

3.5.1 Entering Non-Compliance Sanction (NCS)

Non-Compliance Sanction Policy

Revised ~~on: September 20, 2021~~ ~~July 1, 2021~~

A note on transition policy: All WorkFirst participants and applicants in WorkFirst non-compliance sanction status prior to July 1, 2021 have a “clean slate.” This means all WorkFirst recipients/applicants are in good standing without a requirement of a sanction “cure” for any WorkFirst sanction statuses prior to July 1, 2021.

~~Effective March 16, 2020, due to the COVID-19 outbreak, WorkFirst participants are temporarily suspended from:~~

- ~~• **Mandatory participation**~~
- ~~• **Non-Compliance Sanction (NCS) penalties**~~

Legal References:

- [RCW 74.08.090; 74.08A.260 & .270](#)
- [WAC 388-310-1600](#)

The *Non-Compliance Sanction Policy* has three separate sub-sections:

- Section 3.5.1 - *Entering Non-Compliance Sanction (NCS)* describes how to make the NCS decision.

This section includes:

- [3.5.1.1](#) What is the Non-Compliance Sanction (NCS) policy?
- [3.5.1.2](#) What are Non-Compliance Sanctions?
- [3.5.1.3](#) How long does NCS *without* reduction last?
- [3.5.1.4](#) How long does NCS reduction last?
- [3.5.1.5](#) Scheduling a good cause appointment/NCS case staffing.
- [3.5.1.6](#) What is the good cause 10-day period?
- [3.5.1.7](#) What if the post office returns the participant's mail?
- [3.5.1.8](#) What happens at the good cause/NCS case staffing?
- [3.5.1.9](#) How do I determine if the participant has good cause?
- [3.5.1.10](#) What if I determine the participant doesn't have good cause?
- [3.5.1.11](#) What if the participant fails to attend the good cause/NCS case staffing?
- [3.5.1.12](#) What do I do after the NCS case staffing?
- [3.5.1.13](#) What if the supervisor disagrees with the recommendation for NCS reduction or termination?
- [3.5.1.14](#) When do I send the adverse action notice?
- [3.5.1.15](#) eJAS/ACES Codes

- [3.5.1.16](#) Entering Non-Compliance Sanction - Step-by-Step Guide

Other Related Chapters

- [3.5.2](#) - *Ending Non-Compliance Sanction (NCS)* describes what happens when a participant stays in NCS.
- [3.5.3](#) - *NCS Reapplications* describes how to process reapplications from NCS terminations.

3.5.1.2 What are Non-Compliance Sanctions?

A non-compliance sanction (NCS) is a penalty that may result in the reduction and termination of a family's TANF cash assistance. WFPS/WFSSS impose an NCS penalty when a participant is able, but refuses without good cause to:

- Provide information needed to develop the Individual Responsibility Plan (IRP), including completing ~~any~~ required comprehensive eEvaluation(s),
- Show up for scheduled WorkFirst appointments,
- Participate in agreed to IRP activities, or
- Accept a job (that meets the criteria in [WAC 388-310-1500](#)).

There are three phases of NCS:

- **NCS *without* reduction:** Two TANF months in a row without reduction of cash assistance following supervisor approval for NCS;
- **NCS *reduction*:** Reduction of cash assistance after two TANF months in a row of NCS *without* reduction; and
- **NCS *termination*:** Termination of cash assistance following ten TANF months in a row of NCS reduction.

If the WFPS/WFSSS discovers a participant is unable to participate in the current activities in the IRP, they may:

- Revise the IRP to an appropriate activity;
- Defer; or
- Exempt the person from participation.

3.5.1.9 How do I determine if the participant has good cause?

The goal is to involve participants in WorkFirst activities to increase their ability to earn a living and provide support for their children, not to place their case in NCS. It's very important to determine and document whether a participant is refusing, rather than unable to comply. If a participant is unable to comply and we are able to determine why, then we can work more effectively with them and their family.

WFPS/WFSSS need to be particularly careful not to place participants in non-compliance sanction who don't comply because they don't have affordable or appropriate child care, and don't know what help is available. There is a special brochure ([WorkFirst Opportunities Brochure DSHS 22-1125](#)) that you can use to give basic child care information to all participants who face non-compliance sanction.

Anyone who isn't fully participating as required has good cause if there is a significant barrier or combination of barriers outside of their control that prevent full participation. Some areas to review with every participant that may prevent compliance include having:

- An unmet need for Equal Access services (EA).
- Limited-English Proficiency (LEP), not addressed through interpreters or translations that result in the participant not understanding WorkFirst requirements.

