

Disability Civil Rights Discrimination Complaint

Submitted to: U.S. Department of Health and Human Services – Office
for Civil Rights

Submitted by: Disability Rights Education and Defense Fund

July 13, 2012

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I. Introduction

This civil rights administrative complaint to the U.S. Department of Health and Human Services, Office for Civil Rights (“HHS OCR”) challenges the California Department of Social Services’ (“CDSS”)¹ and the California Department of Health Care Services’ (“CDHCS”)² failure to adequately monitor compliance with disability civil rights laws in state-administered public benefits programs run by county welfare departments (“CWDs”) throughout California. These programs include, but are not limited to: California Work, Opportunity, and Responsibility to Kids (“CalWORKs”), Cash Assistance Program for Immigrants (“CAPI”), In Home Supportive Services (“IHSS”), CalFresh/Food Stamps, and Medi-Cal.³

The complaint is brought pursuant to the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12131 *et seq.*, Section 504 of the Rehabilitation Act (“Section 504”), 29 U.S.C. § 794, California Government Code § 11135 *et seq.*, corresponding state regulations, and the due process clauses of the California and United States Constitutions.

¹ Director Will Lightbourne; 744 P Street, Sacramento, CA 95814; 916-657-2598.

² Director Toby Douglas; P.O. Box 997413, MS 0025 Sacramento, CA 95899-7413; 916-440-7660.

³ While CWDs administer most public benefits for CDSS, they administer Medi-Cal for CDHCS. CDHCS is responsible for ensuring county welfare programs’ compliance with civil rights laws in the administration of Medi-Cal. *See* California Government Code § 11135 *et seq.* Because there is no evidence that CDHCS assumes this responsibility in any way in violation of California Government Code § 11135 *et seq.* and Cal. Code Regs. tit. 22 § 98340 *et seq.*, HHS OCR should require CDHCS to come into compliance with governing laws and regulations and fully enforce disability civil rights laws with respect to Medi-Cal. “Medi-Cal is California’s Medicaid program. This is a public health insurance program which provides needed health care services for low-income individuals including families with children, seniors, persons with disabilities, foster care, pregnant women, and low income people with specific diseases such as tuberculosis, breast cancer or HIV/AIDS. Medi-Cal is financed equally by the State and federal government.” *See*, <http://www.dhcs.ca.gov/services/medi-cal/Pages/default.aspx> (last visited July 10, 2012).

Complainants, California public benefits applicants, recipients and representative payees with disabilities, bring this complaint for themselves and those similarly situated. This complaint alleges that CDSS (and CDHCS for its part) has systemically and unlawfully failed to adequately monitor state-administered public benefits programs run by CWDs for compliance with disability civil rights laws. CDSS has failed to (1) adequately staff its Civil Rights Bureau (“CRB”) to perform the necessary investigations, (2) properly train its CRB investigators in the requirements of state and federal disability civil rights laws and their application to California public benefits programs, and (3) utilize an effective process for conducting civil rights compliance reviews, thereby effectively allowing CWDs, without repercussions, to discriminate on the basis of disability in a multitude of ways, including, to (a) deny or discourage persons who are otherwise eligible for benefits from obtaining benefits or from obtaining benefits in a prompt and humane manner, (b) wrongfully reduce, terminate or sanction benefits to recipients, and (c) fail to identify benefits applicants and recipients with disabilities and offer and provide reasonable accommodations to them when needed for them to meaningfully participate in the various programs. All of the welfare benefits administered by CWDs are life-sustaining and all eligible persons are among the most vulnerable in the state. They are often disabled, destitute, homeless, hungry, ill and have needy, extremely vulnerable children. The critical importance of ensuring that CWDs administer their programs in compliance with disability civil rights laws cannot be overstated.

Through this complaint, the complainants seek to ensure that CDSS and CDHCS institute effective reforms (*see* footnote 3 above with respect to CDHCS). With regard to CDSS, HHS OCR should require it to (1) increase its CRB staff to ensure thorough and timely disability civil rights compliance investigations and follow up monitoring to enforce required corrective actions,

(2) properly train its CRB staff in state and federal disability civil rights laws to ensure investigators understand how to adequately monitor CWDs for instances of discrimination, and (3) modify its processes, especially the template used uniformly for all civil rights compliance reviews to ensure that compliance with disability civil rights laws is assessed thoroughly and accurately. The goal of these changes is to ensure that compliance with civil rights laws is effectively and appropriately monitored so that CWDs do not discriminate on the basis of disability, *i.e.*, (1) lawfully and promptly provide benefits for eligible applicants, (2) avoid termination, reduction and sanction of benefits recipients when there is a disability-based reason, or “good cause” to maintain benefits, and (3) offer and provide reasonable accommodations for applicants and recipients with disabilities, including adequate notice of disability civil rights to such accommodations and recourse to file discrimination complaints.

II. An Overview of Key California Public Benefits Programs CDSS is Responsible for Monitoring for Compliance with Disability Civil Rights Laws

a. CalFresh (Supplemental Nutrition Assistance Program/Food Stamps)

This federal needs-based program provides low-income individuals with the ability to buy more food and improve their diets. If anyone in the household is getting cash welfare assistance, the household is categorically eligible and automatically qualifies. All adults must comply with work requirements unless they are exempt, such as on the basis of disability. All households must turn in quarterly reports, once every three months.

The U.S. Department of Agriculture (USDA) oversees the program nationally. CDSS is in charge of implementing the program and CWDs administer it day-to-day. California must annually submit a state plan to the USDA for approval. CDSS has established regulatory policies in its “Manual of Policies and Procedures” for CWDs on how to run the program and

issues “All County Letters” and “Information Notices” to give periodic further policy direction to CWDs. CWDs are responsible for outreach and access to the program. USDA pays for the full cost of the benefits and half of the administrative cost, such as rent, case worker salaries, and printing application forms. California and some local governments pay the remaining costs of operation.⁴

b. CalWORKs (California Work, Opportunity, and Responsibility to Kids/Temporary Assistance for Needy Families)

This federal needs-based program provides cash, child care, job training, and education for a fixed period to low-income families with children and is known as “CalWORKs” in California. Only needy families with children are eligible for CalWORKs. The children must be deprived of parental support due to a parent’s death, incapacity, unemployment, or continued absence. Pregnant women without other children may receive assistance. Recipients of CalWORKs automatically qualify for Medi-Cal. There is a five year limit for individuals to receive financial assistance. This limit applies only to adults 18 or older, not to children. The time limit is also inapplicable to people who are 60 or over, disabled and receiving certain disability benefits, caring for an ill or incapacitated household member, caring for a dependent of the court or a child at risk of placement in foster care, unable to maintain employment or participate in work activities, not receiving aid because of a sanction or exclusion, domestic abuse survivors, or not members of the assistance unit. Once the 60 month limit is reached, only the children in the assistance unit may receive benefits. CWDs are required to exempt individuals with disabilities from the Welfare to Work (“WtW”) requirements.

To receive CalWORKs funds, California must annually submit a plan describing its program to HHS. It is governed by federal, state, and local laws and administered by federal,

⁴ Relevant regulations: 7 C.F.R. § 271 *et seq.*; Welf. & Inst. Code §§ 18900-18935.

state, and local government agencies. CDSS administers CalWORKs but delegates the program's day to day administration to its 58 CWDs. The federal government pays a block grant to California and California creates its own program within broad federal guidelines. There is a fixed sum of money provided and once this runs out, no one can receive benefits despite meeting eligibility requirements.⁵

c. Cash Assistance Program for Immigrants (“CAPI”)

CAPI is a state needs-based program that provides monthly cash benefits to non-citizens who are elderly or have disabilities. These individuals are ineligible for Supplemental Security Income/State Supplemental Payment (“SSI/SSP”) due to their immigration status. There is no automatic eligibility between CAPI and other public benefits programs. To be eligible for CAPI, a person must be a non-citizen, over age 65 or have a disability, be ineligible for SSI/SSP solely due to immigration status, reside in California, have income less than the CAPI standards, and have resources below the limits of \$2,000 for an individual or \$3,000 for a couple.

CAPI is funded and overseen entirely by the state of California. CWDs are responsible for day to day operations of the program.⁶

d. In-Home Supportive Services (“IHSS”)

This federal, state and local needs-based program provides personal care assistance (housework, meal preparation, laundry, shopping, non-medical personal health care services, etc.) to individuals with disabilities.

The Centers for Medicare and Medicaid Services (“CMS”) governs part of the program, while CDHCS is the fiscal intermediary for Medi-Cal funds received from the federal

⁵ Relevant regulations: 42 U.S.C. §§ 601 *et seq.*; 45 C.F.R. Parts 201-287; Welf. & Inst. Code §§ 10600 *et seq.*

⁶ Relevant regulations: MPP § 49-000 *et seq.*

government. CDSS has administrative and supervisory responsibility to assure IHSS compliance with state and federal rules, passing through funding to the county level. CWDs are responsible for taking IHSS applications, determining income and resource eligibility, assessing the type and level of services needed, processing provider timesheets, and (in some counties) coordinating the hiring of care providers. The program is made up of federal, state, and county funds.⁷

III. Complainants⁸

a. S.B.

S.B. is a 34-year-old mother of six minor children, including an 8-year-old daughter with multiple severe disabilities who requires around-the-clock care, which S.B. provides with the support of IHSS. Her daughter has received SSI since birth. S.B. has a visual impairment, Attention Deficit Disorder, bipolar disorder, reading difficulties, and an anxiety disorder. She has received CalWORKs from the San Francisco Department of Human Services⁹ (“SF-DHS”) since having her first child at the age of 16.

