



## Legislation Text

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Int. No. 959

Introduced by Council Member DiBrienza and the Speaker (Council Member Vallone) and Council Members Malave-Dilan, Espada, Fisher, Henry, Linares, Perkins, Pinkett and Quinn; also Council Members Carrion, Eisland, Foster, Freed, Lopez, Marshall, Miller, Robinson, Watkins, Michels and Warden

A Local Law to amend the administrative code of the city of New York, in relation to education and training for public assistance recipients.

*Be it enacted by the Council as follows:*

**Section 1. Declaration of legislative findings and intent.** The Council finds and declares that the New York City Human Resources Administration (HRA) assigns large numbers of public assistance recipients to the City's Work Experience Program (WEP) and requires participation in that program as a condition of receiving public benefits. The Council further finds that WEP fails to provide the skills and training that will enable the remaining public assistance recipients to move into stable jobs with decent wages. The Council further finds that short-term programs that limit education and training to two days per week, the only education and training provided by HRA, are based on a failed pedagogical and job training and placement model, and that participants in these programs do not receive meaningful education, and are routinely given WEP assignments that are unrelated to the education and training they do receive.

The Council finds that virtually every advance in educational attainment, from basic literacy to college, enhances an individual's ability to secure employment, their employment longevity and their level of earnings. Detailed and persuasive studies indicate that education levels play a major role in determining whether workers will become dislocated and, if dislocated, how successful they will be in securing new jobs and recovering lost earning power. The Council further finds that education and training (including adult education, English classes, vocational training and rehabilitation, and two- and four-year college education) are proven means of

helping public assistance recipients move off of welfare and into living wage jobs that allow them to achieve lasting self-sufficiency. Statistics indicate that 87% of recipients allowed to earn a college degree are able to move off welfare permanently. Moreover, the State Department of Labor reports that 75% of New York City's major employers require college degrees or training beyond high school for entry level jobs. However, despite the proven importance of education and training to job success, the Council finds that the vast majority of public assistance recipients have not attained a high school diploma or its equivalent, and that nearly one-third have significant difficulties reading and/or speaking English.

The Council thus finds that education and training are the essential components of the next step for welfare reform in New York City, which will better enable people to move from welfare into living wage jobs. The Council recognizes that treating education and training as an integral part of work requirements would enable HRA staff, working with public assistance recipients, to craft a plan that maximizes the opportunity for each individual to move into long-term employment at a living wage. The Council therefore declares that as a matter of policy, the city should administer its welfare programs so that participation in education and training programs is available to the maximum extent permitted by federal and state law.

The Council further finds that the New York State Social Services Law vests local authority to administer public assistance programs in the “social services districts”, and that the City of New York is designated as a social services district for purposes of the law. Further, the authority of the commissioner of the New York City social services district is subject to the laws of New York City. As pursuant to the City Charter, the Council has clear authority to adopt laws and establish standards for the administration of City programs, including public assistance employment programs, the Council, acting within the discretion granted to it by the State Social Services Law, adopts this local law to ensure that public assistance recipients are afforded access to education and training programs so that they may become truly self-sufficient.

§ 2. Title 21 of the administrative code of the city of New York is hereby amended by adding a new

chapter 7 to read as follows:

## CHAPTER 7

<u>§ 21-701</u>	<u>Definitions.</u>
<u>§ 21-702</u>	<u>Assessments and employability plans.</u>
<u>§ 21-703</u>	<u>Assignment of work activities to individuals engaged in or expressing an interest in engaging in education and training and/or vocational rehabilitation activities.</u>
<u>§ 21-704</u>	<u>Notice of rights and responsibilities.</u>
<u>§ 21-705</u>	<u>Submission of plan to state department of labor.</u>
<u>§ 21-706</u>	<u>Comptroller audit.</u>
<u>§ 21-707</u>	<u>Severability.</u>

## EDUCATION AND TRAINING

§21-701 Definitions. Whenever used in this chapter, the following words shall have the following meanings:

- a. “Agency” means the city agency responsible for administering programs created under title 9-B of the social services law in the city of New York.
- b. “Applicant” means an individual who has submitted an application for safety net assistance, family assistance or food stamps.
- c. “Assessment” shall have the same meaning as set forth in sections 335 and 335-a of the social services law.
- d. “Basic literacy” means an eighth grade, ninth month literacy level and English language proficiency.
- e. “Consolidated Master List of Approved Training Programs” means the list of education and training providers maintained by the agency that have been approved pursuant to section 3-03 of volume 68 of the rules of the city of New York.
- f. “Countable Work Activities” means any activity or combination of activities listed under section 336 of the social services law, the participation in which satisfies the New York social service district’s requirements

to meet federal and state participation rates as stated in sections 335-b and 336 of the social services law.

