

# **Public Hearing—Oversight Human Resources Administration**

Oversight: Barriers that Youth and Young Adults Face In Accessing Public Assistance

New York City Council Committee on General Welfare

June 22, 2011



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## INTRODUCTION

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Good morning. My name is Megan Stuart, and I'm a Staff Attorney with the Homelessness Outreach and Prevention Project (HOPP) at the Urban Justice Center. I appreciate this opportunity to testify. The Homelessness Outreach and Prevention Project (HOPP) advocates for economic justice for low- and no-income New Yorkers by ensuring access to public benefits and government accountability for these programs using a multi-pronged approach of direct legal services, litigation, research and policy advocacy.

Good morning. My name is Nadia Qurashi, and I'm a Staff Attorney with the Peter Cicchino Youth Project (PCYP) at the Urban Justice Center. The Peter Cicchino Youth Project provides free legal services to homeless and street-involved youth through the age of 24 in the areas of public benefits, immigration, name change and document replacement and access to shelter and foster care. PCYP combines a blend of direct legal services, systemic change work and community education to ensure that that all youth, regardless of sexual orientation or gender identity, are free from discrimination and abuse, and have the opportunity to lead fulfilling, enriching lives.

Our organization assists individuals in NYC in obtaining and retaining public benefits for which they are eligible. On average, we assist over 2,000 people per year. As such, we have noted patterns in how otherwise eligible youth have been denied access to public assistance, access to educational programs and the many other barriers to maintaining public assistance. It is in this capacity that I wish to address three specific barriers youth encounter when accessing and maintaining public assistance:

1. Applying for public assistance;
2. Accessing education; and
3. Keeping public assistance.

Before I begin, I want to point out that there is an inverse relationship between the amount of barriers youth face in accessing public assistance and the actual amount of assistance provided to them. The maximum public assistance grant available to a household of one is \$381.00 a month.<sup>1</sup> A household of three with dependent children only receives \$753.00 a month.<sup>2</sup> In contrast, the federal poverty level for a family of three with two children is \$1525.83 a month, and the amount this family needs to make ends meet is \$3990.66 a month.<sup>3</sup> It is a strong testament to great need that compels people to fight so hard to receive so little.

#### APPLICATION BARRIERS

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Youth, particularly those disconnected from their families, are especially in need of public assistance. Of the nearly 900,000 young adults ages 16 to 24 in New York City, almost 25 percent live below the federal poverty line, compared with 19 percent of all New Yorkers.<sup>4</sup> In the year 2000, while 21 percent of young adults who lived with their families were below poverty, 35 percent of those living on their own were considered poor.<sup>5</sup>

Despite the compelling need, there is a fundamental and systemic lack or misunderstanding by front line workers about the rules and regulations around youth and young adult applicants who do not live with a parent or guardian. This often results in youth being illegally denied the right to apply for public assistance, or in having their applications denied because of improper document requests.

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<sup>1</sup> This amount represents a maximum cash allotment of \$166.10 and rental payment of \$215. The maximum food stamp allotment is only \$200 a month. Food Stamps cannot be used to buy any personal care items such as toilet paper.

<sup>2</sup> This amount represents a maximum cash allotment of \$353.00 and rental payment of \$286. The maximum food stamp allotment is only \$514 a month.

<sup>3</sup> See *The Self-Sufficiency Standard for New York State 2010* available at <http://www.selfsufficiencystandard.org/docs/New%20York%20State%202010.pdf>. The Self-Sufficiency Standard is based on the costs of six basic needs for working families: housing, child care, food, health care, transportation, and miscellaneous items as well as the cost of taxes and the impact of tax credits.

<sup>4</sup> The New York City Commission for Economic Opportunity, Report to Mayor Michael R. Bloomberg: Increasing Opportunity and Reducing Poverty in New York City, 12, available at [http://www.nyc.gov/html/om/pdf/ceo\\_report2006.pdf](http://www.nyc.gov/html/om/pdf/ceo_report2006.pdf).

