§ 336-e. Subsidized public sector employment programs. 1. A social services district may establish subsidized public sector employment programs for public assistance recipients including, but not limited to, grant diversion programs, which may be supported wholly or in part with public assistance funds. Such programs shall be established through agreements between local districts and employers; provided, however, that, if appropriate, the department may act on behalf of one or more local districts in establishing such agreements.

2. Programs may include, but need not be limited to, on-the-job training programs which reimburse employers for the cost of training public assistance recipients through wage subsidies.

3. The social services official or the department is authorized to transfer public assistance funds to employers through written agreements developed and executed in accordance with department regulations.

4. A recipient may be assigned to a subsidized public sector employment activity only if:

(a) the conditions of employment including such factors as the type of work, geographical region and proficiency of the participant are appropriate and reasonable.

(b) the recipient is deemed an employee for purposes of the applicable collective bargaining and labor laws and receives the same benefits and protections as existing employees similarly situated (working a similar length of time and doing similar work) receive pursuant to the provisions of law, and applicable collective bargaining agreement or otherwise as made available to the regular employees of the employer. Each participating person shall be given the opportunity to work sufficient hours to earn a net wage of at least the amount such person would have been entitled to receive as recipients of public assistance or, where applicable, the amount such person would have received for his or her household, including the amount for dependents. Such net wage shall be calculated by deducting from gross wages federal income taxes, federal employment taxes, state income taxes, local income taxes and union dues, if any. No program shall be approved under this section unless the commissioner is satisfied that it contains adequate

provisions for the prompt resolution of disputes concerning participation in the program and the obligations and benefits associated with it. Nothing contained in this section shall be deemed to affect, modify or abridge a participant's right to a fair hearing pursuant to section twenty-two of this chapter or representation thereat by counsel or, if applicable, the participant's collective bargaining representative.

(c) a participant employed by an employer subject to the civil service law or subject to rules consistent with such law is appointed to an appropriate classified position. Notwithstanding any other provision of law, rule or regulation, such position shall be deemed to be in the non-competitive class of the classified service only while such participant is serving in the position.

(d) no employee of the participating employer is displaced by any recipient employed pursuant to this section. For the purpose of this subdivision, the term displacement shall include partial displacement, such as a reduction in the customary hours of work (including overtime), wages, or employment benefits.

(e) no participant shall be employed:

(i) if any other employee of the employer is available for reinstatement, recall or reemployment following a leave of absence, furlough, layoff or suspension from the same or any substantially equivalent job;

(ii) when the employer has terminated the employment of any regular employee or otherwise reduced its work force with the intention of filling the vacancy or vacancies so created by hiring a participant whose wages are subsidized under this program; or

(iii) when the employee organization representing employees of the employer is engaged in a strike against the employer or such employees have been locked-out by the employer; or

(iv) where such employment results in the loss of a bargaining unit position as a result of work experience participants performing, in part or in whole, the work normally performed by the employee in such position.

(f) no position is created that will infringe in any way upon the promotional opportunities of currently employed individuals or individuals currently engaged in an approved apprenticeship training

program.

(g) no participant shall remain in a position if another employee is eligible for promotion from an eligible list to that position. An employer shall, at least ten days prior to filling a position with a participant, notify any employee organization that represents employees who are engaged in similar work or training in the same or substantially equivalent job as that in which the placement is to be made, that it intends to make a placement pursuant to the terms of this section.

(h) where an employee organization represents employees who are engaged in similar work in the same or substantially equivalent job as that proposed to be funded under this program, an opportunity is provided for such organization to comment on the proposed placement of a participant or the administration of the program and the social services official or his or her designee shall respond to such comments within ten days of receipt thereof.

(i) employers are prohibited from using public assistance funds to encourage or discourage membership in, or participation in the activities of, any employee organization and each employer provides to the social services district assurances that no such funds will be used for such purposes.

(j) nothing herein shall be construed to affect, modify or otherwise abridge any provision of the civil service law.