



WELFARE, WORK RULES and EDUCATION: THE 2014 CHANGES

by Don Friedman, Empire Justice Center, June 2014

On March 31st, 2014, New York State made major changes in the law regarding public assistance recipient access to four year college and other education and training. This brief describes the changes and offers a scenario that demonstrates the significance and the limits of the changes.

Resources: It is challenging to describe these changes without reviewing the complex details of the underlying law. A more in-depth summary of the recent changes will soon be posted on the Empire Justice Center website. For an in-depth review of the law, see [*An Advocate's Guide to the Welfare Work Rules in New York State, Section V: Work activities/assignments.*](#)

SUMMARY: THE 2014 CHANGES TO THE WELFARE WORK RULES

Note: "Agency" refers to the local social services districts, meaning HRA in New York City, and DSS in all other counties.

1. Four year college can count towards the public assistance work requirement.

Four year college is finally on the list of countable educational activities!

2. The number of college hours that may be counted changes after 12 months.

For 12 months, a person's college attendance can count as a "core" work activity.¹ Thus, the person can now count all of their coursework time, and other activities such as homework,² as well as traditional work activities, such as work-study, internships and paid employment.

After 12 months, college is no longer a core activity. It can be counted as a non-core activity, but college time must now be combined with at least 20 hours in a paying job, or

¹ The rule counting college as a core activity for 12 months is not limited to the *first* 12 months of college. College can count as person's core activity for any 12-months of attendance, subject only to the overall 12-month core activity limit.

² See comment about homework, page 2, section 7.

other work activities “when paid employment is not available.” The 20 hours can include a range of non-education related activities, like paying jobs and work experience, as well as certain education related activities, such as work-study and internships.

There is an implication that a paying job is the only option for the 20 hours, unless “paid employment is not available.” It remains to be seen how the determination will be made.

3. A person counting 2 or 4 year college as work must make satisfactory progress.

A person must document their school hours, and must maintain at least a C average. The C average rule may be waived by the school or the agency in cases of undue hardship, such as injury or the death of a family member.

A similar rule applies to the counting of work-study and internship hours. But in that case, the district *may* take satisfactory progress into account; in the case of college, the individual *must* maintain satisfactory progress. But this is a condition of various college grants and loans, so we hope that it will not have a major impact.

4. Work assignments should reflect the individual’s preferences.

The law for households with children has long been that a person’s work assignments must reflect the person’s preferences if feasible, while taking into account the agency’s need to meet participation requirements. If the preference cannot be accommodated, the reasons must be set forth in writing. This rule now applies to *all* households.

5. Exempt resources – savings for college education.

A bank account with up to \$1,400 to be used for two or four year college tuition does not count as a resource or affect a person’s eligibility for public assistance.

6. A note about homework: still a matter of local discretion.

Homework associated with an approved educational activity is not mentioned in the amended law, so its status remains the same. That is, at agency discretion, all hours of supervised homework can count as work participation, and up to one hour of unsupervised homework per hour of class time may be counted. This can be a valuable tool to enable a person to succeed in an educational activity, but for now it remains within agency discretion.

Caveat about these changes: A lot is left to local agency discretion.

College is now on the list of activities that agencies *may* provide. It does not guarantee the right to be assigned to college. Agencies still have considerable discretion regarding the activities that are offered and that will be assigned. But that discretion is not unlimited: as noted in section 4, the agency, in making work assignments, must try to

reflect the individual's preferences. The decision should be based on what is appropriate for the individual, not an agency's arbitrary decision to refuse to offer certain activities.

SCENARIOS: WHAT THE AMENDMENTS DO AND DO NOT ACCOMPLISH

Act I: 12 months of college counting as work. A single adult without children, Jane, is receiving public assistance and is taking 15 credit hours in a four year program at Hunter College. She completed her freshman year before receiving public assistance. Under the law, a single adult must engage in work for 35 hours a week, of which at least 20 must be in a core activity. The law, as amended, allows four year college to count as a core activity. Jane's worker decides that this activity is appropriate for her. So, for example, she can assign Jane to 15 hours per week of class time and as much as another 15 hours of unsupervised homework, a total of 30 hours. The remaining 5 of her required 35 hours per week can be in almost any of the countable work activities, including work-study and internship.

Act II: Beyond 12 months of college counting as work. After 12 months of college, Jane is now in her next year at Hunter. As noted, for those previous 12 months, all of Jane's college coursework, and potentially other activities such as homework, could count as core activities. After 12 months, college may be counted, but only as a non-core activity, so Jane must be assigned to at least 20 hours of one or more core activities, such as work-study and internships, as well as paid employment, work experience and job search.

Epilogue: Thus under the new law, the situation for up to 12 months of college counting as work is vastly improved. For the subsequent years, the ability to continue in college will still be a challenge. But it **can** be done! To give one example, under New York law, work-study and internships both count as core activities. With these types of activities, Jane might be able, especially with the help of a supportive worker, to reach the mandated 20 hours of core activity.

And furthermore: Remember the other key feature of the amendments, that for all households, the individual's activity preferences should be reflected in the employability plan, to the extent consistent with federal and state law, and with the person's assessment. We struggled to retain this provision in the bill. It is now important that advocates, work participants and the districts are made aware of and take advantage of this provision.

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