SF-DHS has repeatedly failed and refused to provide S.B. with reasonable accommodations that she needs to participate in CalWORKs, discussed in detail below. The effects have been devastating for years. SF-DHS has assigned her to WtW activities without taking into account her disabilities; sanctioned her for failing to show up for her WtW activity after she refused to leave her disabled daughter at home alone; failed to inform her about WtW

⁷ Relevant regulations: PSCP: 42 U.S.C. § 1936a *et seq.*, 42 C.F.R. Part 430 *et seq.*; Welf. & Inst. Code §§ 12300 *et seq.*, 14132.95 *et seq.*; Cal. Code Regs. tit. 22 § 5000 *et seq.*, MPP § 30-700 *et seq.* IPW: Welf. & Inst. Code § 14132.951; Department of Health Care Services ACL 05-21; DSS ACL-05-05. IHSS: Welf. & Inst. Code § 12300 *et seq.*; Cal. Code Regs. tit. 22 § 5000 *et seq.*; MPP § 30-700 *et seq.*

⁸ Exhibit FF provides full names and contact information for all complainants and declarants identified by initials in this complaint.

⁹ Director Trent Rhorer; San Francisco Department of Human Services; 170 Otis Street, San Francisco, CA 94103; 415-557-5000.

exemptions for parents caring for disabled children. As a result of this pattern of discrimination, S.B. has incurred numerous terminations of benefits, and delays in the issuance of her benefits. Many of these penalties were resolved only after S.B. sought the help of advocates from Bay Area Legal Aid (“Bay Legal”), which has provided advocacy services to S.B. many times since 2005.

On September 12, 2011, advocate Ruth Gordon of Bay Legal helped S.B. fill out a form (“OCR 2”) to officially request accommodations or assistance from SF-DHS. The OCR 2 invites clients to inform the program of any disability that may interfere with their application(s) for public assistance and gives clients the opportunity to identify what accommodations would help them complete the application process and continue to meet ongoing eligibility requirements.¹⁰ Attached as Exhibit A is a copy of the completed OCR 2. S.B. requested a number of accommodations on the OCR 2, including: a follow-up call after all forms are sent to assist and make sure she filled them out properly, phone calls to remind her of appointments, large print notices, and help gathering documents for annual reports.

Despite receiving S.B.’s OCR 2, SF-DHS workers continued to ignore her requests for assistance filling out forms. On March 26, 2012, SF-DHS sanctioned S.B. for failing to submit immunization forms for her children. Again no one at SF-DHS assisted S.B. with this form or called her to follow-up. The result of this sanction was a 25% reduction of benefits for the two month period of March 26, 2012 to May 23, 2012. In April 2012, advocate Jessica Yeh of Bay Legal requested that the sanction be lifted due to SF-DHS’s failure to accommodate. On May

¹⁰ OCR 2 information taken from the Human Services Agency of San Francisco’s Office of Civil Rights Staff Reference Guide, available at: http://languagedoc.sfhsa.org/OCR_4_Quick_Reference_2.2008%20.pdf (last visited July 10, 2012).

23, 2012, SF-DHS agreed to lift the sanction and issued back benefits. Attached as Exhibit B is an email detailing both sanctions discussed above.

Since 2008, SF-DHS has sanctioned S.B. numerous times for submitting late or incorrectly completed forms required by the CalWORKs program, including Quarterly Eligibility/Status Reports (“QR-7”)¹¹. In May 2012, SF-DHS again terminated S.B.’s CalWORKs benefits due to late submission of her QR-7. No one from SF-DHS called S.B. to help her fill out and submit the QR-7 as requested on the OCR 2. Only after her benefits were terminated did S.B. receive help from SF-DHS. SF-DHS later reinstated the benefits but not before a full week delay in the payment of her benefits.

As of July 6, 2012, SF-DHS had not implemented an ADA Service Plan for S.B. Bay Legal advocates are currently following up to ensure that SF-DHS workers provide S.B. with her requested accommodations. Without the frequent intervention of these Bay Legal advocates, S.B. would continue to be without benefits that she is entitled to and critically needs to support herself and her family—and that she has repeatedly lost due to SF-DHS’s failure to provide reasonable accommodations. Through this complaint, S.B. seeks assurances that she and others like her will receive accommodations needed to participate in the CalWORKs program.

b. S.S.

S.S. is a 57-year-old non-needy representative payee for her 18-year-old granddaughter T.B., who has a disability and receives special education services. She is in the process of an inter-county transfer to San Francisco County, having recently moved from San Mateo County to San Francisco. S.S. has a learning disability that substantially impairs her ability to read, spell, and remember things.

¹¹ <http://dpss.co.riverside.ca.us/PDFs/Publications/QR7.pdf> (last visited July 10, 2012).

On June 1, 2012, S.S. went to SF-DHS to fill out initial applications for CalWORKs and Temporary Homeless Assistance Payments (“THAP”). The receptionist at the front desk handed S.S. a stack of papers to fill out. S.S. attempted to fill out these forms but had difficulty understanding them due to her learning disability. She went back to the front desk and asked for assistance. The receptionist then highlighted the areas S.S. had to sign. When S.S. again told the receptionist she did not understand the forms, the receptionist became frustrated and told S.S. she had to come back for a CalWORKs “group intake”. SF-DHS did however provide S.S. and her granddaughter with five days THAP benefits (hotel money) at that time.

At the initial intake on June 1, 2012, SF-DHS also gave S.S. a form (“OCR 2”) to request accommodations or assistance from SF-DHS. S.S. completed the form to the best of her ability. She requested (1) help understanding forms or discussion with workers, (2) help filling out forms, and (3) that an SF-DHS staff person review the other accommodation options with her. Attached as Exhibit C is a copy the form S.S. completed. At the bottom of the OCR 2 is a box where the SF-DHS worker is supposed to explain the type of help he or she will provide to applicant. S.S.’s worker signed the OCR 2 but left this box blank.

S.S. returned to SF-DHS for the required group intake on June 5, 2012. Again an SF-DHS worker handed her a stack of papers and asked her to fill them out. No one at the group intake took her aside to help her fill out of the forms one-on-one despite the fact she filled out an OCR 2 indicating the need for this assistance. S.S. did not expect help after what happened on June 1st and did not ask for help out of fear of embarrassment and humiliation in front of a group of other applicants.

SF-DHS’s repeated failure to provide assistance to help S.S. complete required forms caused S.S. to lose a portion of her THAP income. According to THAP rules, a family

approved for temporary homeless assistance is eligible for up to 16 consecutive days beginning the day of receipt of benefits. When SF-DHS approved S.S. on behalf of T.B. for THAP on June 1st, her worker, [REDACTED], did not explain the 16 consecutive day rule or provide S.S. with a list of hotels that accept THAP per SF-DHS requirements. S.S. did not begin using these benefits until June 7th because she could not find a hotel in the appropriate price range (\$65/night). On June 12, 2012, the County issued five more days of hotel benefits but told S.S. in person that she was not entitled to the remaining six days of THAP benefits because of her delay in finding a hotel. Attached as Exhibit D is an email explaining the denial of benefits sent from SF-DHS to S.S.'s advocate, Ruth Gordon.

In June 2012, S.S. went to Bay Legal and got help from advocate Ruth Gordon. Ms. Gordon contacted the SF-DHS director and requested that SF-DHS not apply the 16 consecutive day rule due to S.S.'s learning disability and SF-DHS's failure to accommodate. The SF-DHS director agreed, citing a lack of case notes documenting the accommodation services provided, and approved 16 days of hotel benefits retroactive to June 7th. Attached as Exhibit E is an email stating his decision.

Ms. Gordon also helped S.S. fill out a new OCR 2 that gives a more detailed explanation of her requested accommodations. Attached as Exhibit F is a copy of that completed form. Ms. Gordon then complained to [REDACTED] supervisor, [REDACTED], about [REDACTED] failure to provide accommodations. On June 12th, 2012, [REDACTED] met with S.S. to assess her need for reasonable accommodations. On June 14th, 2012, [REDACTED] produced an ADA Service Plan that explains the accommodations SF-DHS will provide to S.S. Attached as Exhibit G is a copy of this plan. Were it not for the repeated intervention of Ms. Gordon, S.S. and her granddaughter

would be without essential benefits to avoid homelessness. S.S. seeks assurances through this complaint that her rights to accommodations, and the rights of others like her, will be enforced.

c. S.T.

S.T. is a 27-year-old mother of a minor child who resides in San Francisco, California. She has a learning disability and has difficulty with reading. Since March 2009, she has received CalWORKs from SF-DHS. SF-DHS has repeatedly failed to identify and accommodate S.T.'s disability, which has led directly to sanctions that disrupted her CalWORKs benefits several times to the severe detriment of her ability to meet basic living needs and take care of her child.

On March 18, 2011, SF-DHS provided S.T. with a Learning Needs Screening ("LNS") in which she disclosed receiving special education services in school. Although the results of S.T.'s LNS would have likely indicated a learning disability, SF-DHS did not tally the score of her test. Attached as Exhibit H is a copy of the LNS. Nor did SF-DHS perform any kind of follow-up after S.T. disclosed on both her April 2011 and December 2011 WtW plans that she had received special education services in school. Attached as Exhibit I is a copy of the April 2011 WtW plan and attached as Exhibit J is a copy of the December 2011 WtW.