g. “Employability plan” shall have the same meaning as set forth in sections 335 and 335-a of the social services law.

h. “English language proficiency” means scoring above fifty on the New York State Placement Test (NYS PLACE) or achieving an equivalent score on a comparable test.

h. “Full-time” means a school schedule equal to the maximum number of hours of class time offered by the educational provider for study in the subject area being studied by the applicant, recipient or participant.

i. “Half-time” means a schedule of instruction at the city university of New York, the state university of New York or any other post-secondary degree-granting educational program/institution that is equal to at least one half of a full-time curriculum as determined by such program/institution.

j. “Participant” means an applicant or recipient for whom the agency has completed an assessment or employability plan, or whom the agency has assigned to any work activity.

k. “Recipient” means an individual currently receiving safety net assistance, family assistance or food stamps.

**§21-702 Assessments and employability plans.** a. The agency shall conduct and complete an assessment of employability and shall develop a written employability plan, pursuant to sections 335 and 335-a of the social services law, for each applicant or recipient, prior to assigning such applicant or recipient to any work activity.

b. The agency shall provide each participant with a copy of such participant’s employability plan upon completion of such employability plan.

**§21-703 Assignment of work activities to individuals engaged in or expressing an interest in engaging in education and training and/or vocational rehabilitation activities.**

a. If an applicant, recipient or participant is enrolled in education, training and/or vocational rehabilitation then the agency shall permit such applicant, recipient or participant to continue in such education,

training and/or vocational rehabilitation activity provided such activity can be classified as a countable work activity and provided further that such education, training and/or vocational rehabilitation activity meets the performance or assessment standards established by the government entity that monitors such programs or is included on the Consolidated Master List of Approved Training Programs.

b. If an applicant, recipient or participant expresses an intention or preference to the agency to enroll in an education, training or vocational rehabilitation activity, or if an applicant's, recipient's or participant's assessment indicates that he or she lacks basic literacy, a high school diploma, or a general equivalency diploma (GED) or otherwise indicates that education, training and/or vocational rehabilitation activities would enhance the individual's ability to obtain and maintain employment, then the agency shall offer such applicant, recipient or participant the opportunity to engage in such activity, provided that such activity can be classified as a countable work activity and provided further that such education, training and/or vocational rehabilitation activity meets the performance or assessment standards established by the government entity that monitors such programs or is included on the Consolidated Master List of Approved Training Programs.

c. The agency shall classify education, training and vocational rehabilitation activities as countable work activities to the maximum extent permitted by state and federal law. Activities which shall be classified as both "on-the-job training" and "community service" in the New York City Social Services District Welfare to Work Plan that is required pursuant to section 333 of the social services law shall include but not be limited to: work-study; internships and externships related to the curriculum of a non-graduate student enrolled in an approved post-secondary institution; Adult Basic Education; Basic Education in a Native Language; English for Speakers of Other Languages; vocationally-oriented training and education programs, and activities engaged in pursuant to an individualized plan of employment as designed by the New York state department of education, office of vocational and educational services for individuals with disabilities (VESID). If the New York state department of labor does not permit the classification of any of the above-listed activities as "on-the-job training," then the agency shall classify the disallowed activity or activities as only "community service".

d. All hours that an applicant, recipient or participant spends in countable work activities pursuant to this chapter shall be credited toward such individual's work participation requirement. The agency shall credit a participant with three hours of work activity for each hour of class time.

e. When assigning an applicant, recipient or participant who is engaged in an educational, training or vocational rehabilitation activity to any additional activity, the agency shall take all reasonable steps to locate an assignment that is either at the site of the educational, training or vocational rehabilitation activity or in reasonably close proximity thereto and which does not conflict with the hours during which such individual's educational, training and vocational rehabilitation activity takes place.

f. An applicant, recipient or participant who is enrolled:

1. at least half-time at the city university of New York, state university of New York, or in any other post-secondary degree-granting educational program;

2. full-time in any Adult Basic Education, Basic Education in a Native Language, English for Speakers of Other Languages or vocational rehabilitation program; or

3. at least twenty hours per week in a non-degree-granting vocational training program, whether or not such applicant or recipient's course of study qualifies as a countable work activity,

shall not be required to perform any additional work activities provided that such applicant, recipient or participant is the parent or primary caretaker of a child under the age of thirteen, is making satisfactory progress in the educational, training or vocational rehabilitation program, and the comptroller of the city of New York has projected that the city will exceed its applicable work participation rate for individuals on public assistance as set forth in section 335-b of the social services law for that year by at least ten percentage points. The determination of whether an individual is making satisfactory progress in an education, training or rehabilitation program shall be made solely by the educational or training institution in which the individual is enrolled.