<sup>5</sup> *Id.*

**Problem: Youth and young adults are told that they are not eligible for their own public assistance case until they are 21 and/or they are not eligible for public assistance because their parent has an open public assistance case.**

Every individual, including a child under 21, has the right to apply for Public Assistance. Young people under the age of 18, who are emancipated, may be found eligible for public assistance, and it is up to job centers to determine whether a young person meets the definition of “emancipated minor.” While the rules dictating the eligibility of young people are very involved, it is unlawful for a caseworker to turn away a young person merely because he or she is a minor, or does not meet the living arrangement or educational requirements. Despite this, eligible young people are frequently and repeatedly denied even the basic right to apply for benefits by their job centers without realizing their rights have been violated.

Example:

Cheri, a 19 year old lesbian, was forced to leave her home when her mother obtained an order of protection against her. When Cheri attempted to open her own public assistance case, she was told by a caseworker that she needed a letter from her mother stating that Cherie could be taken off the case. When Cheri showed the caseworker the order of protection, she was told that she still needed a letter from her mother and she was not permitted to apply for public assistance.

Recommendation: HRA should provide a youth and young adult coordinator/unit at each center and retrain all staff on eligibility requirements for youth and young adults.

**Problem: Youth and young adults are given false and often dangerous document requirements.**

For a variety of reasons it is often very difficult for homeless and street involved youth to gain access to their identity documents for a variety of reasons. In some situations, young people have left their homes and their parents or guardians have refused to release their identity documents to them. In others, identity documents have been lost or stolen. These documents may take many weeks or months to replace, leaving young people in the

difficult situation of having to prove their identity identification at job centers without any documentation.

These problems can be exacerbated when young people we work with identify as lesbian, gay, bisexual, and/ or transgender or gender non-conforming and prefer to use a name and/or gender pronoun that is consistent with their gender identity. While HRA's policy directive P-09-22 outlines HRA's policies regarding the provision of services to clients who identify as transgender and/or gender non-conforming, we continue to hear from clients who have experienced harassment by caseworkers and other HRA personnel based on their gender identity. This harassment includes refusing to call young people by their preferred name and gender pronoun and refusing to change their name and/ or gender marker on their case record, even when the client has the required documentation for such alteration. In addition, we have spoken with caseworkers who have demanded that transgender clients provide proof that they have had a legal gender change, a process that is not currently available in the state of NY.

Example:

Joni is a 19 year old transgender woman who obtained a name change order from civil court. When she attempted to change her name at her job center, her caseworker refused to address her with her preferred name and gender pronouns and told her she needed to bring in a corrected birth certificate before she could change the name on her benefits card. It took several months before Joni was able to change her name on her benefits card, resulting in her being referred to by the wrong name repeatedly at her job center and work activity appointments, which also resulted in repeated harassment against her by other recipients and employees.

Recommendation: HRA should conduct ongoing training of job center staff on Procedure P-09-22 and conduct internal audits to ensure youth are not illegally being asked to produce unnecessary documentation.

## EDUCATIONAL BARRIERS

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The link between educational attainment and living wage employment is well-documented. Of working-age adults who do not have a high school diploma, 31 percent are poor. This is in sharp contrast to 17 percent who have a high school diploma or GED; 13 percent with some college; and just 6 percent with a bachelor's degree.<sup>6</sup> Thus, one of the most effective ways to move welfare recipients into sustainable employment is to ensure that education is a key component of welfare programs.

Public assistance recipients have the right to access a wide range of education and training opportunities including two year college, vocational training, adult basic education, GED classes and ESL courses.<sup>7</sup> Additionally, a student's internship and work-study hours are countable work activities.<sup>8</sup> These rights are extremely valuable and a step in the right direction, but they are only as strong as the number of people who are able to take advantage of them.