Despite the obvious indications that S.T. has a disabling condition that could impact her ability to participate in WtW activity, the CWD assigned S.T. to the Assessment Continuing Employment ("ACE") program, a job-readiness WtW activity. When S.T. arrived at ACE on April 11, 2011, she realized that the activity would involve reading aloud and taking tests. Extremely embarrassed about her reading difficulties, S.T. did not know what to do but get up and leave the activity.

On June 1, 2011, SF-DHS sanctioned S.T. for non-compliance with her WtW plan. Attached as Exhibit K is a copy of the sanction notice. The sanction ran from June 1, 2011 to

November 30, 2011 and resulted in the loss of \$216 a month over the six month period, for a total loss of almost \$1300. At no point prior to issuing the sanction did S.T.'s worker [REDACTED] ask her why she left the activity or consider the possibility of good cause, or advise her of her disability civil rights, consider an exemption, or offer or provide reasonable accommodations by way of SF-DHS' OCR 2 form or in any other manner. Attached as Exhibit L is a CalWin screenshot showing worker entered "NO" for "Good Cause Determined" but did not provide a reason for the determination. When S.T. notified the County about her desire to stop the sanction on December 5, 2011, the County again ignored her learning disability and issued a "sanction cure plan" that required S.T. to attend the ACE program. Attached as Exhibit M is a copy of this cure plan.

On December 8, 2011, S.T. sought the help of Bay Legal. Ruth Gordon assisted S.T. in requesting that SF-DHS lift the sanction retroactively due to its failure to perform a good cause determination as to why S.T. left her activity. On July 3, 2012, SF-DHS agreed to lift the sanction for the entire six month period. Attached as Exhibit N is an email detailing both Ms. Gordon's request and SF-DHS's agreement to lift the sanction. In January of 2012, Ms. Gordon requested that SF-DHS perform a Learning Needs Assessment ("LNA") to determine the extent of S.T.'s learning disability. On June 18, 2012, Ms. Gordon helped S.T. fill out an OCR 2 form that lists her requested accommodations. Attached as Exhibit O is a copy of the OCR 2. As of July 11, 2012, no ADA Service Plan has been implemented as a follow-up to the submission S.T.'s OCR 2.

Had S.T. not sought the advice of Ms. Gordon, she would have had no understanding of her right to reasonable accommodations and would have been unable to contest the lengthy

sanction that was imposed by SF-DHS. Her benefits remain at risk so long as SF-DHS fails and refuses to properly accommodate her.¹²

See Exhibit P for a supporting declaration from Bay Legal advocate Ruth Gordon providing support for the stories of complainants SB, SS, and ST and longstanding systemic failures and refusals of SF-DHS to reasonably accommodate disabled applicants and recipients of CalWORKs benefits.

d. K.B.

K.B. is a 39-year-old single mother of three minor children. She is a U.S. citizen who emigrated from Ghana, Africa about ten years ago. K.B. has been a victim of domestic violence and has a learning disability, an anxiety disorder, and depression. She began receiving CalWORKs (including Medi-Cal) from the Sacramento County Department of Human Assistance¹³ (“S-DHA”) in 2010.

Because of her mental health conditions, K.B. has difficulty focusing, completing tasks, and complying with CalWORKs program rules such as reporting requirements. To the best of her recollection, K.B. explained her disabilities to her S-DHA worker, whom she recalls is named [REDACTED], when she first applied for CalWORKs in 2010. She recalls that at that time she asked for the following assistance in person: additional time to submit required forms

¹² It is also important to note that the San Francisco CalWORKs Eligibility Handbook (<http://www.sfhsa.org/asset/ReportsDataResources/CalWORKsHandbook.pdf>) (last visited July 10, 2012) states that “Assistance is administered promptly and humanely, with due regard to the preservation of family life and without discrimination on account of race, color, national origin, religion, political affiliation, sex or marital status.” Disability should be included as a protected class here, but it is conspicuously left out. Further, a discussion of disability protection under the ADA is not even mentioned until page 63 and, even then, the policy is substantially flawed in failing to provide clear policy guidance on reasonable accommodation obligations. For example, alternate formats for blind applicants/recipients are not guaranteed; rather, SF-DHS workers are instructed to tell clients that SF-DHS “will try” to provide Braille upon request (page 68).

¹³ Director Paul Lake; Sacramento Department of Human Assistance; 2433 Marconi Avenue, Sacramento, CA 95821; 916-875-3601.

including verifications (CW-61s), help filling out required reporting forms, and assistance in obtaining required documents. K.B. recalls that the worker refused to help and told her she had to go to her doctor to have the forms filled out.

Despite refusing to provide her with the assistance she requested, S-DHA recognized her disabling conditions, and exempted her from standard WtW requirements. S-DHA referred her to mental health counseling services as an alternate condition of receipt of CalWORKs benefits. In order for K.B. to regularly attend these sessions, she needed child care services, another benefit supposedly provided by S-DHA to recipients engaged in WtW activities. But S-DHA did not offer or provide her with child care services for most of 2011.

K.B. met with her worker, [REDACTED], and other S-DHA staff, including someone named [REDACTED] and a supervisor, in person a few times within the past year. During these meetings some or all of these staff told her she was not going to get all the benefits she was entitled to, including either childcare or homeless assistance benefits, and that she had no right to appeal. When K.B. attempted to tell them about her struggles, at least one of them told her to “go back to Africa.” K.B. was outraged.

S-DHA discriminated against K.B. on the basis of her disability by refusing to recognize that her involvement in mental health counseling services was an approved WtW activity that should have entitled her to child care services as needed. S-DHA also discriminated against her on the basis of race.

In late 2011, K.B. obtained legal representation from Legal Services of Northern California to secure retroactive and prospective child care services needed for her to attend counseling and education courses that she was enrolled in. In December 2011 the matter went to a hearing where an S-DHA hearings representative found that K.B.’s counseling services were in

fact recommended by S-DHA, an approved WtW plan, and ordered back payment of several months of child care. *See* attached Exhibit Q. Despite the hearing representative's findings, recently S-DHA has been sending a fraud investigator to K.B.'s home to interrogate her regarding her use of child care benefits, which has further increased her anxiety. She has had panic attacks. K.B. claims that S-DHA is retaliating against her for pursuing her rights to benefits.

In December 2011, K.B.'s children went to live with their father and K.B. lost all of her CalWORKs benefits, except Medi-Cal on the condition that she might be contacted to submit a "mid-year report". *See* attached Exhibit R. But K.B. did not receive the notice (Exhibit R shows that it was returned unclaimed). K.B. subsequently lost Medi-Cal and tried to apply again. In May 2012, K.B. received a notice that S-DHA denied Medi-Cal. Despite S-DHA's knowledge of her mental health conditions, it did not honor her prior request for assistance with reporting requirements or refer her case for a disability evaluation to make an appropriate determination regarding her Medi-Cal eligibility, resulting in wrongful denial of Medi-Cal benefits.

K.B.'s children returned to her care in June 2012, and K.B. reapplied for CalFresh and Medi-Cal benefits at S-DHA. While it appears that S-DHA has approved these benefits, K.B. remains more anxious and depressed because of her experiences with S-DHA and the discriminatory treatment she has repeatedly suffered. She is constantly worried about whether she will receive or be denied or lose the benefits to which she is entitled to take care of herself and her children and keep her children with her. She seeks fair, just and non-discriminatory treatment through this complaint for herself and all others like her.

IV. Supporting Declaration by E.F., Now Deceased

On May 13, 2011, E.F., age 34 at the time, signed a declaration (Exhibit S) attesting to the following information about repeated experiences of disability discrimination over the course of several years while seeking various benefits from Santa Clara County Social Services Agency (“SC-SSA”)¹⁴.

In short, after E.F. was diagnosed with an inoperative brain tumor in September 2008, she required welfare benefits and to get them, she needed various accommodations based on her disability, such as appointments at home or by telephone and assistance with filling out various forms and gathering documents required to apply for benefits she needed to support herself and her family. She repeatedly requested such accommodations through her legal aid attorney, Bay Legal in Santa Clara County, and SC-SSA repeatedly refused to provide accommodations to her, which resulted in the termination of her benefits numerous times due to her lack of compliance with program rules. In each instance, E.F.’s attorney intervened and ultimately secured the accommodations needed for her client, but this was always forgotten about by the next reporting cycle and E.F. was frequently terminated from benefits and not provided with accommodations to avoid loss of benefits.

Too sick to work, E.F. left her job in January 2009. On January 29, 2010, she was approved for a U-visa on the basis of domestic abuse she suffered earlier. After receiving her visa, she applied for CalWORKs, CalFresh, and Medi-Cal at the North County Social Services Office in Mountain View, California (Santa Clara County). She was granted all of these benefits (\$367/month from CalFresh, \$561/month from CalWORKs, and Medi-Cal health coverage).

¹⁴ Director Bruce Wagstaff, Santa Clara County Social Services Agency; 333 West Julian Street, San Jose, CA 95110; 408-755-7100.

E.F.'s benefits began to decrease shortly after. On March 30, 2010, SC-SSA decreased her food stamps from \$367 to \$241 and on March 31, 2010, it lowered her CalWORKs from \$561 to \$241. On April 4, 2010, she received a letter saying her CalWORKs would now be \$345. Due to her disability, she did not understand these reductions in benefits and sought help from Bay Legal. Ms. Lisa Newstrom, an attorney with Bay Legal in Santa Clara County, evaluated her case and informed her that the reductions were sanctions due to a lack of proof her son was attending school as well as her immigrant status. With Ms. Newstrom's assistance, these two issues were resolved by July 2010 and E.F. began receiving back benefits.