g. The agency shall not require any applicant, recipient or participant who is enrolled at least half-time

at the city university of New York, state university of New York, or at any other post-secondary degree-granting educational program or who is participating in any education or training program that can be classified as a countable work activity and is included on the Consolidated Master List of Approved Training Programs to participate in any other activity for more hours than is necessary to count such applicant, recipient or participant as “engaged in work” for purposes of calculating the city’s work participation rates.

h. The agency shall give any applicant or recipient who is not currently assigned to a work activity and who expresses an interest to the agency in enrolling in education, training or vocational rehabilitation thirty days after the completion of the assessment of employability to locate a qualified education, training or vocational rehabilitation activity. During this period, the agency may not assign such an applicant or participant to any activity.

i. An individual engaged in, or accepted to engage in, activities pursuant to an individualized plan of employment (IPE) as designed by the New York state department of education, office of vocational and educational services for individuals with disabilities (VESID), shall be considered work limited pursuant to section 332-b(3) of the social services law upon submission to the agency of the IPE and supporting medical documentation. In such cases, the IPE shall be considered to be the individual’s treatment plan pursuant to section 335-b(5)(e) of the social services law.

**§21-704 Notice of rights and responsibilities.** a. The agency shall inform applicants, recipients and participants of all rights, entitlements and agency obligations required under this chapter.

b. Any notice directing an applicant, recipient or participant to report for an assessment, the development of an employability plan, or a work-related assignment, shall contain a description of the rights to pursue education and training activities as set forth in this chapter, and shall contain the following statement:

**“Your Education and Training Rights**

When you come for your appointment, we will tell you about your rights to participate in education and training programs. The hours you

spend in education and training programs may count toward your work requirement.

### **A Master List of Programs**

You have a right to receive the complete "HRA Consolidated Master List of Approved Training Programs." This is a list of education and training programs you can choose to go to. Hours spent in any program on that list will count toward your work requirement.

### **Other Choices for Training and Education**

You can also go to education or training programs that are not on the Consolidated Master List. However, those programs must meet appropriate City or State standards.

### **Time To Find the Right Program for You**

If you need to participate in an educational or training program in order to improve your chances of getting a job, we must give you 30 days from the date of your assessment to find an appropriate education or training program.

### **If You Are Already In an Education or Training Program**

If you are already in school we must allow you to remain in your program as long as your program appears on the "HRA Consolidated Master List of Approved Training Programs" or meets the City or State standards mentioned above.

### **You Can Switch from a Work Assignment to an Education and Training Program**

If you are already assigned to a work activity, you can switch into an education or training program. Again, your choice must appear on the "HRA Consolidated Master List of Approved Training Programs" or meet



the City or State standards mentioned above. If you are already in a work activity, you do not have the 30-day period to find an education or training program. In this case, you must continue in your work activity while you look for an education or training program.

### **Your Right to a Fair Hearing**

The agency must give you a copy of your employability plan. You have a right to a fair hearing to challenge your assessment, your employability plan and your assignment.”

**§21-705 Submission of plan to state department of labor.** To the extent that provisions of this chapter are subject to the approval of the state department of labor, the agency shall include such provisions in the city’s biennial plan to the state department of labor in accordance with section 333 of the social services law. In the event the local law that added this chapter becomes effective during the operation of a biennial plan, then the agency shall submit a modified plan to the state department of labor pursuant to title 12, section 1300.00 of the New York codes, rules and regulations within thirty days of enactment of the local law that added this chapter.

**§21-706 Comptroller audit.** a. Pursuant to powers granted under section 93 of chapter 5 of the charter of the city of New York and section 3-312 of title 3 of the administrative code of the city of New York, the comptroller shall, within forty-five days of enactment of the local law that added this chapter and annually thereafter, conduct an audit of the agency to determine whether the city has met work participation rates set forth in section 335-b of the social services law for individuals on public assistance, and shall project whether the city will exceed such work participation rates for the year following the audit and the amount of such excess, if any.

**§21-707 Severability.** If any provision of this chapter, or the local law that added this chapter, or of any amendments thereto, shall be held invalid or ineffective in whole or in part or inapplicable to any person or situation, such holding shall not affect, impair or invalidate the remainder of this chapter or local law that added

this chapter, and all other provisions thereof shall nevertheless be separately and fully effective and the application of any such provision to other persons or situations shall not be affected.

§ 3. This local law shall take effect immediately.

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