⏹ Procedure for addressing customer’s non-cooperation with Choices participation requirements, determining good cause, processing penalty requests and re-engaging

**RESOURCES:**

* Timely and Reasonable Attempt (TRA) Letter
* Sanction Outreach Letter
* TWIST Coding Manual: Good Cause Template
* Choices Comprehensive Guide B-800: Noncooperation
* TRA Desk Aid

### SERVICES

Staff will monitor Choices customers for cooperation with participation requirements, and identify non-cooperating customers in an attempt to determine good cause. If good cause is not determined, then staff should process penalty requests, discontinue support services if appropriate, and attempt to remove barriers and re-engage customers in services as soon as possible.

1. **WORKFORCE SOLUTIONS EXPECTATIONS:**
2. Staff is expected to monitor participation, assess service plan progress, identify non-cooperation, determine good cause, and take action **within one business day** of the date of non-compliance for individuals (*both exempt and mandatory*) and document in counselor notes the customer’s cooperation with work requirements.
3. Staff will ensure that Choices customers are in one of the following four statuses each calendar month:
* Cooperating with program requirements as outlined on the signed service plan; or
* Have good cause; or
* If mandatory and have not cooperated with program requirements, a penalty is requested and support services discontinued; or
* If exempt and have not cooperated with program requirements, support services discontinued and case closed.

**2. WORK INSTRUCTIONS:**

 ***A.* Steps to Monitor and Address Non-Cooperation**

* Ensure the customer’s **service plan** outlines the customer’s assigned service activity, required weekly average of participation hours; their scheduled appointment date to turn in hours (i.e. customer’s scheduled to return to office on Monday; steps to remove barriers to participation (if applicable);
* Ensure the customer and staff sign the service plan and the customer receives a copy for reference.

**B. Failure to Respond to Outreach**

* Within **24 hours** of the missed outreach appointment, staff must:
	1. Reschedule the customer’s appointment (if needed) to a date within the 7- calendar day TRA deadline;
	2. Determine good cause; or
	3. Make a timely and reasonable attempt by phone, email, or in person; or
	4. Initiate a sanction

If the mandatory customer fails to respond to the initial outreach letter and/or TRA effort, staff must initiate a sanction **within 24 hours,** using the missed appointment date as the non-cooperate decision date in the TWIST penalty tab. All outreach letters must state the consequences of failure to respond.

1. **Failure to Participate**

Staff must initiate a **‘Timely and Reasonable Attempt’ (TRA)** whenever an ongoing participant fails to participate as scheduled or to respond to a scheduled appointment. The purposes of the TRA is to determine if the customer had a Good Cause reason for non-cooperation and to re-engage the customer. The initial date of non-cooperation is included in the 7-calendar day timeframe. If the customer does not qualify for Good Cause, a penalty must be initiated within 7 calendar days of the initial date of non-cooperation.

* + If the customer arrives for the appointment, but does not provide verification of sufficient participation, the TRA is conducted during the appointment. Staff must ask the customer the reason for the lack of participation in order to grant the customer an opportunity to cite a Good Cause reason. Staff must document that TRA was conducted and the results of the TRA. Staff should immediately attempt to re-engage the customer.
	+ If the customer does not respond to an appointment, a TRA must be initiated within 1 business day of the missed appointment. A TRA may be conducted using the customers preferred method of contact: phone, email or home visit; however, staff will still be required to mail a letter to their address in TWIST.

* + - If by phone or home visit, there must be a direct contact with the customer and the customer must be asked for the non-cooperation reason to grant the customer an opportunity to cite Good Cause. This direct conversation is the TRA attempt. Staff must document that TRA was conducted and the results of the TRA. Staff should immediately attempt to re-engage the customer.
		- If sending a TRA Letter by mail or email, staff must provide the customer with an appointment date and time to respond. The appointment date must be scheduled no later than 7 calendar days after the missed appointment (date of missed appointment is included in the 7-calendar day timeframe). During the appointment, staff must ask the customer for the reason for non-cooperation to grant the customer an opportunity to cite Good Cause.
* Customers ***should not*** be penalized without conducting and documenting a Timely and Reasonable Attempt.