Ms. Newstrom also advised E.F. to apply for CAPI so that she would not have to get doctor's notes saying she could not meet CalWORKs work requirements. SC-SSA had not informed E.F. of her potential entitlement to CAPI assistance. Applying for CAPI benefits was a difficult experience. During her first trip to the General Assistance ("GA") Office in San Jose on August 3, 2010, E.F. was told erroneously that she could not obtain CAPI benefits with her particular visa. During her second trip on August 23, 2010, an intake worker named [REDACTED] informed her—again erroneously—that she could not receive CAPI benefits because she was on CalWORKs. E.F. stated that other staff members at the GA office were very rude to her. The supervisor ([REDACTED]) even openly questioned whether she had cancer despite the fact that she brought her medical records. E.F. was very embarrassed discussing her medical history during this meeting.

During each visit, SC-SSA workers at the GA office gave E.F. piles of papers that were difficult for her to read (she was receiving chemotherapy at the time and had severe headaches and vision problems) and that required the assistance of Ms. Newstrom to fill out. Her main complaint was that despite knowing how sick she was, no one at SC-SSA took the time to ask if

she needed help filling out these forms or gave her the option of not travelling so far to fill them out, accommodations that should have been offered and provided to her, especially after Ms. Newstrom helped E.F. request them. They also never mentioned any possibility of exemption from such requirements due to E.F.'s disability.

E.F. requested help, such as reasonable accommodations with regard to paperwork requirements, repeatedly through Ms. Newstrom. As E.F. became more ill, her benefits (including vital Medi-Cal health coverage) were cut off repeatedly when she was unable to complete the required paperwork on her own. She asked for help with this many times from SC-SSA workers but they stated that they were unable to provide such help. No notice was ever provided in advance of these terminations. Often, E.F. would learn of these terminations only once she visited the doctor for treatment of her cancer and was informed that she was no longer covered by Medi-Cal.

Ms. Newstrom filed a state hearing request in June 2011 contesting SC-SSA's failure to accommodate. Initially, an SC-SSA appeals worker stated that she had never heard of a reasonable accommodation and did not believe SC-SSA would be able to provide this. Ms. Newstrom suggested that the appeals worker speak with the Civil Rights Coordinator ("CRC") about reasonable accommodations, but the CRC was also unfamiliar with the ADA and had never heard of a reasonable accommodation. Ultimately, after Ms. Newstrom provided a great deal of information about the ADA and its requirements to reasonably accommodate people with disabilities, the appeals worker signed a conditional withdrawal, agreeing to reasonably accommodate E.F. with regards to filling out her paperwork and to contact Bay Legal prior to any terminations for missing paperwork. However, even after signing this conditional withdrawal, SC-SSA terminated E.F.'s benefits again in August 2011 for missing paperwork.

She was reinstated with the help of Ms. Newstrom, but terminated again in October 2011 for the same reasons. E.F. passed away at the end of November 2011.

E.F. states at the end of the declaration that she is doing this “so that if I am not around to tell my story, someone will be able to know what happened to me.” While not a formal complainant due to the fact that she is deceased, E.F. wanted her story told so that she could prevent such injustices from happening to other public benefits recipients with disabilities like her.

V. Supporting Declaration of L.H.

L.H. is 39 years old and a single mother of one child and has submitted a declaration (Exhibit T) in support of this complaint. She resides in Alameda County. L.H. is legally blind and a recipient of CalWORKs and child support services, administered by Alameda County. Because of her disability, she requires help reading and filling out forms to maintain her benefits. She is also a Spanish speaker and requires help with translating forms if they are in English. When she receives forms and notices about her benefits in the mail from the Alameda County Social Services Agency (“A-SSA”)¹⁵, she gets them in English and either her father or a friend usually reads them to her in Spanish so that she can properly understand them and respond as needed with their help.

On July 28, 2011, L.H. went to an appointment with the A-SSA’s Child Support Services to apply for child support benefits. When she requested assistance with filling out the form because of her disability, the A-SSA worker offered the help of a Spanish-speaking employee but informed her that assistance filling out the form was not available and that she would have to seek this help elsewhere, on her own. An acquaintance who accompanied L.H. to the

¹⁵ Director Lori Jones; Alameda County Social Services Agency; 2000 San Pablo Ave., Oakland CA 94612; 510.271.9100.

appointment ultimately filled out the papers for her due to the worker's unwillingness to provide assistance.

Later, in October 2011, L.H. went to renew her CalWORKs at the A-SSA office. Her friend Rita accompanied her to assist with filling out the forms, but the receptionist would not allow Rita in to her appointment for these purposes since he said she would need to make her own separate appointment for this. The receptionist assured L.H. that there would be no forms to fill out during this appointment. However, it turned out that she was expected to fill out forms and had to leave her appointment early because she was unable to fill these out independently and, again, no assistance was provided to her. The social worker in this instance was [REDACTED].

When L.H. came back out to the waiting room, the receptionist asked her where she was going since her appointment was not yet over. When she told him she had to leave the appointment prematurely because she could not fill out the forms, the receptionist laughed at her inability to fill out forms independently. When she told him she was going to speak to his supervisor about his behavior, he told her that it "wasn't his problem." Soon after, she filed a complaint with Alameda County Human Resources about how she was treated but never received any follow-up communication from Alameda County.

After this incident occurred, L.H.'s benefits were deposited two weeks late in both November and December 2011. This caused stress – she did not know what was happening or why and when she would get her benefits, if at all. It also caused hardship to her trying to meet her family's basic needs because she does not have any other income.

In both of L.H.'s recent experiences with A-SSA workers, she was never informed of her right to reasonable accommodations due to her disability and was never offered assistance to

complete necessary forms. She was humiliated. She is sharing her story in this complaint so that HHS OCR remedies these sorts of problems and prevents this from happening to other county welfare recipients with disabilities in the future.

VI. Legal Background

a. State and Federal Disability Rights Laws

The ADA, 42 U.S.C. § 12132 *et seq.*,¹⁶ Section 504, 29 U.S.C. § 794,¹⁷ California Government Code section 11135 *et seq.*, and related state regulations, Cal. Code Regs. tit. 22 § 98250 *et seq.*¹⁸ prohibit discrimination on the basis of disability in public benefits programs. These statutes guarantee that qualified persons with disabilities shall not be excluded from participation in a public program, nor denied its services by reason of their disabilities.

Moreover, regulations promulgated by the U.S. Department of Justice implementing the ADA prohibit CDSS (and CDHCS for its part) and CWDs from using criteria or methods of administration that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program with respect to persons with disabilities: “A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the

¹⁶ “Subject to the provisions of this title, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.”

¹⁷ “No otherwise qualified individual with a disability...shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service.”

¹⁸ “No person in the State of California shall, on the basis of...disability, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state.”

service, program, or activity.” 28 C.F.R. § 35.130(b)(7)-(8). The California Government Code affirms the applicability of the ADA except where state law offers greater protection, Cal. Gov’t Code § 11135(b),¹⁹ and requires the state to cut funding to CWDs where disability discrimination has occurred. *Id.* at § 11137.²⁰

b. State Laws on the Disability Civil Rights in Public Benefits Programs and the Obligation of State Agencies to Monitor and Enforce Civil Rights Compliance

The California Legislature has also mandated, as to all public benefits programs in California, that “aid shall be administered and services provided promptly and humanely.” Welf. & Inst. Code § 10000. In so doing, CWDs must “secure for every person the amount of aid to which he is entitled, without attempting to elicit any information not necessary to carry out the provisions of law applicable to the program.” *Id.* at §10500.

More specifically, the Cal. Code Regs. tit. 22 § 98000 *et seq.*, address the civil rights obligations of CDSS and the CWDs in more detail. These regulations require CDSS to conduct civil rights reviews of CWDs, Cal. Code. Regs. tit. 22 §§ 98340, 98305; to ensure that they are complying with mandates to appoint a Civil Rights Coordinator (“CRC”), *id.* at § 98301; perform annual reviews for evaluation by CDSS, *id.* at § 98380; send adequate notice and provide such notice in alternative formats when necessary, *id.* at § 98326; provide reasonable accommodations to applicants and recipients with disabilities, not discriminate on the basis of

¹⁹ “With respect to discrimination on the basis of disability, programs and activities...shall meet the protections and prohibitions contained in...the federal Americans with Disabilities Act...and the federal rules and regulations adopted in implementation thereof, except that if the laws of this state prescribe stronger protections and prohibitions, the programs and activities...shall be subject to the stronger protections and prohibitions.”

²⁰ “If it is determined that a contractor, grantee, or local agency has violated the provisions of this article, the state agency that administers the program or activity involved shall take action to curtail state funding in whole or in part to such contractor, grantee, or local agency.”

disability, *id.* at §§ 98101, 98253, 98254, 98370; and perform self-evaluations with regards to their policies to modify them when necessary to avoid discrimination. *Id.* at § 98251.

The CDSS Division 21 Manual of Policies and Procedures (“MPP”) further enumerates these responsibilities. The purpose of Division 21 is to enforce Title II of the ADA, Section 504, and California Government Code § 11135 *et seq.*, among other federal and state civil rights laws, in order to:

ensure that the administration of public assistance and social services programs are nondiscriminatory, and that no person shall, because of...disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal or state financial assistance. Administrative methods/procedures which have the effect of subjecting individuals to discrimination or defeating the objectives of these regulations are prohibited. MPP § 21-101.