Despite the importance of education and the various rights public assistance recipients have under state law to access education, less than 3% of work-eligible cases in New York City are engaged in education/training.<sup>9</sup> This abysmal participation rate is the result of the Human Resources Administration's systemic indifference to the rights of students and their refusal to adopt policies and procedures that would facilitate educational activities while simultaneously meeting work requirements.

**Problem: HRA does not prioritize basic educational activities for youth and young adults.**

The law is absolutely clear that HRA must prioritize basic educational activities (e.g. GED programs) for youth and young adults who do not have a high school diploma or its

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<sup>6</sup> The New York City Commission for Economic Opportunity, Report to Mayor Michael R. Bloomberg: Increasing Opportunity and Reducing Poverty in New York City, 12, *available at* [http://www.nyc.gov/html/om/pdf/ceo\\_report2006.pdf](http://www.nyc.gov/html/om/pdf/ceo_report2006.pdf).

<sup>7</sup> SSL §336-a(4); 18 NYCRR §385.9(c)(2).

<sup>8</sup> SSL §335-b(2); 18 NYCRR §385.9(b)(4).

<sup>9</sup> 4/17/11 HRA caseload statistics *available at* <http://www.nyc.gov/html/hra/downloads/pdf/citywide.pdf>; <http://www.nyc.gov/html/hra/downloads/pdf/familyassistance.pdf>

equivalent.<sup>10</sup> As a result of these legislative mandates, there are limits on what work assignments HRA can give this population.<sup>11</sup> Youth and young adults who do not have a high school diploma are, in violation of law, not being assigned to basic educational activities (“GED”). HRA not only fails to assign these youth to appropriate activities, but they also refuse to accept a client’s current enrollment in an education program and instead assigns them to work.

Example:

Carlos, who immigrated to the United States as a teenager, is 20 years old and in a Department of Education ESL high school program for older youth. Carlos reported this attendance to HRA; instead of approving the activity, HRA assigned Carlos to 35 hours of work and job search, forcing him to choose between his education and his public assistance.

Recommendations: HRA should retrain job center staff and conduct internal audits to ensure youth are not illegally being denied access to education and provide handouts on educational options.

**Problem: HRA creates barriers to educational activities.**

Even when HRA refrains from giving eligible students a work assignment in conflict with their basic educational courses, HRA procedures are designed to discourage youth from getting such education and instead push them to participate in non-educational work activities. This is most often done by HRA delaying provision of the supportive services- childcare and money for transportation- the law guarantees public assistance recipients who are participating in a work activity, including school.<sup>12</sup> When a public assistance recipient wants to go to school, it generally takes HRA four times as long to provide supportive services as it does if a person forgoes educational activities for HRA assigned work<sup>13</sup>.

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<sup>10</sup> NY Social Service Law § 336-a(4); NY Social Service Law § 335(2)(b); 18 NYCRR 385.9(c)(2).

<sup>11</sup> *Id.*

<sup>12</sup> Soc. Serv. L. 332-a; 18 N.Y.C.R.R. 385.4(a)(1); NY Soc. Serv. L. § 330(4); NY Soc. Serv. L. § 336(1)(h); 18 N.Y.C.R.R. § 385.9(a)(8)

<sup>13</sup> It should be noted that research conducted on NYC’s Back to Work program indicated that fewer than 10% of recipients retain employment through the program. Alex Kasdan and Sondra Youdelman, *Missing the mark: A report*

Example:

After moving out of her mother's house because of domestic violence, Maria applied for public assistance for herself and her daughter. At this time, Maria, who was 18 and had no high school diploma, was 8 months pregnant. After attending more than a half-dozen appointments to get her case accepted and giving birth to her second daughter, Maria decided that she wanted a GED and enrolled in a department of education program. This is what happened:

11/30- Maria went to her center with a letter from the program, she was told to come back a couple of days later.

12/1- Maria returned as directed.

