence; and
- indicate that the individual has 10 calendar days to respond and request conciliation.

If the individual responds to the notice within the time allowed, they must be provided the opportunity to report to the district and provide reasons for the noncompliance. The district must review the reasons provided by the individual, along with any other evidence it has about the noncompliance and make a determination of whether the noncompliance was both willful and without good cause.

If the district determines that the individual had good cause, was exempt at the time of the noncompliance (other than failure to comply with the completion of an employment assessment) or that any necessary supportive service or accommodation for a disability was not available at the time of noncompliance, a sanction should not be imposed.

If the individual does not respond to the conciliation notice within the prescribed time limit, the district must make a determination of good cause without the individual's input. If the district

determines that the failure to comply was both willful and without good cause, then it must send the individual a ten-day notice of intent to reduce pro-rata in a multi-person case) or discontinue benefits (for a single person case).

## Supplemental Nutrition Assistance Program (SNAP)

Districts are required to provide non-exempt SNAP work registrants who fail or refuse to comply with a mandatory SNAP Employment and Training (E&T) requirement the opportunity to request conciliation and to demonstrate compliance in a SNAP work activity to avoid the SNAP work-related sanction. All districts must implement SNAP conciliation procedures consistent with the requirements as described below.

If a non-exempt SNAP work registrant refuses or fails to comply with a mandatory SNAP E&T work requirement, districts must make a determination as to whether the refusal or failure to comply was willful and without good cause. Districts are also required to offer all SNAP recipients who fail or refuse to comply with an assigned work activity willfully and without good cause an opportunity to avoid a SNAP sanction by demonstrating compliance. Districts must continue to make certain that individuals have the opportunity to document an exemption from participation in SNAP work activities at any time during this process. Individuals who demonstrate that the noncompliance was not willful, had good cause, or document an exemption from SNAP E&T requirements, or demonstrate compliance with SNAP work requirements as assigned by the district would not be subject to a SNAP E&T sanction.

Note: The requirements for conciliation do not apply to noncompliance with a SNAP E&T requirement by SNAP applicants or voluntary job quit or reduction in earnings by SNAP applicants (other than SNAP work registrants who have received expedited SNAP benefits and as such are considered SNAP recipients consistent with federal regulations). Districts should not offer the opportunity for conciliation and/or re-engagement to SNAP applicants who fail or refuse to comply with a SNAP E&T requirement or voluntarily quit or reduce earnings without good cause. Districts must continue to consider good cause when evaluating a SNAP applicant's failure to comply with a SNAP E&T requirement or voluntary quit or reduction in work effort, but are not required to offer the opportunity to avoid a SNAP sanction by demonstrating compliance.

If a non-exempt SNAP work registrant fails or refuses to comply with an assigned SNAP E&T work activity, districts should document this information in the case record and must issue the SNAP conciliation notice to inform the work registrant of the noncompliance, the opportunity to show that the individual's failure to comply was not willful and was with good cause, and the opportunity to demonstrate compliance with SNAP work activities to avoid a SNAP E&T sanction.

The conciliation notice must:

- identify the specific act or acts of noncompliance (failure or refusal to participate) that has/have taken place;
- inform the individual of the right to avoid the incremental reduction in SNAP benefits by documenting good cause for the noncompliance, by documenting an exemption from SNAP work requirements, or by demonstrating compliance with assigned work requirements;
- explain what would constitute good cause and provide examples of acceptable forms of documentation that may be provided to districts to warrant an exemption or excused absence; and
- indicate that the individual has 10 calendar days to respond and request conciliation and/or re-engagement in SNAP work activities.

Individuals must be provided at least 10 days from the date of the conciliation notice to respond and request conciliation and/or re-engagement in SNAP work activities.

Districts have the ability to conduct conciliations in person, by phone, and/or by mail. For individuals who are receiving SNAP and TA concurrently, districts can inform the individual of the opportunity for SNAP conciliation and the opportunity to demonstrate program compliance to avoid a SNAP sanction through the same conciliation notice.