This non-discrimination mandate applies to CDSS, CWDs, and all other agencies receiving federal or state financial assistance from CDSS for the administration of public benefits. *Id.* at § 21-103. The MPP expounds on the requirements of the Code of Regulations detailed above, such as the requirement on CDSS to conduct civil rights reviews of CWDs (and take disciplinary action where CWDs are non-compliant), *id.* at §§ 21-201.3, 21-205.1-.3, ensure that CWDs are complying with their obligations to appoint a CRC, *id.* at § 21-201.1; send adequate notice, *id.* at §§ 21-107.25, 21-107.211; ensure program accessibility for applicants and recipients with disabilities, *id.* at §§ 21-109.1 - .2, 21-111.1, 21-111.13 - .14, 21-115.1, 21-115.3 - .4; and perform self-evaluations, *id.* at §§ 21-103.5, 21-111.12, 21-201.232, 21-203.

The MPP states that the requirements of Division 21 “shall apply to...CDSS, all county welfare departments and all other agencies receiving federal or state financial assistance through CDSS for the administration of public assistance, food stamps, child support enforcement, fraud investigation and social services.” MPP § 21-103. The CDSS Annual Plan Guidelines (<http://www.cdss.ca.gov/civilrights/res/pdf/CR28AnnualPlan.pdf>) (last visited July 10, 2012)

broadly state that the annual plan document submitted in response to these guidelines must cover the CWD's plan to maintain compliance with MPP Division 21 in CWD programs, including "CalWORKs, Overpayment and Tax Intercepts or Collections, Children's Services, Foster Care and Adoptions Placement, Adult Programs, Fraud Investigations, Food Stamps, Non-Assistance Food Stamps, Cash Assistance Program for Immigrants, and all other social service programs administered by the county and funded through CDSS."

c. State and Federal Due Process Laws

The Fourteenth Amendment to the United States Constitution guarantees that States will not "deprive any person of life, liberty or property without due process of law." Article I, Section 7(a) of the California Constitution guarantees that a "person may not be deprived of life, liberty, or property without due process of law." The interest of an individual in receipt of public benefits to which he or she is entitled is a statutorily created governmental interest to which due process applies. Benefits may not be denied absent procedural protections, including notice of the CWD's reasons for decisions, and of the opportunity to contest the decision.

VII. Violations

There are many laws and regulations in place (described above) that govern CDSS's (and CDHCS's for its part) responsibility to ensure non-discrimination in California's public benefits programs. As stated above, the primary issue is that CDSS and CDHCS do not adequately enforce non-discrimination mandates in CWDs, resulting in unchecked systemic disability discrimination to the detriment of the most vulnerable population of poor and disabled residents of California.

In the year prior to filing this complaint, beginning in March 2011, the Disability Rights Education and Defense Fund ("DREDF") sent numerous Public Records Act Requests ("PRAs")

to CDSS in order to investigate CDSS compliance with its obligations to monitor CWDs as discussed above. CDSS responded to some requests on time, but most responses were incomplete and CDSS did not ultimately produce complete responses until April 2012 after a meeting with DREDF attorneys. (Exhibits U and V include copies of all DREDF PRAs and CDSS responses from March 2011 – April 2012).

On March 2, 2011, DREDF sent its first PRA to CDSS requesting compliance reviews (and related documents) for Fresno, Sacramento, San Diego, and Santa Clara. On April 27, 2011, CDSS provided responsive documents to DREDF indicating that it did not monitor compliance with most of the benefits programs listed in the PRA request. On May 20, 2011, DREDF sent another PRA to CDSS requesting all of the annual forms relating to the enforcement of Cal. Gov't Code § 11135 as required by Cal. Code Regs. tit. 22 § 98380 and information regarding who is designated to ensure state compliance at the management level as required by Cal. Code Regs. tit. 22 § 98301. On June 20, 2011, CDSS responded that it was “not aware of any specific form used to evaluate the progress in enforcing the provisions of Article 9.5...” It identified Tom Lee as the person in charge of ensuring state compliance.

On June 21, 2011, DREDF sent a third PRA to CDSS requesting the logistical guidelines surrounding compliance reviews and corrective action plans, documents relating to CDSS trainings on disability discrimination, and any corrective action plans CDSS had issued relating to disability discrimination. On June 23, 2011, DREDF sent a follow-up PRA to CDSS requesting all materials relating to actions CDSS had taken relating to the Cal. Code Regs. tit. 22 § 98342 requirement for CDSS to “compile all relevant evidence” to determine that a violation has occurred if it has reason to suspect that a CWD is not complying with non-discrimination mandates. Much later, on April 18, 2012, CDSS responded with the logistical guidelines

governing compliance reviews and corrective action plans, provided a link to compliance reviews and corrective action plans available on the CDSS website, and provided a power point slide used to train CRB staff entitled “Understanding and Complying with the ADA Amendments Act and the EEOC’s Final ADA Regulations.”

On May 20, 2011, DREDF also sent a PRA to California Health and Human Services (“CHHS”) requesting documents pertaining to CHHS evaluations of CDSS regulations as required by Cal. Code Regs. tit. 22 § 98305. On November 10, 2011, CHHS responded that it had no records to provide because CHHS was not utilizing the referenced evaluation form to review CDSS regulations. It thus appears that CHHS is not in compliance with Cal. Code Regs. tit. 22 § 98305.

a. Compliance Reviews and the CDSS Template

The Code of Regulations requires CDSS to conduct reviews of CWDs to determine their compliance with civil rights laws and regulations and “discover and remedy systemic discrimination.” Cal. Code. Regs. tit. 22 § 98340. The MPP enumerates in more detail that these reviews require CDSS to review case records for applicants and recipients with disabilities, conduct interviews with CWD staff, review the program or activity’s accessibility to persons with disabilities, review civil rights complaints and CWD follow up. MPP § 21-201.3.

If, after conducting this review, CDSS has reason to believe that a CWD has violated the law, CDSS must “compile all relevant evidence” within 180 days to enable it to determine whether a violation occurred and must terminate or suspend support to the CWD until it complies with the non-discrimination mandate. Cal. Code. Regs. tit. 22 §§ 98342, 98346, 98370. In addition, CDSS must require the CWD to develop a corrective action plan within 60 days to

resolve the problem or develop a policy or plan to ensure that similar problems do not reoccur. MPP §§ 21-205.1, 21-205.2.

CDSS uses a standard template for all compliance reviews that is facially deficient because it fails to address various civil rights obligations on a level sufficient to evaluate a CWD's compliance and remedy the situation where the CWD is non-compliant.²¹ Currently, CDSS compliance reviews are all based on the same superficial template. *See* most recent compliance reviews and corrective action plans of Alameda, Sacramento, San Francisco, and Santa Clara Counties (Exhibits W, X, Y, Z, AA, BB, and CC). The template report minimally covers legal requirements related to disability discrimination. It calls for cursory reviews and results in oversights. This is a systemic problem in violation of the state's obligation to conduct effective reviews that remedy non-compliance. The ways in which this template is facially deficient with regards to various disability non-discrimination mandates are enumerated in further detail below.

i. Civil Rights Coordinator (“CRC”)

The Code of Regulations requires that each state agency designate a person at the management level to ensure that non-discrimination mandates are fulfilled. *Id.* at § 98301. The MPP further states that “Responsibility for the implementation of non-discrimination requirements shall be centralized within each agency. Each agency shall designate an employee

²¹ Also available online at: Alameda (compliance review: <http://www.dss.cahwnet.gov/civilrights/res/201110AlamedaCRR.pdf>; corrective action plan unavailable), Sacramento (compliance review: <http://www.dss.cahwnet.gov/civilrights/res/201108SacramentoDHACRR.pdf>; corrective action plan: <http://www.dss.cahwnet.gov/civilrights/res/2011SacDHACAP.pdf>); San Francisco (compliance review: <http://www.dss.cahwnet.gov/civilrights/res/201103SanFranciscoCRR.pdf>; corrective action plan: <http://www.dss.cahwnet.gov/civilrights/res/2011SanFranciscoCAP.pdf>); and Santa Clara (compliance review and corrective action plan not available online) (last visited July 10, 2012). All references to CDSS compliance reviews in this complaint are to those cited here.

as the Civil Rights Coordinator, and shall allocate adequate personnel and resources to implement the provisions of this division and ensure nondiscrimination in the delivery of services.” MPP § 21-201.1.

Despite this clear mandate to appoint civil rights enforcers in each CWD, the CDSS compliance review template (“the template”) does not instruct investigators to inquire about the role and effectiveness of the CRC in performing compliance reviews.²² Since the CRC is the only CWD employee charged with civil rights enforcement, it is troubling that the template does not instruct investigators to evaluate the CRC’s role and performance in assessing the CWD’s compliance with non-discrimination mandates. The template should require investigators to closely evaluate the CRC’s role and performance to determine whether s/he is adequately trained in applicable civil rights laws and whether s/he is meeting responsibilities to enforce these laws in meaningful and effective ways, including whether staff is adequately informed of the role of the CRC and whether they appropriately refer to the CRC, etc.

ii. Notice

The Code of Regulations requires each CWD to “make available to ultimate beneficiaries and other interested persons information regarding the responsible State agency’s procedures for the filing of a complaint and other information regarding the provisions of Article 9.5 and its applicability to the program for which the recipient receives State support, and make such information available to them in such manner, as the responsible State agency finds necessary to apprise such persons of the protections against discrimination assured them by Article 9.5, this Division and the responsible State agency’s regulations.” Cal. Code. Regs. tit. 22 § 98326. The

²² See, e.g., Sacramento corrective action plan (failing to address the substantive role of the CRC and just instructing the CWD to inform staff of how to locate the CRC’s office).