12/17- HRA issued a return appointment for Maria to get childcare on 1/21

1/21- Return appointment

Despite being eligible, Maria was not provided any childcare, which caused her to drop out of the GED program. Frustrated, Maria closed her public assistance case and got a low-wage job at McDonalds. After her hours were cut at McDonalds, Maria again applied for public assistance, this time she was not in a GED program. This is what happened:

9/17- Maria reapplied for benefits and was given childcare enrollment forms and a return appointment for 9/24.

9/24- Maria's return childcare appointment. Maria hands in forms and is given a work assignment.

10/1- HRA paid childcare in place.

Recommendation: Align the process of providing childcare and carfare to students with that used for to public assistance recipients assigned to non-educational activities.

**Problem: HRA refuses to include homework as a countable work activity.**

At all levels – Federal, State, and Administrative – local welfare agencies have been authorized to count homework as part of welfare recipient's work requirements. The Bush administration initiated the move, and New York State followed suit, including homework as a possible countable work activity.<sup>14</sup> The Office of Temporary and Disability Assistance, the state agency responsible for overseeing HRA, explicitly encouraged local welfare agencies to “review current policies regarding permissible homework/study time and to establish policies that support educational advancement that also comply with federal work

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*on NYC's Back to Work Program & its effectiveness in meeting employment goals for welfare recipients*, Community Voices Heard (2008). Of those who receive a job placement from the Back to Work program, only 25% were still employed at that job placement beyond six months.<sup>13</sup> It should be noted that those in Back to Work are determined by the Human Resources Administration to be the most employable of all applicants.

<sup>14</sup> 45 CFR 261.60(e); 18 NYCRR § 385.9(c)(6).

participation requirements.”<sup>15</sup> Despite this, HRA refuses to count homework as a work activity and instead pays contractors to supervise students in dead-end work activities.

Recommendations: In accordance with state law, HRA should count one hour of unsupervised homework for each hour of class as a work activity.

#### HRA ERRORS ARE BARRIERS TO MAINTAINING PUBLIC ASSISTANCE

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The barriers to receiving public assistance in New York City have been well documented. Below I am including excerpts from a research report by Dr. Lori McNeil, Research and Policy Director of the Homelessness Outreach and Prevention Project, which will be formally released released on May 10, 2011.<sup>16</sup>

While welfare reform was designed to curtail welfare rolls, it was never intended to do so by preventing eligible recipients from claiming benefits. Based on its research evidence, HOPP concludes that at best NYC inadvertently prevents eligible individuals, and likely purposely diverts those in desperate need, from public assistance. Diversionary tactics, such as agency errors, numerous mandated appointments, and confusing requirements are barriers to maintaining public assistance.

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It is hard to understand why any social service agency would develop safety net programs so cumbersome and incomprehensible that even those charged with administration cannot understand the rules or implement the procedures—unless, the programs are intentionally designed to prohibit use. Denying basic assistance to those in “brutal” need should be unthinkable, but instead it has been touted in NYC in almost celebratory tones. In the State of the City address delivered on January 19, 2011, Mayor Bloomberg proclaimed that the NYC has “kept the welfare rolls at historic lows.” On the Human Resources Administration website<sup>17</sup>, a chart tracks the progress of welfare caseload reductions with a caption that reads, “The number of Cash Assistance recipients is at its lowest level since December 1963.” These statements are particularly disturbing considering that nationwide, it is estimated that only half of all eligible

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<sup>15</sup> OTDA, 09-ADM-16 “Enrollments in Educational Activities for Nonexempt Public Assistance Applicants and Recipients” 2008

<sup>16</sup> Dr. Lori McNeil, *Case Closed: An Examination of Exclusion in New York City’s Public Assistance Programs* (2011) available at <http://www.urbanjustice.org/ujc/publications/homeless.html>.

<sup>17</sup> New York City Human Resources Administration, *Cash assistance recipients in NYC 1955–2010* available at [http://www.nyc.gov/html/hra/downloads/pdf/total\\_pann.pdf](http://www.nyc.gov/html/hra/downloads/pdf/total_pann.pdf).

citizens participate in welfare programs.<sup>18</sup> In light of the recession and high unemployment rates, NYC should herald results for providing benefits to needy residents, not take pride in withholding benefits from struggling residents. . . .