If a mandatory customer fails to respond to their Reasonable Attempt appointment with participation hours and does not demonstrate good cause, initiate a sanction request.

* Begin attempts to re-engage the customer immediately with the approved

 sanction letter to inform them of their requirement to demonstrate

 cooperation.

* Inform them that their demonstrate cooperation month is the month

 immediately following the month of non-cooperation, and schedule them

 for activities to begin immediately.

If the same customer responds to the TRA but has no good reason as determined by staff for not submitting their participation hours or low participation hours, a penalty is initiated.

* **Exempt/Volunteer**: Discontinue support services and close the funding stream and program detail if customer does not respond to TRA with a Good Cause reason and agreement to resume participation.

**Example:** Although exempt customers are not required to participate, if they are receiving support services they should follow the same participation requirements as mandatory customers.

If an exempt customer fails to submit participation hours as required, A *timely and reasonable attempt* is made (*by mail, phone, e-mail or home visit*) to schedule the customer for an appointment, to determine if they have good cause for not participating.

If the customer fails to keep their TRA appointment or make contact with the Career Counselor, close their funding stream and program detail.

## 3. Determining Good Cause (please refer to Choices Guide B:304 Good Cause)

**A. If Good Cause *IS* Determined:**

* + Enter participation hours in TWIST; **or**
	+ Enter good cause in TWIST **at the end of the month** (only if missed hours are not made up, update the service plan to address needed steps for barrier removal and to set a date for follow-up or re-engagement).

If good cause is determined, support services must be re-evaluated. If support services are required to allow the individual to remove the barriers to participation, staff must clearly document and justify in counselor notes the continuation of support services during the good cause period.

## 4. Penalty Requests to HHSC

* Staff is responsible for using TWIST to initiate penalty requests.
* Mandatory customers become sanctioned families after a penalty is initiated and staff is responsible for following-up on the request to HHSC to ensure the penalty is imposed and attempting to re-engage the customer. **If the penalty is imposed, staff must leave the case open to allow the customer to demonstrate cooperation**.
* Staff will check the ‘Penalty Actions’ screen in TWIST frequently (at least once weekly) to determine if timely action has been taken by HHSC. If no action has been taken by HHSC on the penalty request within five (5) days after the ‘TWC send date’ (located on the Penalty Actions screen in TWIST); or if after seven (7) days ‘Reject Reason 11 – Penalty retrieved but no response’ is received, staff must:

a. review TIERS to determine the status of the penalty;

b. contact appropriate local HHSC staff to discuss and/or determine the status of the penalty; and

c. document in TWIST Counselor Notes the actions taken to resolve the issue

* If local HHSC office staff is not able to resolve the issue, then staff must contact Choices Supervisor or management.
* If HHSC has not received the penalty request (TWIST Reject Reason 11), then staff must initiate (enter) a new penalty request as follows:

a. Staff must send/ initiate a new penalty in TWIST using the customer’s original non-cooperation date;

b. Contractor staff must document in TWIST Counselor Notes:

(1) the date that the penalty was originally sent, and

(2) the date that the “Reject Reason 11” was received.

* If a customer voluntarily withdraws from TANF, staff should initiate a penalty request; unless the customer chooses to continue participating until denied, in which case a penalty should not be entered. Document in counselor notes that the customer has reported voluntarily withdrawal and their decision to continue participating.

Choices penalties that are initiated are sent to HHSC via twist the date the penalty is entered.