MPP elaborates that each CWD must take “appropriate steps” to provide proper notice, MPP § 21-107.1; prominently display CDSS non-discrimination posters (“Pub 86”) (Exhibit DD) in all waiting rooms and reception areas, MPP § 21-107.211; provide CDSS pamphlet “Your Rights Under California Welfare Programs” (“Pub 13”) (Exhibit EE) in all waiting rooms and reception areas including in alternate formats, MPP § 21-107.221; and ensure that applicants and recipients are notified of and can obtain information about programs or program changes (such as prohibited acts of discrimination and procedures for filing discrimination complaints), MPP § 21-107.24.

With regards to notice, the template references the “Your Rights Under California Welfare Programs” pamphlet and inquires about its proper distribution and whether it is available in alternative formats. The template also asks about the location of the non-discrimination posters. However, the template does not inquire about whether the CWD makes the right to accommodations known to applicants and recipients and does not generally evaluate whether the CWD is taking “appropriate steps” to provide proper notice beyond the presence of non-discrimination posters and pamphlets.²³ The template should call for investigators to go beyond this superficial inquiry to inquire about all forms of notice and whether their substance is meaningful and effective.

iii. Reasonable Accommodations and Non-Discrimination

²³ *See, e.g.*, Sacramento, San Francisco, and Santa Clara corrective action plans (failing to substantively address the compliance review findings that CWD staff was uninformed about the distinction between discrimination complaints and other complaints beyond just requiring the CWD to inform its staff of this distinction) and the Sacramento corrective action plan (failing to remedy the compliance review finding that CWD staff was unaware of where the non-discrimination poster is located beyond just requiring that CWD hang all necessary posters in the proper areas).

The Code of Regulations forbids discrimination on the basis of physical or mental disability. Cal. Code. Regs. tit. 22 § 98101. Specifically, CWDs may not deny a person the opportunity to receive aid, may not administer benefits in an unequal or discriminatory manner (noting that “in some situations, identical treatment may be discriminatory”), and may not “utilize criteria or methods of administration” that serve to impair the objections of people with disabilities. *Id.* The Regulations specifically require CWDs to “take appropriate steps” to ensure that their materials are accessible to people with impaired vision or hearing, *id.* at § 98253, and to ensure that all CWD programs or activities are “readily accessible to disabled persons.” *Id.* at § 98254. The MPP reiterates these requirements, emphasizing the need to provide equal access to persons with physical and mental disabilities. MPP §§ 21-109.1, 21-109.2, 21-111.1. The MPP also goes into further detail, requiring CWDs to offer programs and activities to individuals with disabilities in “the most integrated setting appropriate,” *id.* at § 21-111.13; establish procedures to ensure that communications with individuals with disabilities are “as effective as communications with others,” *id.* at § 21-111.14; provide interpretive services in a prompt manner, *id.* at §§ 21-115.1, 21-115.4; and ensure that administrative practices “do not have the effect of denying...individuals with disabilities equal access to and participation in the available programs and activities,” *id.* at § 21-115.3.

The template provides a list of questions asking investigators to evaluate matters relating to physical access to CWD facilities, effective communications (particularly with regards to ASL interpreting), and screening and assistance for individuals with learning disabilities. These questions are cursory and do not provide a full picture of what and how accommodations are

provided and whether they are fully compliant with disability rights laws.²⁴ Further, the template does not evaluate how screening is carried out or whether it is actually carried out or mention screening or reasonable accommodations for mental health or developmental disabilities other than learning disabilities, an egregious oversight that neglects the needs of a significantly large portion of those with disabilities seeking public benefits.²⁵

iv. Self-Evaluation

The Code of Regulations requires that CWDs perform self-evaluations of their policies and practices to ensure they are complying with non-discrimination mandates. If the policies and practices are found to be non-compliant, the CWDs must modify the policies and practices and “take appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to such policies and practices.” Cal. Code. Regs. tit. 22 § 98251. The MPP elaborates on this requirement, requiring CWDs to identify and address civil rights impacts of proposed actions on people with disabilities before the actions are approved or implemented, investigate discrimination complaints, and make information regarding the complaint process available to applicants and recipients. MPP §§ 21-103.5, 21-111.12, 21-203. The template does not mention the self-evaluation requirement.

²⁴ *See, e.g.*, Santa Clara compliance review and corrective action plan (failing to review the provision of auxiliary aids and services beyond clients with hearing and visual impairments and learning disabilities and beyond the non-discrimination poster); and Sacramento and San Francisco compliance reviews and corrective action plans (failing to address the specific requirements surrounding providing alternate formats and limiting the requirement to non-discrimination posters).

²⁵ *See, e.g.*, Alameda, Sacramento, San Francisco, and Santa Clara compliance reviews (failing to address methods of screening to identify all disabilities beyond learning disabilities and failing to address program modifications and accommodations as needed to ensure nondiscrimination. The reviews were limited to general findings of failure to ensure case documentation of disabilities and requests for accommodations); and Alameda and Santa Clara compliance reviews (failing to address how the CWD screens for learning disabilities or who performs this screening).

v. Anti-Discrimination Training

While not mentioned in the Code of Regulations, the MPP requires that each CWD employee receive training (both at orientation and continuing education) in Division 21 anti-discrimination mandates. MPP § 21-117.1. These trainings should familiarize CWD workers with the disability civil rights of applicants and recipients, cultural awareness of individuals with disabilities, and the discrimination complaint process. *Id.* at § 21-117.2. The template mentions the training requirement but is far too broad and vague in its inquiries, failing to ask investigators to evaluate the substance of the trainings themselves and, instead, asking only about whether such trainings are provided and whether CWD employees “seem knowledgeable” about these issues. Investigators should be delving into the trainings more deeply and be required to attend such trainings to evaluate for themselves whether they are in compliance with MPP requirements. Evaluating whether CWD employees “seem knowledgeable” is an entirely inadequate measure of compliance and offers no concrete standards with which to evaluate such knowledge.

vi. Review of Case Files of Applicants and Recipients with Disabilities

The MPP requires investigators to review case records for applicants and recipients with disabilities in order to properly assess compliance with non-discrimination mandates. MPP § 21-201.311. Despite this requirement, the template does not clearly require the review of case files of applicants and recipients with disabilities and focuses only on other case file reviews, such as those for non-English speakers.²⁶ There is no indication that CDSS systematically reviews the individual case files of any applicants/recipients with disabilities. CDSS requires CWDs to include in their Annual Plans specific information about identification of disabilities and

²⁶ *See, e.g.*, Alameda, Sacramento, San Francisco, and Santa Clara compliance reviews.

accommodations. See (<http://www.cdss.ca.gov/civilrights/res/pdf/CR28AnnualPlan.pdf>) (last visited July 10, 2012), at page 7: “Summarize the following: [...] 4. Procedures to identify an applicant’s/recipient’s disability (physical or mental impairment, which could limit access or participation). [...] 6. Procedures to identify an applicant’s/recipient’s need for services due to his or her disability, limited-English proficiency or inability to read or write and provide the opportunity for him or her to request auxiliary aids, services, [...] Describe services and accommodations provided, e.g., interpretation by paid interpreters or other county employees, Braille materials, etc. 7. Procedures to ensure that services or benefits are not unduly delayed due to an applicant’s disability, limited English proficiency, or inability to read or write.” Compliance reviews do not address whether CWDs comply and CDSS investigators are satisfied with interviews of staff claiming to carry out only some of these requirements.²⁷

b. The Implementation and Scope of the CDSS Review Process

In response to a PRA sent by the DREDF on June 21, 2011, CDSS’s overdue response in April 2012 provided information about the logistical guidelines for conducting compliance reviews. According to the response, large CWDs (>15,000 cases) are to be reviewed every year; medium CWDs (>10,000 cases) are to be reviewed every two years; and small CWDs (<10,000 cases) are to be reviewed every three years. CWDs are to issue corrective action plans within 60 days of the issuance of a compliance review. MPP § 21-205.2. CDSS also provided a link to review various compliance reviews and corrective action plans posted on its website. CDSS must issue compliance reviews within 180 days of conducting the compliance investigation. 22 Cal. Code Regs. tit. 22 § 98346. However, CDSS does not always reliably follow up with

²⁷ *Id.*

CWDs regarding their compliance reviews within the required timeline²⁸ and sometimes approves insufficient corrective action plans or endorses non-compliant CWD actions.²⁹ If CDSS does not follow its own guidelines, it sends the message that civil rights compliance is not a priority for the state and, thus, should not be a priority for CWDs who are then largely unaccountable for their civil rights violations.