The outcome of administrative errors and faulty program implementation is particularly egregious and one would expect case errors to be rare. Instead, errors and inappropriate sanctions and closures are commonplace in the NYC public assistance program. Faulty practices include the failure to spot and correct clerical errors (for example, improperly addressed notices) and poorly designed communication systems that make it difficult for claimants to call their caseworkers with questions or problems. . . .

Fair hearing outcomes are a strong indicator of the prevalence of faulty practices. Compared to the rest of the state, NYC conducts a disproportionate number of fair hearings.

**New York City Temporary Assistance<sup>19</sup>**

	New York City	% of State
Recipients	347,408	63%
Sanctions	24,812	79%
Fair hearings	76,085	94%

Moreover, most fair hearings are work related, which means that noncompliance is punished through sanctioning of benefits. Sanctions are financial penalties imposed for program noncompliance. They are usually a grant reduction or case closure and are often the focus of fair hearings. NYC also applies a disproportionate amount of sanctions, 79%, compared to the rest of the state.<sup>20</sup>

In New York City, imposition of sanctions seems to have little do to with noncompliance of welfare recipients. Rather it is a reflection of HRA’s error-ridden system. For example, between July 2008 and June 2009, of the total number of hearings held to contest proposed employment sanction, HRA’s proposed sanction was upheld only 8% of the time, compared with 45% of non-New York City Hearings.

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<sup>18</sup> Sheila R. Zedlewski, *Are shrinking caseloads always a good thing?*, short Takes on Welfare Policy No. 6) available at <http://www.urban.org/publications/310508.html>.

<sup>19</sup> OTDA, 2009 Statistical Report on the Operations of New York State Temporary Assistance Programs available at [http://www.otda.ny.gov/resources/legislative-report/2009\\_LEGISLATIVE\\_REPORT.pdf](http://www.otda.ny.gov/resources/legislative-report/2009_LEGISLATIVE_REPORT.pdf)

<sup>20</sup> *Id.*

### Outcomes of Employment Sanction Hearings<sup>21</sup>

	New York City	Rest of State
Agency Affirmed	8%	45%
Agency Reversed	16%	12%
Issue withdrawn <sup>22</sup>	61%	29%

Based upon her research excerpted above, Dr. McNeil has the following recommendations for improving reducing and removing barriers to public assistance:

Public assistance programs in NYC suffer from faulty practices and ineffective procedures, the outcome of which causes undue hardship to applicants and recipients. . . . Thus, HOPP proposes the following administrative and programmatic recommendations.

1. Eliminate duplicative documents and appointments. . . .
2. Audit the errors and problems in public benefit receipt. . .
3. Establish standards for sanctions and fair hearings. . . .
4. Perform a systematic review of agency compliance. . . .
5. Simplify evidence packets.
6. Revise the withdrawal codes for fair hearings. . .
7. Facilitate file access. . . .
8. Expand escalated outreach procedures. . . .
9. Increase training and education opportunities to the level that New York State allows. . . .
10. Incorporate flexibility into work requirements. . . .<sup>23</sup>

### CONCLUSION

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The Urban Justice Center thanks you again for holding this oversight hearing and for the opportunity to testify. We welcome and look forward to working with you to address these issues.

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<sup>21</sup> *Id.*

<sup>22</sup> A withdrawal signifies that the agency will not take the stated notice of intent action, which can be done without any explanation. While the agency doesn't regard withdrawals as losses, a withdrawal usually represents administrative errors or procedural issues.

<sup>23</sup> Dr. Lori McNeil, *Case Closed: An Examination of Exclusion in New York City's Public Assistance Programs* (2011) available at <http://www.urbanjustice.org/ujc/publications/homeless.html>.