- An emergent or severe medical condition (verified by health care professional) of the participant or a family member in the participant's care.
- Mental health or chemical dependency issues.
- Family violence.
- Immediate legal concerns.
- Homelessness.

Consider non-participation due to unexcused absences good cause if there's a significant circumstance outside of the participant's control, such as but not limited to, family violence or hospitalization that made it difficult for the participant to call in to get the absence excused.

If there isn't enough information to make a good cause decision, give the non-participating parent/caregiver a written request for any needed additional proof. For example, if the participant reports a new barrier give/send them a letter requesting documentation or verification of the barrier. Don't send a recommendation to impose NCS until a decision is made based on the verification provided.

If the WFPS/WFSSS determines the participant had good cause for failure to participate in their assigned activities:

- Complete NCS eJAS Tool questions 1-14;
- Answer 'No' to question 15;
- Document the decision in eJAS sanction case notes.

When there is a determination of good cause, WFPS/WFSSS must change the IRP to reflect the appropriate activities and level of services the participant needs to successfully participate. In addition, they may need to:

- Complete or review the comprehensive evaluation ([e.g. Pathway Development Tool](#));
- Modify participation requirements and/or support services for a new IRP;
- Provide a deferral from a specific activity or an exemption.

3.5.1.16 Entering Non-Compliance Sanction - Step-by-step guide

Note: The NCS process is supported and tracked in eJAS. each If future incidences of non-participation, new appointments must be conducted and a separate NCS eJAS tool created.

A. Setting up the good cause/NCS case staffing appointment

The WFPS/WFSSS identifies participants who aren't complying with program requirements and sends the participant the WorkFirst Non-Participation Appointment letter (085-01) scheduling a good cause/NCS Case Staffing appointment within 10 calendar days to find out if there's good cause for noncompliance.

- The WFPS/WFSSS:
 1. Addresses the letter to the non-compliant participant.
 2. Specifies who is in non-compliance.
 3. Adds the required text explaining how the participant didn't meet requirements. For example, "You didn't meet with your provider on [date] at the scheduled time [time]."
 4. Closes affected component code(s) with IC and contractor code(s) with actual ending date.
 5. Enters PR component code in eJAS with a scheduled end date that coincides with the good cause appointment date, between 10 and 14 calendar days.
 6. Invites and documents in eJAS at least two other relevant professionals, such as a social service specialist or someone from another agency who is working with the participant, to the good cause/NCS case staffing

appointment. A minimum of two professionals is required with the assigned worker (WFPS or WFSSS) counting as one professional.

7. Documents whether the Child Welfare (CW) were or are involved with the family, and if so, if CW was invited to the good cause/NCS case staffing appointment.

B. Conducting the good cause/NCS case staffing appointment

At the good cause/NCS case staffing appointment when the **participant attends**. With appropriate professionals, the WFPS/WFSSS:

1. Determines whether good cause exists by:
 - a. Listening to the participant and collecting any new information.
 - b. Reviewing available information and determining if activities were appropriate.
 - c. Discussing the following with the participant:
 - i. Program requirements and why they have not been meeting WorkFirst requirements.
 - ii. Strengths and barriers.
 - iii. Overall progress towards participant goals.
 - iv. Share benefits and opportunities within WorkFirst programs, including support services available.
2. If the participant doesn't have good cause:
 - . Ensures the participant was given 10 days to contact the office and establish good cause.
 - a. Explains why the department is recommending NCS reduction.
 - b. Conducts a Child Safety review to help the participant plan for case closure, including:
 - . How the participant plans to support their family once they lose cash assistance.
 - i. Explaining the possible continuation of Washington Apple Health and Basic Food Assistance.
 - ii. Providing a list of community resources (like WIC) that are available to help meet the family's need.
 - iii. Explaining that they may be able to apply for CEAP at reapplication if the case is closed for non-compliance sanction.
 - c. Offers re-engagement.
 - d. If the participant agrees to participate, completes/reviews cComprehensive eEvaluation (e.g. Pathway Development Tool – see WFHB 3.2.3.7) (CE) and based on the CE outcome, and modifies the IRP, as required.
 - e. Closes the PR and updates all needed components.

At the good cause/NCS case staffing appointment when the **participant doesn't attend**. With appropriate professionals, the WFPS/WFSSS:

1. Bases the decision on all available information, such as case notes or medical records.
2. Attempts to reach participant by phone to conduct staffing by phone while partners are available.
3. Closes the PR component code.

