



Urban Justice Center  
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March 13, 2009

Jeanine Stander Behuniak  
New York State Office of Temporary and Disability Assistance  
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Albany, New York 12243-0001  
Email: [Jeanine.Behuniak@OTDA.state.ny.us](mailto:Jeanine.Behuniak@OTDA.state.ny.us)

Dear Ms. Behuniak:

This letter is submitted by the Homelessness Outreach and Prevention Project of the Urban Justice Center in response to the Office of Temporary and Disability Assistance's proposed amendments to Title 18 of the Social Services regulations regarding welfare recipients' access to education and training, published in the New York State Register on January 28, 2009. The Homelessness Outreach and Prevention Project (HOPP) advocates for economic justice for no- and low income New Yorkers by improving access to public benefits and ensuring government accountability for these programs through a combination of direct legal services, litigation, research and policy advocacy.

For many years, HOPP has been working tirelessly to open up opportunities for public assistance recipients to participate in education and training programs. For example, in July 2003 HOPP's attorneys, working with two other legal services organizations in New York City, settled *Davila v. Eggleston*, a major class action substantially increasing access to education and training for single parents on public assistance. Then, after years of tireless advocacy and litigation, the New York City Human Resources Administration, in January 2005, released a policy directive, which grants single individuals without children the right to access a wide range of education and training opportunities including two year college, vocational training, adult basic education, GED and English for Speakers of Other Languages.

We commend any actions taken by OTDA to provide additional opportunities for public assistance recipients to participate in education and training activities. However, as discussed below, we are concerned that certain aspects of the proposed regulations may actually hinder access to education and training activities.

#### Assessment criteria

The proposed regulations add prior participation in education and training to the list of factors to be considered in the assessment process. The addition of this language is unnecessary

## Urban Justice Center

and potentially harmful to recipients. First, the list of assessment criteria provided at 385.6(a)(2) is not exhaustive; therefore, prior activities can already be taken into account. Second, districts may give greater weight to prior activity and use an individual's prior participation in an education or training program to unreasonably deny access to additional education or training programs. Thus, we urge OTDA not to adopt this amendment.

Alternatively, we request additional language that will ensure that districts will not make arbitrary determinations that prior participation bars future participation in education or training. Without such clarifying language, this criterion may be used arbitrarily in the assessment process, thus diminishing the ability of recipients to participate in education or training opportunities.

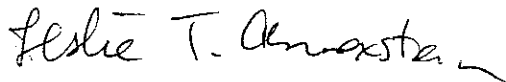
### Homework

The proposed rule follows recent changes to the final TANF regulations that allow states to count supervised homework time plus up to one hour of unsupervised homework time for each hour of class time. *See* 45 CFR 261.60. Unfortunately, the proposed regulation states that districts "may" report supervised and unsupervised homework time, thus giving districts the discretion in determining whether to count homework hours. Providing such discretion can lead to uneven implementation and thwart the ability of a recipient to participate in an educational activity. Indeed, if homework is one component of an educational activity, the homework hours should be counted. Thus, the state regulations should mandate that homework hours be counted.

The link between educational attainment and living wage employment is well-documented. Indeed, the evidence provided in OTDA's Regulatory Impact Statement demonstrates the benefits of gains in educational attainment. Therefore, as OTDA amends its regulations, great care must be taken to ensure that any new language meets the goal of expanding the opportunities for public assistance recipients to access education and training programs.

Thank you for the opportunity to comment on the proposed regulations.

Sincerely,



Leslie T. Annexstein  
Director, Homelessness Outreach and Prevention Project