If an individual responds to the conciliation notice within the timeframe allowed, does not have good cause for the failure to comply and indicates a desire to avoid a SNAP E&T sanction through demonstrated compliance, the district should re-engage the individual and may require up to 10 days of demonstrated compliance consistent with Section 5.2 of the district's Temporary Assistance and SNAP Employment Plan approved by OTDA. Districts may add additional days, if the individual has good cause during the demonstrated compliance period, provided that the total number of days that an individual is required to demonstrate compliance does not exceed 10 days. Districts are required to provide child care or transportation services that are necessary to enable the participant to demonstrate compliance with SNAP work requirements.

Individuals may be assigned to the same work activity for which they failed to comply to demonstrate compliance to avoid a SNAP E&T sanction, unless the district determines that the work activity is no longer available or is no longer consistent with the individual's employment assessment and plan.

Additionally, no adjustment is necessary to the hours of a work experience assignment during the demonstrated compliance period since the individual continues to receive the same amount of benefits during the demonstrated compliance period. The maximum hours that the individual may be assigned to work experience may need to be adjusted prospectively, if there is a change in the amount of TA and/or SNAP benefits payable to the household. Individuals who have been directly assigned to a SNAP work activity to start the demonstrated compliance

period before the end of the 10-calendar day conciliation period may be offered the opportunity to reschedule due to a conflict. However, the start date of the demonstrated compliance must begin no later than the end of the 10-calendar day conciliation period, unless the individual has a good cause reason.

Individuals who demonstrate good cause or document an exemption from SNAP E&T requirements would not be subject to a SNAP E&T sanction. Individuals who demonstrate good cause but are not otherwise exempt from SNAP E&T requirements should be reassigned to appropriate work activities.

If a recipient claims to have good cause or claims to be exempt from SNAP work requirements, but the district subsequently determines that the recipient did not have or failed to document good cause/exemption, the recipient must be offered the opportunity to demonstrate compliance in a SNAP work activity to avoid the SNAP sanction.

If the individual does not have good cause or does not document an exemption from SNAP work requirements and does not demonstrate compliance to the satisfaction of the district, consistent with the district's approved TA and SNAP employment plan, the district should issue a notice of intent and impose the appropriate SNAP E&T sanction. (Additional detailed information regarding notice requirements is provided in section 385.12 of this Manual).

## Creating the Conciliation Notice

Workers in districts outside of New York City may create a conciliation notice using the non-compliance functions in the Welfare-to-Work Caseload Management System (WTWCMS), or may use the manual notice, LDSS-4230 Conciliation Notification or LDSS-4230A SNAP Conciliation Notification.

When creating a conciliation notice using WTW CMS the worker must select the correct "type of noncompliance" based on whether the noncompliance applies to only TA employment requirements, both TA and SNAP employment requirements or only SNAP employment requirements. After selecting the appropriate "type of noncompliance" the worker will enter the required information to explain the work activity assignment the individual failed to comply with and the date (or range of dates) of the missed appointment/activity assignment. When sending a SNAP conciliation notice the worker may include information regarding an appropriate SNAP work assignment for the individual to engage in to demonstrate program compliance to avoid a SNAP sanction or may include contact information for the client to request assignment to a SNAP work activity to demonstrate program compliance to avoid a SNAP sanction.

Districts that elect not to use WTWCMS to generate the conciliation notice must instruct workers to identify the type of noncompliance and the corresponding manual notice (or local equivalent approved by OTDA) to be used to offer conciliation and/or the opportunity to avoid a SNAP E&T sanction by demonstrating compliance with SNAP work activities.