Note: PRISM is a useful tool to identify potential issues that prevent participation; however, use of PRISM to gather information for purposes of imposing non-compliance sanctions for failure to follow through with requirements is prohibited.

C. Processing good cause determinations

1. When it's determined the participant has good cause, the WFPS/WFSSS:
 - a. Enters the appropriate codes for the required activities.
 - b. Adjusts the IRP.
 - c. Makes appropriate referrals.
 - d. Authorizes support services as needed.
 - e. Completes the eJAS NCS tool questions 1-14.
 - f. Answers 'No' to question 15.
 - g. Documents the decision in eJAS.
2. During the good cause/NCS case staffing appointment when it's determined the participant doesn't have good cause, the WFPS/WFSSS:
 - a. Completes the NCS eJAS tool questions 1 through 15, and refers to the supervisor or designee for an NCS reduction determination.
 - b. Prints and sends the case staffing results letter.
 - c. Mails a local resource list if the participant doesn't show up for the NCS case staffing (which counts as a Child Safety Review).
 - d. Enter PR for seven days allowing for supervisor/designee review.

D. Processing NCS *Without* Reduction

The CSO Supervisor/designee routinely monitors the Clients Awaiting Sanction/Term Approval report in eJAS for participants newly referred for NCS reduction. When a participant is referred for NCS reduction, the supervisor/designee:

1. Reviews the NCS eJAS tool question 1 through 15 to ensure:
 - a. Policy was followed.
 - b. Entries are accurate.
 - c. Documentation is complete.
 - d. There is no issue with returned mail, such as the IRP, eJAS appointment letters, or the good cause appointment letter (85-01).
2. Completes question 16 of the NCS eJAS tool to document the NCS reduction supervisor decision.
 - . A denial with a final denial decision selected stops the NCS process and closes the NCS eJAS tool.
 - a. A denial with the pending correction reason selected (needs correction - NCS Review Criteria sent back for correction) returns the NCS eJAS tool (monitored through the CLMR NCS Review Pathway reports) to the WFPS/WFSSS for further action. Supervisors/designees add comments in the question 16 text box regarding what further actions the WFPS/WFSSS must take. The WFPS/WFSSS can either modify the NCS eJAS tool and resend it to the supervisor/designee for review, or cancel the review ending the NCS process.
3. An approval approves the NCS reduction. Entry of additional comments in the NCS eJAS tool is optional.

The WFPS/WFSSS can monitor the decision of the supervisor/designee on the NCS Review Pathway-Pending Supervisor Approval report. Once a decision has been made, the WFPS/WFSSS:

1. Makes the necessary corrections and resubmits to the supervisor/designee if the case was returned for work.

2. If the NCS reduction recommendation is denied with a final denial decision:

- a. Schedules/contacts the participant for IRP development.
- b. Closes the PR component code.

3. If the NCS reduction recommendation is approved:

Monitors the Caseload Management Report 'NCS Review Pathway-Reduction Pending' report to track when the reduction penalty will be applied.

- a. Opens the SA component code with a scheduled end date in the middle of the next month as a reminder to attempt monthly re-engagement follow-up.
- b. Actively attempts monthly follow-up and re-engagement contacts with the participant until their case is closed, to discuss the benefits of participation and explain how to end their non-compliance sanction.
- c. Contact is made either using the eJAS NCS Monthly Re-engagement contact letter, by phone, or in-person (if a participant walks into a CSO). If a phone/in-person contact is unsuccessful, sends the NCS re-engagement contact letter.
- d. If a participant is actively engaged in WorkFirst activities to end their non-compliance sanction WFPS/WFSSS aren't required to send a NCS re-engagement letter, however, are required to attempt a phone call each month to discuss community resources, successes, or potential barriers to required participation. An in-person conversation also satisfies the monthly contact requirement.
- e. Document the contact with participant noting by phone, in-person, or letter and summarize the contact using the *NCS Re-engagement* eJAS note type.

E. Processing NCS Reduction

If the supervisor or designee approves the NCS reduction and the participant has received two continuous months of NCS *without* reduction, the WFPS:

1. Changes the Participation Status on the participant's ACES/3G Work Registration screen to Refused – Mandatory Participant (RE). The effective date auto populates to the first of the following month, allowing for advance notice.

Note: Review the case receiving the NCS reduction to see if the Basic Food Benefits should be penalized under the Basic Food Program rules for failure or refusal to comply with the Basic Food Work Requirements. Please refer to WorkFirst Sanctions-Participation in the EA-Z manual for more details.