Further, despite the directives of the MPP and CDSS Annual Plan Guidelines stating that the scope of CDSS monitoring obligations are quite broad, applying to “public assistance, food stamps, child support enforcement, fraud investigation and social services,” MPP § 21-103, the CDSS compliance reviews often fail to cover all such programs. Of the counties discussed in this complaint, the February 9, 2012 Alameda Compliance Review covers CalFresh, CalWORKs, and IHSS (but not CAPI); the November 23, 2011 Sacramento Compliance Review covers CalFresh (but not CAPI, CalWORKs, or IHSS); the March 14, 2012 San Francisco Compliance Review covers CalFresh, CalWORKs, CAPI, and Children’s Services (but not IHSS); and the April 20, 2009 Santa Clara Compliance Review covers IHSS, CalWORKs, CalFresh, and Child Welfare Services (but not CAPI). Further, CDSS compliance reviews do not purport to cover Medi-Cal despite the fact that this program is also administered by CWDs. As stated above, there is no evidence of the monitoring of Medi-Cal by CDHCS or any other state entity.

c. CDSS Disability Training Materials

²⁸ For example, San Francisco County was reviewed on March 14-18, 2011 and CDSS did not issue its compliance review until one year later on March 14, 2012.

²⁹ See Alameda compliance review (failing to require corrective action to address staff practices requiring third parties, rather than CWD staff, to assist applicants and recipients with disabilities). See also footnotes 12-14 above for additional examples of insufficient corrective action plans approved by CDSS.

Also included in CDSS's April 2012 PRA response was a PowerPoint presentation entitled "Understanding and Complying with the ADA Amendments Act and the EEOC's Final ADAAA Regulations" used to train CDSS investigators who perform compliance reviews on disability rights anti-discrimination laws (Exhibit V). Outrageously, it is focused on disability non-discrimination rights of *CWD employees* rather than the rights of public benefits applicants and recipients. Thus, it appears that CDSS investigators perform their investigations under the mistaken impression that the ADA and other state and federal disability rights laws do not apply to those receiving public benefits. This complete misunderstanding of disability civil rights laws has carried over to CWDs as well. With this misunderstanding, it is impossible for CDSS investigators to adequately evaluate CWD policies and practices in this realm.

d. CDSS Self-Evaluation

CDSS also fails to perform the annual self-evaluation of its enforcement of non-discrimination mandates, required by Cal. Code. Regs. tit. 22 § 98380: "Each State agency will be annually provided a form to be developed by the Secretary, for purposes of the State agency's evaluation of its progress in enforcing the provisions of Article 9.5, progress and problems, if any, in applying the provisions of this Division and in coordinating the programs and activities as set forth in Section 11139.5 of Article 9.5 and recommendations on any improvements needed in the enforcement system." As noted above, in response to DREDF's May 2011 PRA, CDSS responded, in June 2011, that it "is not aware of any specific form used to evaluate the progress in enforcing the provisions of Article 9.5 set forth in section 11139.5."

VIII. Requested Remedies

a. CDSS Must Improve its Training of CRB Investigators

First and foremost, CDSS must properly train its CRB investigators in state and federal disability rights laws. Currently, the only disability trainings CDSS appears (based on the PRA response discussed above) to provide these investigators relate to non-discrimination on the basis of disability with regards to other CDSS employees, not public benefits applicants and recipients. CDSS must address the following issues in its modified trainings in order to educate investigators with proper depth and nuance about the requirements of CWDs with regards to people with disabilities.

i. Disability Screening

CWDs should be required to inquire about barriers of the applicant and other household members to ensure proper identification of disabilities. A screening tool should be created and validated to identify the disabilities experienced by many participants, including physical health problems, mental illness, learning disabilities, the emotional effects of domestic violence, children's behavioral and school problems, and other impairments. The database field (in an application or case file) indicating the presence of a disability requiring reasonable accommodation should be made prominent by a flashing color, to alert a CWD worker entering data into or accessing the file that an accommodation may be needed and a field should be added to delineate the nature of the accommodation to be provided. When the needed accommodation is oral (in addition to written) notice, an alert shall be sent to the CWD worker whenever a written notice is issued, prompting the worker to call the client. Lastly, an alert should be sent to the CWD worker when an applicant or recipient who requires an accommodation is scheduled to receive notice of adverse action for not complying with program rules. The alert should issue before the adverse action is mailed, and the CWD worker should attempt to contact the applicant or recipient to offer and provide an accommodation as needed to complete the required process.

ii. Meaningful Assessments

If an individual discloses a disability or a potential disability is identified by a validated screening process, and if the need for accommodations is unclear or difficult to determine, CWDs should be required to offer individuals a comprehensive assessment by a qualified individual with knowledge of the particular disability. Individuals should be permitted to obtain assessments from their own treating medical providers in lieu of a CWD provider. In addition, completion of a form from their own doctor should not be a prerequisite for receipt or maintenance of benefits. After the completion of the assessments, as needed, the CWD and the applicant should sign a Mutual Responsibility Agreement detailing any reasonable accommodations, services, or activities that will be provided. Any disagreement should be subject to due process.

iii. Reassessments

Reassessments of disability are needed both *retrospectively* for those who were denied a meaningful initial assessment; *and prospectively*, once a suitable assessment tool is devised. For the program to work for applicants and recipients, an appropriate assessment must take place in every case, though sometimes it may not require professional opinion. Given the systemic failure of the state to evaluate current assessment processes in a meaningful and effective way, all participants should be offered a reassessment once a suitable tool is developed. The CWDs should also be required to offer to reassess recipients three to six months after application, as a check on erroneous initial assessments and as a gauge of the appropriateness of accommodations provided, especially if there are concerns about program compliance.

vii. Time Limits

Any recipient with a disability (or who cares for a family member with a disability), which was not identified at intake and/or properly assessed, should have his/her time limit reset. This includes past and current recipients who never received adequate assessments, as well as future recipients. The failure to reassess should result in a good cause exemption from work requirements and from time limits, or other imposition of program rules that affected benefits, until such an assessment is provided.

viii. Notices and Notice Procedures

Notices should be written at a grade-school reading level, to help ensure that they are intelligible by persons of limited literacy due to disability. CWDs should also display prominent language advising individuals of the ability to request assistance and the CWD's ability to accommodate disabilities or modify practices. For disabled individuals who are unable to read and understand notices and other communications, CWDs should offer alternative methods of communicating the content of notices (*e.g.*, offering phone contact or providing alternate formats).

Notice of disability rights under the ADA and Section 504 shall be given in a variety of forms (*i.e.*, in accessible language and format) and at each stage of the application and review process, particularly any stage involving a decision affecting a person's benefits. All CWDs that make this obligation optional (*see, e.g.*, SF-DHS cited above) should be subject to corrective action. Notice requirements should include:

- Mailing a brochure to all program participants regarding the rights of participants with disabilities. The same brochure shall also be available in waiting rooms;

- Creating, distributing, and posting a poster informing all applicants and recipients with disabilities of their right to reasonable accommodations and help in the application process; the poster shall be placed in all office waiting rooms;
- Including in relevant notices information necessary to inform every applicant or recipient of his/her rights under Section 504 and the ADA, including, but not limited to, the right to reasonable accommodation. The notices shall be in simple language and give examples of reasonable accommodations, as described below.
- Including in all relevant forms an inquiry about whether the applicant or recipient requires extra help due to a disability, and providing information about how to file a discrimination complaint.

ix. Verification Procedures

Once a CWD is aware that a disability exists or may exist, the CWD should be required to offer assistance to the individual in obtaining any verification (medical or other) when necessary for participation. Also when needed, verification requirements should be simplified so that people with disabilities are not required to submit multiple verifications of the same impairment.

x. Sanctions and Case Closures

CWD workers should engage in a pre-sanction investigation and should inquire whether non-compliance with program requirements is related to any physical or mental health issue or disability of the individual or a family member. If a disability is identified, the CWD should be required to conduct any necessary assessments and review possible accommodations to the assignment. CWD workers must also grant good cause exemptions for non-compliance with program requirements related to an individual's illness or disability or that of a family member.

If verification of the reason for non-compliance is required, the CWD should offer assistance in obtaining such verification. CWDs should engage in a pre-closure investigation, to inquire whether the non-compliance is related to any physical or mental health issue or disability and, if a disability is identified, the CWD is required to conduct necessary assessments and review possible accommodations.

xi. Required Reasonable Accommodations

Examples of reasonable accommodations CWDs are expected to provide applicants and recipients include but are not limited to:

- Assistance to complete necessary forms, including appeals of adverse determinations;
- Assistance to gather necessary documentation (*e.g.*, identification, citizenship/immigration status, treating physician reports, impairment related work expenses, and employer subsidies);
- Assistance to challenge the accuracy of information adverse to the individual's eligibility (*e.g.*, citizenship/immigration status, felon status);
- Substituting an office visit with a home visit if a face-to-face visit is required as part of the eligibility process and cannot be waived; and in the event of any adverse determination regarding benefits due to noncompliance with program requirements;
- Offering to determine whether a disability basis for a good cause exemption to the imposition of program requirements may exist, so that protective filing dates and benefits are preserved.

xii. Training of CWD Staff

CWD staff must be properly trained in disability non-discrimination mandates that is appropriately reviewed and approved by CDSS (and CDHCS for its part). This training should

include conducting mandatory training for staff on disability rights compliance, including training of all staff on the rights of individuals with disabilities and conducting mandatory training for staff regarding the possible reasonable accommodations that could and should be provided for applicants and recipients including those described above.

xiii. Reporting Requirements

To facilitate appropriate oversight and accountability, CWDs should be required to issue for appropriate review by CDSS (and CDHCS for its part) quarterly public reports during a specified period which indicate type of disability and type of reasonable accommodation, the number of cases identified as requiring a reasonable accommodation in that quarter; the number of cases afforded a reasonable accommodation in that quarter; the number of alerts issued in that quarter regarding batch closings for clients identified as requiring a reasonable accommodation; and the total number of cases in that quarter in which a disability requiring a reasonable accommodation is noted.

