

368

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. PERALTA, GREENE -- read once and referred to the
Committee on Social Services

AN ACT to amend the social services law, in relation to access to a
college education by public assistance recipients who are subject to
work participation requirements

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 336-a of the social services law, as amended by
2 section 148 of part B of chapter 436 of the laws of 1997, is amended to
3 read as follows:
4 S 336-a. Educational activities. 1. Social services districts shall
5 make available vocational educational training and educational activ-
6 ities. Such activities may include but need not be limited to, high
7 school education or education designed to prepare a participant for a
8 high school equivalency certificate, basic and remedial education,
9 education in English proficiency and no more than a total of [two] FOUR
10 years of post-secondary education (or the part-time equivalent if full-
11 time study would constitute an undue hardship) in any of the following
12 providers which meet the performance or assessment standards established
13 in regulations by the commissioner for such providers: a community
14 college OR A TWO-YEAR COLLEGE, licensed trade school, registered busi-
15 ness school, or a [two-year] FOUR-YEAR college; provided, however, that
16 such post-secondary education must be necessary to the attainment of the
17 participant's individual employment goal as set forth in the employabil-
18 ity plan and such goal must relate directly to obtaining useful employ-
19 ment in a recognized occupation.
20 2. When a district contracts with a proprietary vocational school to
21 provide vocational educational training to participants, not more than
22 [twenty-five] FIFTY percent of the approved duration of the program
23 shall be devoted to preparation for a high school equivalency diploma or

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 instruction in English for students with limited proficiency in English.
2 Participants needing instruction in basic literacy shall be referred to
3 basic education programs. Instructors employed by proprietary schools to
4 prepare a participant for a high school equivalency certificate or for
5 education in English proficiency shall meet experience requirements
6 established by the regulations of the commissioner of education.

7 3. When a participant is assigned to an appropriate vocational educa-
8 tional or educational activity and such activity is available at no cost
9 to the social services district through the school district or board of
10 cooperative educational services in which the participant resides or
11 through another agency or organization providing educational services
12 WHICH MEET SUCH MINIMUM STANDARDS AS THE COMMISSIONER OF EDUCATION SHALL
13 ESTABLISH, the social services district shall refer the participant to
14 such district, board, agency or organization.

15 4. To the extent provided in paragraphs (a) through (d) of this subdi-
16 vision and if resources permit, each social services official shall
17 assign to appropriate educational activities any participant who has not
18 obtained a high school diploma or its equivalent:

19 (a) In accordance with the provisions of this chapter, any such
20 participant who is under age eighteen shall be required to attend educa-
21 tional activities designed to prepare the individual for a high school
22 degree or equivalency certificate. Participants who are not subject to
23 compulsory school attendance requirements may be exempted from the
24 requirements of this paragraph under criteria established by the depart-
25 ment in consultation with the state education department and consistent
26 with federal law and regulations.

27 (b) Any such participant who is age eighteen or nineteen shall be
28 assigned to educational activities, except that the district shall
29 assign such participant to employment and/or other activities under this
30 title if the district has determined that such alternative activities
31 are consistent with the participant's employability plan and, pursuant
32 to [department] OFFICE regulations, there has been a determination by
33 the district based on such plan that educational activities are not
34 [appropriate] REQUIRED for such participant TO OBTAIN THE KNOWLEDGE AND
35 SKILLS NEEDED TO BE EMPLOYED IN THE OCCUPATION CHOSEN BY THE PARTICIPANT
36 AS HIS OR HER EMPLOYMENT GOAL IN SUCH PLAN BECAUSE HE OR SHE HAS CLEARLY
37 AND AFFIRMATIVELY DEMONSTRATED THAT HE OR SHE ALREADY POSSESSES SUCH
38 KNOWLEDGE AND SKILLS or that the participant has failed to [make good
39 progress] MAINTAIN A CUMULATIVE C AVERAGE OR ITS EQUIVALENT in such
40 educational activities, EXCEPT WHERE UNDUE HARDSHIP RESULTING FROM THE
41 DEATH OF A RELATIVE OF THE STUDENT, THE PERSONAL INJURY OR ILLNESS OF
42 THE STUDENT, OR OTHER EXTENUATING CIRCUMSTANCES, IS RESPONSIBLE FOR SUCH
43 FAILURE TO MAINTAIN A CUMULATIVE C AVERAGE OR ITS EQUIVALENT.

44 (c) Any such participant who is an adult in a two-parent family and is
45 under age twenty-five may be required to participate in educational
46 activities consistent with his or her employment goals set forth in the
47 employability plan.

48 (d) The social services official shall not assign a participant
49 described in this subdivision to any activities which interfere with the
50 educational activities assigned pursuant to such participant's employa-
51 bility plan and described in this subdivision.