2. Sends the adverse action notice, Change in Benefits (08-01) allowing for 10 day advanced notice and adding required text:

- a. Who is being placed in NCS (specific participant).
- b. What they did not do (specific activity in IRP unless the activity is confidential). Add the following text including appropriate dates.
 - i. You receive a TANF grant and you must participate in the WorkFirst program. You've been in non-compliance status for the past two months. You were placed in sanction on (date) because you didn't have good cause for (fill in what they didn't do).
- c. That the specific participant is in NCS status.
- d. The penalties that will be applied to the grant.
- e. When the penalties will be applied.
- f. Administrative hearing rights.
- g. How to end the penalties and get out of NCS status.

Note: Staff only need to enter the information corresponding to #2. The remaining information is automatically printed on the letter.

3. Completes the 'NCS Case Staffing-Reduction Actions' section of the NCS eJAS Tool
4. Monitors Caseload Management Report (CLMR):
 - a. 'Clients in Sanction' report to track the NCS process.
 - b. 'NCS Review Pathway-Sanction Reengagement' to track monthly contact efforts.

F. Processing NCS Termination Referral

If a participant doesn't have good cause following 10 months of NCS reduction, the WFPS/WFSSS:

1. Completes the 'NCS Case Staffing- NCS Termination Referral' section of the NCS eJAS tool.
2. Monitors Caseload Management Report (CLMR) 'Clients in Sanction' report for supervisor/designee decision.
3. If the case is returned for further action, makes the necessary corrections and resubmits the NCS Case Staffing - NCS Termination Referral to the supervisor/designee.

Note: the NCS Termination Referral option in the NCS eJAS tool will not available to staff until "months in sanction" in ACES are at least 8.

G. Processing NCS Termination Supervisor Decision

The CSO Supervisor/designee routinely monitors the Clients Awaiting Sanction/Term Approval report in eJAS for participants newly referred for NCS Termination. When a participant is referred for NCS termination, the supervisor/designee:

1. Completes 'NCS Case Staffing - NCS Termination Supervisor Decision' section of the NCS eJAS tool.
 - a. A denial with a final denial decision selected stops the NCS process and closes the eJAS NCS tool.
 - b. A denial with the pending correction reason selected (needs correction - NCS Review Criteria sent back for correction) returns the NCS eJAS tool to the WFPS/WFSSS for further action. Supervisors/designees adds comments in the free form text box regarding what further actions the WFPS/WFSSS must take before resubmitting the NCS Case Staffing - NCS Termination Referral.
 - c. An approval approves the NCS termination.

H. Processing NCS Termination Actions-ACES 3G

If the supervisor or designee approves the NCS Termination, the WFPS:

1. During month 10 of NCS reduction, checks the box on the Work Registration screen for "Closed while in Non-Compliance Sanction", and;
2. Sends the adverse action notice, Termination of TANF/SFA (06-02) allowing for 10 day advanced notice:
 - a. Add the following text including appropriate dates;
 - You've been in sanction and receiving a reduced grant for at least 10 months without meeting WF requirements. This is why your case is closing.

Note: Administrative hearing rights are automatically printed on the letter.

I. Processing NCS Termination Actions - eJAS

The WFPS/WFSSS monitors the decision of the supervisor/designee on 'CLMR - Clients in Sanction' report. Once the 'NCS Case Staffing - NCS Termination Supervisor Decision' section of the NCS eJAS Tool has been completed,

the participant has been approved or NCS Termination, and the participant's case has been Terminated in ACES due to NCS, the WFPS/WFSSS:

1. Completes the 'NCS Case Staffing - NCS Termination Actions' section of the NCS eJAS Tool.
 - a. Reviews the case to see if good cause was established during the non-compliance period. If good cause is identified selects "Sanction cured or lifted prior to NCS Termination" and the system closes the NCS eJAS Tool.
 - b. Proceeds to completing the section if no "Sanction cured or lifted prior to NCS Termination" reason is identified.
 - c. Denies any support services requests until the participant starts curing the non-compliance sanction.

For further information about processing non-compliance sanctions see:

- [ACES manual -WorkFirst Non-Compliance Sanction \(NCS\)](#)
- [EA-Z Manual-WorkFirst Sanctions](#)
- [EA-Z Manual-Basic Food Work Requirements-Disqualification](#)

Resources

Related WorkFirst Handbook Chapters

- [3.1 Tools - Overview](#)
- [3.2.1 Comprehensive Evaluation](#)
- [3.2.3 Pathway Development Tool](#)
- [3.4 Case Staffing](#)
- [6.1 Resolving issues](#)