xiv. Documentation of Disability

It is also imperative that disability be documented properly so that CWDs and CDSS (and CDHCS) can track how many applicants and recipients have disabilities, what accommodations they require and whether they are being granted, and instances of discrimination. CWD workers are required to document disability in each individual applicant's and recipient's case file, along with accommodations requested and provided. *See* CDSS Plan Guidelines, Section V.A available at: <http://www.dss.cahwnet.gov/civilrights/res/pdf/CR28AnnualPlan.pdf> (last visited July 10, 2012).

b. CDSS Must Modify its Compliance Review Template

CDSS needs to significantly modify its compliance review template (and CDHCS needs to institute an effective tool for monitoring compliance) in order to ensure that CWDs are actually in compliance with the extensive non-discrimination mandates of the ADA, Section 504, and California Government Code § 11135 *et seq.* and related state regulations. As described above, the current template is far too cursory and superficial to evaluate disability civil rights compliance in any meaningful way, which has resulted in unchecked disability discrimination and thus, extreme hardships and detriments to already highly vulnerable complainants and declarants here and all others similarly situated throughout the state. To remedy this, the template must be modified in the following ways:

- The template must instruct investigators to inquire about not just the existence of the CRC but about his or her actual role and effectiveness within the CWD; whether s/he has been adequately trained in relevant civil rights laws and whether staff are adequately trained to work with the CRC as appropriate.
- The template must address notice requirements in more depth and go beyond simple questions regarding whether CDSS pamphlets and posters are hanging in the mandated public areas. Investigators must be instructed to look into whether the CWD effectively provides notice of disability civil rights in its interactions with applicants and recipients and whether CWD staff take appropriate actions to offer and provide notices and other communications in alternate formats as needed to ensure meaningful participation in the program.
- The template needs to go beyond evaluations of physical access to CWD facilities and screening for learning disabilities and assess whether screening and reasonable accommodations for applicants and recipients with mental disabilities

are being provided appropriately and effectively. This must entail not just superficial questions about the provision of screening and reasonable accommodations, but in depth questions that accurately determine whether CWD staff has a sophisticated enough understanding of the requirements of the ADA to properly serve its clients with disabilities.

- The template should look into whether CWDs are performing timely and meaningful self-evaluations and making appropriate policy modifications as needed to provide equal access to participants with disabilities.
- The template must go beyond superficial inquiries regarding whether non-discrimination trainings are provided and examine in depth whether the substance of the trainings is compliant with non-discrimination mandates and whether such trainings are effective in educating CWD staff about disability discrimination and corresponding requirements. Investigators should be required to attend such trainings themselves, and interview CWD staff about their understanding of ADA obligations, rather than just asking CWD staff whether they attend the trainings.
- The template must require investigators to review actual case files of applicants and recipients with disabilities to evaluate whether disability is being documented properly and whether reasonable accommodations are being properly identified when needed as well as offered and provided.

c. CDSS Must Modify its Current Protocol in the Civil Rights Bureau

Aside from modifying the compliance review template, CDSS must also make substantive changes to its CRB protocol to ensure that compliance reviews can be performed timely and effectively. To achieve this, CDSS must increase its staff of investigators. Currently,

the amount of investigators employed in the CRB is sparse, making timely and effective reviews nearly impossible. CDSS must also make sure to perform its own self-evaluations to determine its compliance with Section 504. Lastly, CDSS must comprehensively monitor all programs over which it has oversight. Currently, as described above, compliance reviews tend to be deficient in covering only some programs, but not others.

d. Public Outreach Campaign

The failure to properly assess and accommodate individuals with disabilities inevitably discouraged many persons with disabilities and those with family members with disabilities from even applying to these programs. Consequently, CDSS should be required to mount a statewide outreach campaign to reach eligible households with disabled members who have been discouraged and excluded by inadequate assessment and program policies and practices.

e. HHS OCR Continuing Oversight and Technical Assistance

Advocates, applicants, and recipients too often see a gap between legal requirements and policy and practices that are actually implemented. It is critically important that the state and local program designers and managers have the degree, kind, and quality of technical assistance they require in order, for example, to design and appropriately validate assessment tools that can help to identify the disabling conditions with which applicants are dealing, develop appropriate methods to modify program requirements, and ensure proper training of staff. CDSS has thus far been unable or unwilling to accomplish compliance on its own. Thus we urge HHS OCR to provide, compel, or otherwise to facilitate CDSS and local agencies to obtain the technical assistance needed to serve all citizens.

IX. Exemplary Disability Non-Discrimination Policies

In crafting the section on disability non-discrimination policy discussed above, CDSS should look to exemplary policies currently in place at the state level, as well as guidance from a sister federal agency. Some prominent examples follow:

a. U.S. Department of Health and Human Services Office for Civil Rights

HHS OCR has set forth guidelines³⁰ for the kinds of accommodations that CWDs should provide. These guidelines clarify the obligations under Section 504 which are imposed on State and local government entities, and on recipients of federal financial assistance from HHS involved in Temporary Assistance for Needy Families (TANF) activities, in fulfilling their responsibilities pursuant to Section 504. Many of the practices discussed in these guidelines parallel those set out on the remedy proposed above. In addition, HHS OCR has overseen a number of exemplary voluntary compliance agreements on similar issues—specifically in North Carolina,³¹ Oregon,³² and Wisconsin³³—that can be used as models here.

b. Settlement Agreement in *Raymond v. Rowland*

The state of Connecticut's settlement of the *Raymond v. Rowland*, No. 3:03-cv-00118 (D. Conn. Sep. 10, 2001)³⁴ class action lawsuit was approved by the U.S. District Court of Connecticut in 2007. This case involved allegations of systematic violations of Section 504 and ADA Title II by the Connecticut Department of Social Services ("DSS").

As part of the settlement, DSS adopted regulations, which, among other things, require DSS to:

³⁰ Available at: <http://www.hhs.gov/ocr/prohibition.html> (last visited July 10, 2012).

³¹ Available at: <http://www.ncdhhs.gov/dss/dcdl/economicfamilyservices/EFS-WF-10-2011a.pdf> (last visited July 10, 2012)

³² Available at: <http://www.nclej.org/pdf/VoluntaryComplianceAgreement.pdf> (last visited July 10, 2012).

³³ Available at: <http://www.hhs.gov/ocr/civilrights/activities/examples/TANF/witanfagreement.pdf> (last visited July 10, 2012).

³⁴ Summary available at: <http://www.ct.gov/dss/lib/dss/pdfs/raymondsettlementnotice.pdf> (last visited July 10, 2012).

- Afford accommodations to people with disabilities by helping them complete applications and obtain medical documentation, or offering other assistance needed in the eligibility processes;
- Notify people with disabilities of a right to reasonable accommodations when needed at application and redetermination, with notice of a denial or reduction of benefits, and whenever it becomes apparent an accommodation may be needed to allow an individual with a disability an equal opportunity to participate in DSS programs;
- Afford people with disabilities an opportunity to request and exercise a right to reasonable accommodations;
- Note the need for accommodations in its records and check for the existence of a disability prior to acting on a case; and
- Provide a method for requesting accommodation and a review procedure when accommodations are denied, and a grievance procedure to challenge unfair treatment based on disability.

DSS also agreed to:

- Provide its staff with training in recognizing disabilities, providing accommodations when needed and implementing DSS regulations protecting people with disabilities;
- Conduct annual reviews of staff regarding policies and practices related to accommodation of people with disabilities;
- Indicate the availability of assistance to people who need it because of disability on waiting room posters and application, redetermination and medical documentation forms;

- Notify the individual of a right to additional assistance when it is apparent that an accommodation may be needed to allow an individual with a disability an equal opportunity to participate in a program;
- Assign an employee to oversee revision of client forms and notices to improve comprehension by clients;
- Prominently indicate when an individual is disabled and needs accommodations, note the accommodations needed, and track their provision; and
- Alert DSS workers of the need for accommodations when this requires oral notice, and notify workers to ascertain whether additional assistance in the eligibility processes may be needed by a disabled individual prior to discontinuance of benefits;
- Notify recipients prior to sanctioning for noncompliance with program rules of the availability of accommodations if they have a disability;
- Screen for disabilities that may impede the ability to comply with program requirements;
- Improve its internal screening tool for identification of disabilities, provide a program to refer recipients having difficulty complying with program rules for screening, assessment and case management, to remove barriers, or document eligibility for an exemption from program requirements;
- Make improvements to its offices to make them more welcoming and easier to use, and to protect privacy, including signage, entrances and exits, floor surfaces, triage, reception and waiting areas, rest rooms, and interview and hearing rooms;
- Implement an improved telephone system to provide automated answers to common questions, with protections ensuring client confidentiality;
- Improve its document management systems; and

- Add staff to allow DSS to accomplish what it agreed to do, including staff to conduct screening for mental health conditions, substance use disorders and learning disabilities.

X. Conclusion

For all the foregoing reasons, we urge HHS OCR to promptly investigate and order the remedies requested to bring to end California's pervasive substandard disability civil rights enforcement system that has perpetrated countless discriminatory harms on the most needy. We are available to respond to any questions and provide further information, which we will supply upon request and as available.

Respectfully submitted,

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