## 6. Sanctioned Families

1. A Sanctioned Family is a family who did not cooperate with Choices requirements for one calendar month and must demonstrate cooperation with Choices requirements the calendar month immediately following the month in which non-cooperation occurred, regardless of when the penalty is imposed. All Choices customers with penalties initiated, must be re-engaged immediately using the approved *Sanction* letter.
2. Sanctioned families should be notified that due to their non-cooperation, they will be required to forfeit one month of TANF benefits when HHSC imposes the penalty.
3. Assigned staff will monitor cooperation for the calendar month immediately following the non-cooperation month to determine:

**If Customer Cooperated Successfully** – Send HHSC a Cooperation Notice via TWIST (*using reason 9,cooperating program month*), even if the penalty has not been

imposed yet. The customer is required to continue to participate until HHSC recertifies the customer’s TANF or denies the TANF.

**If NOT Cooperating** – A *timely and reasonable attempt* is made (*by mail, phone, e-mail or home visit*) to schedule the customer for an appointment, to determine if they have good cause for not participating.

1. During the Reasonable Attempt Timeframe:

If Good Cause is Determined – Send HHSC a Cooperation Notice via TWIST

If Good Cause is NOT Determined – Inform the Family of the Violation, the right to appeal and the procedures to re-instate TANF benefits. Cooperation Notice is NOT sent to HHSC. Case is closed the last day of the calendar month (in the 2nd month of non-cooperation).

## 7. Conditional Applicants

1. A Conditional Applicant is a family who was denied TANF due to non-cooperation with the PRA (Personal Responsibility Agreement) for two consecutive months and is re-applying for TANF cash assistance.
2. Conditional Applicants must demonstrate cooperation with Choices for **four consecutive weeks** as a condition of TANF eligibility.
3. HHSC staff refers Conditional Applicants to the Workforce Orientation for Applicants (WOA) via form 2588 with the penalty box checked. The 2588 must be returned to HHSC after the orientation to verify the customer’s WOA attendance. The 2588 is not stamped or signed however it is noted on the 2588 the start date of customer’s four consecutive week compliance period. The original is kept in customer’s file and a copy is given to customer for their record and copy faxed to HHSC.
4. Assigned staff must schedule the Conditional Applicant to begin participation at the WOA. Staff may prorate a conditional applicant’s first week of demonstrated cooperation if the applicant begins demonstrating cooperation on any day other than Monday. The prorated hourly amount is derived by dividing the conditional applicant’s participation requirement by seven (number of days in the workweek) and applying the daily hours to the remaining days in the workweek.
5. Staff will take appropriate action:
	* Cooperating –after the conditional applicant completes his/her demonstrated cooperation period, enter the cooperation notice to HHSC via TWIST. The customer is required to continue to participate until HHSC certifies the customer for TANF or denies the TANF application.
	* Not cooperating **–** A *timely and reasonable attempt* is made (*by mail, phone, e-mail or home visit*) to schedule the customer for an appointment, to determine if they have good cause for not participating.
	* IfGood Cause*is* det*ermined for a conditional appl*icant, se*nd the Cooperation Notice to HHSC vi*a TWIST at the time good cause is determined.
	* If Good Cause ***is not*** determined, the Cooperation Notice is ***NOT*** sent to HHSC*an*d the case is cl*os*ed.

## 8. Penalty Status for Noncooperation

Families can be sanctioned for noncooperation with elements of the Personal Responsibility Agreement (PRA), including Choices.

* Participating families sanctioned for noncooperation with the PRA are to remain opened and receive Choices services until TANF benefits are reinstated or TANF benefits denied.

Families sanctioned for noncooperation with Choices must demonstrate cooperation through Choices.

Mandatory Choices participants sanctioned for noncooperation with Choices or ***other elements of the PRA*** for two consecutive months will be denied TANF benefits and the adult’s Medicaid benefits can be removed. Families must reapply to have TANF and Medicaid benefits restored.

## 9. Notice of Cooperation

During the demonstrated cooperation period, HHSC assumes noncooperation unless notified otherwise. Staff must send a notice of cooperation immediately to HHSC upon the successful completion of a mandatory Choices participant’s demonstrated cooperation period.

Staff must enter the notice of cooperation for sanctioned families into TWIST in the *Penalty* tab, under the TWIST *TANF History* menu selection under the *Customer Information* window. TWIST electronically transmits the notice to HHSC through the automated interface.