



## Legislation Text

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### Int. No. 316-A

By Council Members Vallone, DiBrienza, Pinkett, Rivera, Michels, Lopez, Robinson, Linares, Berman, Clarke, Carrion, Espada, Foster, Freed, Henry, Koslowitz, Perkins, Quinn, Reed, Robles, Rodriguez, Watkins, and the Public Advocate (Mr. Green); also Council Members Eldridge, Marshall, McCaffrey and Warden.

A Local Law to amend the administrative code of the city of New York in relation to the establishment of a grievance procedure for participants in the city's work experience program.

Be it enacted by the Council as follows:

Section 1. **Declaration of Legislative Findings and Intent.** The Council finds that certain recipients of public subsidies under the Family Assistance and Safety Net Assistance programs assigned by the city of New York to its Work Experience Program ("WEP") are required to work a specified number of hours each week in order to maintain their eligibility for continued public assistance. The Council further finds that WEP participants have not consistently been provided with appropriate terms and conditions of work. For example, participants have not consistently been provided with proper equipment and appropriate gear, such as, but not limited to: gloves, safety goggles, and proper clothing to protect them from the elements. In addition, participants have not consistently been given the opportunity to informally resolve disputes with the sponsoring agency prior to the reporting of alleged failure or refusal to comply with program requirements to the local social services district. The Council therefore believes that a grievance procedure must be codified to ensure that WEP participants are permitted to address grievances that may arise out of their work assignments and to provide the opportunity to have these grievances resolved within the sponsoring agency in an

expeditious and just manner.

The Council finds that the conciliation provision of New York State Social Services Law and its implementing regulations do not address efforts by participants and sponsoring agencies to resolve disputes at the level of the sponsoring agency prior to involvement of the social services district. The Council further finds that the State Social Services Law expresses no need for state-wide uniformity in the administration of local Public Assistance Employment Programs. Rather, by omitting direct regulation of local sponsoring agencies, the State Legislature recognized the strong local interest in designing alternatives not specifically provided by state law, in order to meet the needs of the local community. The purpose of this local law is therefore to meet the legitimate local interest of the city of New York in providing a mechanism for its residents who are participants in WEP to informally resolve disputes that may arise with local sponsoring agencies, prior to the involvement of the local social services district.

The Council recognizes that, pursuant to New York State Social Services Law §341, the New York City Human Resources Administration ("HRA") has established a conciliation procedure for individuals who are alleged to have violated work activities requirements and a procedure to resolve other disputes related to participation in work activities. However, the Council finds that the state-mandated procedure for individuals who are alleged to have violated work activities requirements does not provide a means for participants and sponsoring agencies to resolve such disputes at the level of the sponsoring agency prior to involvement of the social services district. The Council further finds that the HRA procedure to resolve disputes related to participation in work activities, to the extent it provides for sponsoring agency participation, is not enforceable by participants, and was not established pursuant to any powers or duties assigned or delegated to the HRA by the State of New

York. Thus, the grievance procedure established by this local law neither overlaps with nor directly affects the procedures established by HRA pursuant to New York State law and regulations.

For all the foregoing reasons, the Council finds that the grievance procedure established by this local law is well within the powers of the Council under New York State Municipal Home Rule Law and the Charter of the City of New York.

2. Title 21 of the administrative code of the city of New York is amended to add a new chapter 5 to read as follows:

### Chapter 5

#### Work Experience Program Grievance Procedure

#### **§21-501 Definitions.** As used in this chapter:

- a. "Participant" means an applicant for or recipient of family assistance or safety net assistance who volunteers for or who has been required to participate in the work experience program.
- b. "Sponsoring agency" means a public agency or a private non-profit or for-profit organization providing an employment related activity(ies) or service(s) to a social services district or the department of social services through contract or agreement.
- c. "Terms and conditions of work" shall encompass hours of work, transportation, training, health, safety, alleged failure to comply with program or work activities requirements, and any and all other terms and conditions of work for participants.
- d. "Grievance" means:
  - i. a dispute between a sponsoring agency and one or more WEP participants concerning any terms and conditions of work; or
  - ii. a claimed violation, misinterpretation, or misapplication of the rules or regulations of a

sponsoring agency affecting the terms and conditions of work.