Districts should update the non-compliance tab in WTWCMS at each stage of the conciliation and sanction process, including the conciliation response and resolution information, and add detailed client notes to document the client's response to conciliation, the reasons provided by the client for the failure to comply, and the district's determination of willful and without good cause. Additionally, for clients who demonstrate program compliance to avoid a SNAP sanction, the case record must contain documentation to verify the client's compliance with the work activity assignment to support the district's decision to not impose a SNAP sanction.

Conciliation information for cases in New York City is maintained in the Human Resource Administration's New York City Work Accountability and You (NYCWAY) system. If a manual conciliation notice is needed, HRA workers should use the LDSS-5087 NYC Re-engagement and Conciliation Notice.

### Dispute Resolution (Temporary Assistance)

Districts must establish a conciliation procedure for resolving grievances initiated by clients assigned to TA work activities to dispute a particular work activity assignment, including the district's response to the individual's request for health-related accommodations. Conciliation for disputing assignments requires a meeting with the individual, the appropriate district staff and/or an independent mediator.

An individual may initiate the dispute resolution procedure by submitting a grievance in writing. District must conduct at least one conciliation meeting with the individual within 30 days of the day on which the grievance was submitted. In such meeting, the grievance must be mediated by:

- an agreement with an independent entity; or
- supervisory staff who are trained in mediation and who have no direct responsibility for the individual's case; or
- designated supervisory staff who have no direct responsibility for the individual's case and who are not trained in mediation.

No sanction relating to the subject of the dispute should be imposed during the conciliation process, which begins on the day when the individual submits a grievance in writing and ends when the individual is provided written notice of the results of the conciliation.

The individual retains the right to request a fair hearing if the issue is not resolved in the participant's favor. The individual shall be required to participate in assigned work activities during the dispute resolution and fair hearing process.

## Part C - Questions and Answers

Q.1 Must a district offer conciliation to TA applicants who fail to comply with work requirements?

A.1 Not in all instances. Applicants who are assigned to and fail to comply with an employability assessment or job search, or who fail to accept an offer of employment are not entitled to conciliation. Conciliation is required in instances where TA applicants refuse or fail to comply with work activity requirements other than assessment and job search.

Q.2 Does the SNAP conciliation process apply to non-compliance by a SNAP applicant?

A.2 No, the SNAP conciliation process does not apply to noncompliance by a SNAP applicant (who is not receiving expedited SNAP benefits) or to applicant voluntary job quit.

Q.3 Does the SNAP conciliation process apply to an individual who has failed to comply with TA applicant job search and has received expedited SNAP benefits when the TA application was filed?

A.3 Yes, since such individuals are considered to be SNAP recipients. When a non-exempt work registrant who has received expedited SNAP benefits, or was already a member of an active NTA/SNAP case at the time of applying for TA, has failed to comply with a TA applicant work activity, the individual must receive a SNAP conciliation notice and offered the opportunity to demonstrate compliance to avoid the SNAP sanction. For example:

A non-exempt individual who applied for TA and SNAP and received expedited SNAP benefits fails without good cause to comply with applicant job search, which was assigned as both a TA and a SNAP work requirement. The worker would issue a notice to deny the TA application for the assistance unit and would separately need to offer the individual the opportunity to avoid the SNAP E&T sanction by demonstrating compliance in a SNAP work activity to the satisfaction of the social services district. While the individual was in applicant status for TA purposes, the individual would be considered a SNAP recipient based on the receipt of expedited SNAP benefits. The worker issues the LDSS-4230A SNAP Conciliation Notification to offer conciliation and the opportunity to avoid the SNAP E&T sanction. If the individual demonstrates compliance to avoid the SNAP E&T sanction the district must complete a separate determination to determine the household's eligibility for ongoing SNAP benefits.

Note: A separate determination to evaluate the household's eligibility for SNAP benefits would need to be completed regardless of whether or not the individual demonstrates compliance with SNAP E&T requirements. If a SNAP recipient does not document good cause/exemption from SNAP work requirements and does not demonstrate compliance, a

SNAP E&T sanction would be imposed consistent with 18 NYCRR §385.12. SNAP benefits for the remainder of the SNAP household must be determined.

