§ 336-f. Subsidized private sector and not-for-profit employment programs. 1. A social services district may establish subsidized private 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, including not for profit 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 placed in a subsidized private sector or not-for-profit employment activity only if:

(a) the conditions of employment including such factors as the type of work to be performed, the geographic location of the job, and the qualifications 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 an employee similarly situated (working a similar length of time and doing similar work) receives pursuant to the provisions of law, an applicable collective bargaining agreement or otherwise as made available to the employees of the employer.

(c) no employee of the participating employer is displaced by any recipient hired 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.

(d) no participant shall be hired:

(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; or

(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) when such hiring will result 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.

(e) no job is created that will infringe in any way upon the promotional opportunities of current employees or individuals currently engaged in an approved apprenticeship training program.

(f) no participant shall remain in a job if another employee is eligible for promotion to that job. 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 jobs as those in which the placement is to be made, that it intends to make a placement pursuant to the terms of this section.

(g) where an employee organization represents employees who are engaged in similar work in the same or substantially equivalent jobs as those 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.

(h) 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.

5. The social services district shall require every private or

not-for-profit employer that intends to hire one or more work activity participants to certify to the district whether such employer has, in the past five years, been convicted of a felony or a misdemeanor the underlying basis of which involved workplace safety and health or labor standards. Such employer shall also certify as to all violations issued by the department of labor within the past five years. The social services official in the district in which the participant is placed shall determine whether there is a pattern of convictions or violations sufficient to render the potential employer ineligible. Employers who submit false information under this section shall be subject to criminal prosecution for filing a false instrument.