- f. e. "Work Experience Program" or "WEP" shall mean the program established by New York City pursuant to and governed by Title 9-B of the New York State social services law section 336-c and implementing regulations, under which individuals receiving family assistance or safety net assistance who are assigned to the work experience program are required to work for a specified number of hours per week in a government or private not-for-profit or for-profit agency in order to maintain their eligibility for continued public assistance. "Step 1 supervisor" means the participants immediate supervisor, unless the participant's immediate supervisor is represented for purposes of collective bargaining, in which case the sponsoring agency shall designate a supervisor who is not represented for purposes of collective bargaining to hear and resolve Step 1 grievances.

**§21-502 Applicability.** This chapter shall apply to all sponsoring agencies and WEP participants.

**§21-503 Grievance Procedure.**

- a. The following procedure shall be established in order to allow for the timely resolution of grievances. A participant may elect to pursue a grievance pursuant to this chapter prior to the initiation of conciliation under §341 of New York State social services law. The sponsoring agency shall notify each participant orally and in writing at the start of each work assignment of the participant's rights and responsibilities under this procedure, including the right to resolve grievances under such procedure prior to the initiation of conciliation under §341 of New York State social services law, and of the name, work address, telephone number of and locations to submit a grievance to the participant's Step 1 supervisor and the sponsoring agency WEP

coordinator. The sponsoring agency shall not notify the office of employment services (“OES”) or any other designee of the local social services district of an alleged failure to comply with program or work activities requirements by the participant unless and until the Step 1 supervisor or a higher-level supervisor first notifies the participant orally and in writing that the agency intends to do so and why, and then only after completion of the procedure set forth in Steps 1 and 2. In the event there is an alleged failure by a participant to comply with a program or work activity requirement and no grievance is submitted during the time period set forth below, then the sponsoring agency may notify OES. Nothing herein shall limit the authority of the sponsoring agencies except as provided herein.

b. General Procedure.

i. Step 1. A participant's grievance shall be made verbally or in writing to his or her step 1 supervisor not later than five (5) working days after the act or omission complained of. Discussion and consideration of the grievance may be assisted by a higher level supervisor (s), who may be called in to help with the resolution process. The participant and the supervisor(s) shall work together to resolve the dispute to the satisfaction of both the participant and the sponsoring agency. The grievance shall be considered and passed upon in writing within five (5) working days after it has been presented to the participant's step 1 supervisor. A copy of the written decision shall be given to the participant.

ii. Step 2. If a grievance is not resolved at step 1 to the satisfaction of the participant, within seven (7) working days after the participant has received a copy of the written decision rendered in step 1, the participant may appeal the initial decision verbally or in writing by requesting a discussion of the grievance with the sponsoring agency WEP coordinator.

The participant and the sponsoring agency WEP coordinator shall work jointly for a mutually satisfactory resolution of the grievance. The appeal shall be considered and passed upon in writing within three (3) working days after the appeal has been made. A copy of the determination of the appeal shall be given to the participant.

iii. Step 3. If a grievance is not resolved at step 2 to the satisfaction of the participant, the participant may appeal the decision verbally or in writing to the social services district pursuant to social services law §341.

c. A participant grieving a work assignment or working conditions shall continue to work at their assigned sponsoring agency. If the grievance involves a claim that the assignment or condition is injurious to the participant's health or safety or that it exceeds his/her medical limitations, the sponsoring agency shall reassign the participant to a different work assignment that is not injurious to the participant's health or safety or claimed medical limitations.

d. At any stage of the grievance procedure established by this chapter, a participant shall have the right to representation by legal counsel, or by a relative, friend, or other spokesperson, or may represent him or herself.

**§21-504. Supportive Services.** Each sponsoring agency must provide such work-related materials, safety equipment, clothing (including uniforms, footwear, outerwear and inclement weather gear), tools and other equipment necessary in order for a participant to perform his or her assignment in a safe, appropriate and efficient manner.

Failure of the sponsoring agency to comply with this provision shall be grievable under this chapter.

**§3. Severability.** Should any provision or application of this local law be determined to be

unlawful or unenforceable, all other provisions and applications of this local law shall nevertheless continue in full force and effect.

§4. This local law shall take effect immediately.