Q.4 Does the SNAP conciliation process apply to non-exempt SNAP recipients who are subject to SNAP work requirements who are concurrently receiving TA benefits?

A.4 Yes, because in New York State individuals receiving both TA and SNAP benefits are mandatory participants for SNAP employment and training assignments. Therefore, when a TA/SNAP recipient is assigned to a work assignment, failure to comply results in a TA sanction and a SNAP sanction unless the individual is exempt from SNAP work requirements. SNAP work registrants who also receive TA benefits and fail to comply with a concurrent TA/SNAP work requirement must be offered the opportunity to demonstrate compliance to avoid the SNAP sanction. The same procedure must be followed for individuals receiving TA and receiving SNAP benefits on a SNAP-Mix case. For example:

A non-exempt work registrant individual who is receiving TA and receiving SNAP on a SNAP-Mix case is considered a mandatory participant for SNAP employment and training assignments. The non-exempt work registrant would be subject to the TA and SNAP work requirements and would be issued a joint TA/SNAP conciliation notice. However, if it is determined that the individual willfully and without good cause failed to comply with the assigned work requirement and the individual does not demonstrate compliance with a SNAP work activity to the satisfaction of the district, the worker outside of NYC would need to issue separate Notices of Intent to impose a TA employment sanction on the TA case and a SNAP E&T sanction on the SNAP-Mix case. Separate notices are required outside of NYC because the TA and the SNAP benefits are issued through separate case numbers. TA and SNAP benefits for the same household are generally issued on the same suffix in NYC, except for multi suffix cases. For a household greater than one (and is not a multi-suffix), the worker at the NYC HRA Job Center would enter the information on the Client Notices System (CNS) to generate the sanction notice and complete the transaction on WMS to implement both the TA and SNAP sanction. For single individual households, the worker at the NYC HRA Job Center would enter the information on the Client Notice System (CNS) and complete the transaction on WMS to send the Notice of Intent and implement the TA sanction and then process a separate determination for SNAP benefits. If the individual does not document good cause or an exemption from SNAP work requirements and does not timely demonstrate compliance with an assigned SNAP work activity to avoid the SNAP sanction the separate determination may be used to generate the Notice of Adverse Action to impose the SNAP sanction consistent with 18 NYCRR 385.12.

Q.5 Can districts extend the opportunity to avoid a SNAP sanction by demonstrating program compliance to individuals who are subject to sanction for failure to comply with TA employment requirements?

A.5 For districts outside of New York City, there is no authority to give a TA applicant or

recipient an opportunity to prospectively demonstrate compliance to avoid a TA sanction. The district must determine, based on the information at the time of the noncompliance that the noncompliance was willful and without good cause before imposing a TA employment sanction.

For New York City, TA applicant or recipient must be offered the opportunity to avoid a work-related sanction for refusal or failure to comply with a TA work requirement (other than applicant assessment, applicant job search and applicant voluntary job quit/reduction in earning capacity) assigned by the district.

Q.6 Would a TANF recipient who has a child under the age of 6 and fails to comply with a work experience assignment be offered SNAP conciliation with the opportunity to demonstrate compliance to avoid a SNAP sanction?

A.6 Yes, a TANF recipient with a child under the age of 6, who is also receiving SNAP benefits and who was assigned to work experience, would be subject to a sanction for both TA and SNAP if the failure to comply with work experience was both willful and without good cause. However, the individual must be offered the opportunity to demonstrate compliance to avoid a SNAP sanction, unless the individual documents good cause or another exemption from SNAP work requirements. Please note that the ability to sanction a TA recipient who is exempt from SNAP work requirements as the caretaker of a child under the age of 6 and who willfully and without good cause to comply with a work experience assignment does not apply to Safety Net Assistance funded recipients. Safety Net Assistance funded recipients who are determined to be exempt from SNAP work requirements as the caretaker of a child under the age of 6 cannot be sanctioned from SNAP benefits for noncompliance with SNAP work requirements, however they may be required to participate in TA work activities, including work experience (unless otherwise determined exempt consistent with 18 NYCRR 385.2), and may be subject to a TA sanction for failure to comply with TA work requirements.