52 5. Any applicant for or recipient of public assistance pursuing VOCA-
53 TIONAL EDUCATION OR EDUCATIONAL activities described in this [subdivi-
54 sion] SECTION shall not be assigned to any other activity prior to
55 conducting an assessment and developing an employability plan as
56 prescribed in section three hundred thirty-five or three hundred thir-

1 ty-five-a of this title AND MAY BE ASSIGNED TO SUCH OTHER ACTIVITY ONLY
2 IF SUCH INDIVIDUAL'S ASSESSMENT AND SUCH INDIVIDUAL'S EMPLOYABILITY PLAN
3 WARRANT THE ASSIGNMENT TO SUCH OTHER ACTIVITY. Local social services
4 districts may periodically reevaluate a participant's employment plan
5 and make assignments to other work activities [in order to meet partic-
6 ipation rates] NOT INCONSISTENT WITH THE REQUIREMENTS OF THIS SECTION,
7 giving due consideration to the participant's progress in the current,
8 and if applicable, prior program.

9 6. Nothing required in this section shall be construed to supersede
10 the eligibility requirements of teen parents as set forth in this chap-
11 ter.

12 7. (A) IN ANY SOCIAL SERVICES DISTRICT IN WHICH THE APPLICABLE FEDERAL
13 OR STATE WORK ACTIVITY PARTICIPATION RATES WERE MET FOR THE PREVIOUS
14 YEAR OR ARE PROJECTED WILL BE MET FOR THE CURRENT YEAR, PARTICIPANTS
15 SHALL BE PERMITTED TO PURSUE POST-SECONDARY EDUCATION, INCLUDING PARTIC-
16 IPATION IN A FOUR YEAR PROGRAM, IN SATISFACTION OF THE WORK ACTIVITY
17 REQUIREMENTS OF THIS TITLE.

18 (B) WHEN A PARTICIPANT ENGAGES IN EDUCATIONAL ACTIVITY PURSUANT TO
19 THIS SECTION IN FULL OR PARTIAL SATISFACTION OF HIS OR HER WORK REQUIRE-
20 MENT, THE LOCAL DISTRICT SHALL COUNT EACH HOUR OF CLASSROOM PARTIC-
21 IPATION AS WORK ACTIVITY AND SHALL ALSO COUNT THE TIME REASONABLY NECES-
22 SARY FOR STUDY AND CLASS PREPARATION AS WORK ACTIVITY. FOR EACH HOUR OF
23 CLASSROOM PARTICIPATION, THE TIME REASONABLY NECESSARY FOR STUDY AND
24 CLASS PREPARATION SHALL BE DEEMED TO BE THE NUMBER OF SUPPLEMENTARY
25 ASSIGNMENT HOURS REQUIRED BY STATE EDUCATION DEPARTMENT REGULATIONS FOR
26 EACH CREDIT HOUR IN A COURSE OF PROFESSIONAL OR HIGHER EDUCATION;
27 PROVIDED THAT A DISTRICT MAY COUNT A LARGER NUMBER OF HOURS IF A PARTIC-
28 IPANT DEMONSTRATES THAT HIS OR HER EDUCATIONAL ACTIVITY REQUIRES A LARG-
29 ER NUMBER OF HOURS FOR STUDY, PREPARATION OR OTHER SUPPLEMENTAL ACTIV-
30 ITY.

31 (C) A DISTRICT SOCIAL SERVICES OFFICIAL SHALL NOT ASSIGN A PARTICIPANT
32 DESCRIBED IN THIS SUBDIVISION TO ANY ACTIVITIES WHICH INTERFERE WITH THE
33 EDUCATIONAL ACTIVITIES DESCRIBED IN THIS SUBDIVISION. THE DISTRICT SHALL
34 NOT ASSIGN ANY ADDITIONAL ACTIVITIES TO A PARTICIPANT DESCRIBED IN THIS
35 SUBDIVISION WHO IS ENROLLED AT LEAST HALF-TIME IN A POST-SECONDARY
36 PROGRAM AND HAS AT LEAST A CUMULATIVE C AVERAGE OR ITS EQUIVALENT. THE
37 DISTRICT MAY WAIVE THE REQUIREMENT THAT THE STUDENT HAVE AT LEAST A
38 CUMULATIVE C AVERAGE OR ITS EQUIVALENT FOR UNDUE HARDSHIP BASED ON (I)
39 THE DEATH OF A RELATIVE OF THE STUDENT; (II) THE PERSONAL ILLNESS OR
40 INJURY OF THE STUDENT; OR (III) OTHER EXTENUATING CIRCUMSTANCES.

41 S 2. This act shall take effect on the one hundred twentieth day after
42 it shall have become a law, provided, however, that effective immediate-
43 ly, the addition, amendment and/or repeal of any rules or regulations
44 necessary for the implementation of the provisions of this act on its
45 effective date is authorized and directed to be made and completed on or
46 before such effective date.