S T A T E O F N E W Y O R K

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2011-2012 Regular Sessions

I N A S S E M B L Y

February 14, 2011

Introduced by M. of A. HOOPER, WEPRIN, P. RIVERA -- read once and referred to the Committee on Higher Education

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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 336-a of the social services law, as amended by section 148 of part B of chapter 436 of the laws of 1997, is amended to read as follows:

S 336-a. Educational activities. 1. Social services districts shall make available vocational educational training and educational activities. Such activities may include but need not be limited to, high school education or education designed to prepare a participant for a high school equivalency certificate, basic and remedial education, education in English proficiency and no more than a total of [two] FOUR years of post-secondary education (or the part-time equivalent if full-time study would constitute an undue hardship) in any of the following providers which meet the performance or assessment standards established in regulations by the commissioner for such providers: a community college OR A TWO-YEAR COLLEGE, licensed trade school, registered business school, or a [two-year] FOUR-YEAR college; provided, however, that such post-secondary education must be necessary to the attainment of the participant's individual employment goal as set forth in the employability plan and such goal must relate directly to obtaining useful employment in a recognized occupation.

2. When a district contracts with a proprietary vocational school to provide vocational educational training to participants, not more than [twenty-five] FIFTY percent of the approved duration of the program shall be devoted to preparation for a high school equivalency diploma or instruction in English for students with limited proficiency in English.

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

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

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

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

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

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

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

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

5. Any applicant for or recipient of public assistance pursuing VOCATIONAL EDUCATION OR EDUCATIONAL activities described in this [subdivision] SECTION shall not be assigned to any other activity prior to conducting an assessment and developing an employability plan as prescribed in section three hundred thirty-five or three hundred thirty-five-a of this title AND MAY BE ASSIGNED TO SUCH OTHER ACTIVITY ONLY

IF SUCH INDIVIDUAL'S ASSESSMENT AND SUCH INDIVIDUAL'S EMPLOYABILITY PLAN WARRANT THE ASSIGNMENT TO SUCH OTHER ACTIVITY. Local social services districts may periodically reevaluate a participant's employment plan and make assignments to other work activities [in order to meet participation rates] NOT INCONSISTENT WITH THE REQUIREMENTS OF THIS SECTION, giving due consideration to the participant's progress in the current, and if applicable, prior program.

6. Nothing required in this section shall be construed to supersede the eligibility requirements of teen parents as set forth in this chapter.

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

(B) WHEN A PARTICIPANT ENGAGES IN EDUCATIONAL ACTIVITY PURSUANT TO THIS SECTION IN FULL OR PARTIAL SATISFACTION OF HIS OR HER WORK REQUIREMENT, THE LOCAL DISTRICT SHALL COUNT EACH HOUR OF CLASSROOM PARTICIPATION AS WORK ACTIVITY AND SHALL ALSO COUNT THE TIME REASONABLY NECESSARY FOR STUDY AND CLASS PREPARATION AS WORK ACTIVITY. FOR EACH HOUR OF CLASSROOM PARTICIPATION, THE TIME REASONABLY NECESSARY FOR STUDY AND CLASS PREPARATION SHALL BE DEEMED TO BE THE NUMBER OF SUPPLEMENTARY ASSIGNMENT HOURS REQUIRED BY STATE EDUCATION DEPARTMENT REGULATIONS FOR EACH CREDIT HOUR IN A COURSE OF PROFESSIONAL OR HIGHER EDUCATION; PROVIDED THAT A DISTRICT MAY COUNT A LARGER NUMBER OF HOURS IF A PARTICIPANT DEMONSTRATES THAT HIS OR HER EDUCATIONAL ACTIVITY REQUIRES A LARGER NUMBER OF HOURS FOR STUDY, PREPARATION OR OTHER SUPPLEMENTAL ACTIVITY.

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

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