Q.7 What SNAP activities may an individual be required to participate in to avoid a SNAP E&T sanction?

A.7 The recipient would need to participate in a SNAP work activity as assigned by the district. The SNAP work activity required during the demonstrated compliance period does not need to be the same work activity that the recipient did not comply with. The original work activity may not be available or may no longer be consistent with the individual's employment assessment and plan. Demonstrated compliance may vary based on the case circumstances and the assigned work activity. Examples include:

- Reporting to the assigned work activity and participates as assigned for the number of days assigned by the district (see information below);
- Completing job search as required by the district;

- Reporting to and complying with an assessment appointment.

The time period established for demonstrating compliance to the satisfaction of the district cannot exceed the demonstrated compliance period outlined in section 5.2 of the district's Temporary Assistance and SNAP Employment Plan approved by OTDA, which cannot exceed ten days. It would not be sufficient to deem the individual to have demonstrated compliance to avoid a SNAP E&T sanction on the basis of providing information regarding the availability of job search services or based on an indication that the individual is now willing to comply with SNAP employment requirements. The individual must engage in the assigned activity for the number of days assigned by the district.

Q.8 What if, at conciliation, the client states that they do not want to comply in order to retain their SNAP benefits?

A.8 If the client indicates that they are not willing to demonstrate compliance to avoid a SNAP sanction and does not otherwise claim an exemption or good cause, the agency must document the offer and the individual's declination of a SNAP work activity as part of the case record and then proceed with imposing both a TA and SNAP sanction if the results of conciliation otherwise indicates the client's failure to comply was both willful and without good cause.

Q.9 The direct job search option on the conciliation notice allows the worker to enter the date that the individual is required to provide documentation to demonstrate that the individual has complied with SNAP work requirements by completing job search as required by the district. Can the return date be less than 10 days, if a district's demonstrated compliance policy is less than 10 days for noncompliance with TA work requirements?

A.9 No, when using the direct job search option on the conciliation notice the district is required to provide at least 10 days for the individual to request conciliation or to demonstrate compliance with SNAP work requirements.

Q.10 Will a SNAP recipient receive a notice if the recipient complied with the option to avoid a SNAP sanction, but their TA case was denied for failure to complete a TA applicant activity?

A.10 If the individual applies jointly for TA and SNAP benefits, the district would need to issue a decision on the TA application and then process a separate determination to determine the household's SNAP and MA eligibility consistent with existing requirements. The district would also issue a SNAP only conciliation notice if the individual is a work registrant (or otherwise subject to SNAP work requirements under the comparable disqualification provision) to give the individual the opportunity to demonstrate compliance or document

good cause/exemption from SNAP work requirements. If the household provided all required documentation to determine the household's ongoing SNAP eligibility, the district would issue a SNAP notice to notify the household of their SNAP eligibility and benefit amount in accordance with existing procedures. There should be no delay in determining the household's eligibility for SNAP benefits. If the individual does not demonstrate compliance to avoid the SNAP sanction and does not document good cause or an exemption from SNAP work requirements, a separate sanction notice must be issued, and the SNAP sanction imposed the following month. There is no requirement to notify the individual separately of the results of the conciliation process. Therefore, no additional notice would be issued for households that have received expedited SNAP benefits and the appropriate notice of eligibility under expedited processing, if the individual demonstrates compliance to avoid the SNAP sanction, but the household does not otherwise provide the documentation necessary to determine the household's eligibility for ongoing SNAP benefits.