



NEW YORK
CITY BAR

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**REPORT ON LEGISLATION BY THE
COMMITTEE ON SOCIAL WELFARE LAW**

**A.2471
S.2323**

**M. of A. Wright
Senator Montgomery**

AN ACT to amend the social services law, in relation to clarifying the definitions of vocational educational training and educational activities.

Bill Summary. A.2471/S.2323 enhances the opportunity of public assistance recipients to participate in education and training by providing that (a) participation in four-year college and advanced degree programs can count towards meeting a public assistance recipient's work requirements, and (b) local districts must fully evaluate and, where appropriate, approve recipient requests to engage in education and training activities. In addition, it enables the State to maximize the number of public assistance recipients who count toward federally required work participation rates, thus helping the State to avoid the serious financial penalties associated with failing to meet those federal mandates.

THIS BILL IS APPROVED

The Social Welfare Law Committee of the New York City Bar Association supports A.2471/S.2323 and urges its enactment. The Committee believes, however, that the bill would be even stronger if it included a requirement that districts must count the hours spent engaged in homework as a countable work activity.

This legislation enables New York State to take advantage of recent changes in federal regulations concerning participation in education and training for public assistance recipients. We urge support for this legislation for multiple reasons. First, allowing motivated students to pursue and complete baccalaureate degrees provides a proven path off of government benefits and out of poverty. Moreover, by adding to the number of activities that participants may engage in, the legislation strengthens the State's ability to meet federally mandated work participation requirements without any additional cost. Given the significant increase in participation rates required by the federal Deficit Reduction Act and the substantial financial penalties associated with States' failure to meet these rates, this legislation is crucial.

Background. In February of 2008, federal regulations were modified to allow states to count the hours of school participation of students attending four-year college and graduate school – not just two-year associates' programs – toward federally required work participation hours. In addition, the regulations permit states to count homework time required by the educational institution toward participation rates in the following manner: All hours of homework that are

supervised by the educational institution can be counted, and up to one hour of unsupervised homework per hour of classroom time can be counted. It is vital that we have legislation that conforms state to federal law by ensuring that: (1) participants can satisfy their work requirement by going to four year college; (2) participants can count essential time spent on homework toward their work requirement; and (3) local social services districts are required to properly assess recipient requests to engage in education or training.

A.2471/S.2323 would allow districts to count participation in four year college and would ensure that districts assess all participants. These are vital changes and tremendously positive amendments to the Social Services Law. The bill does not currently allow students to count homework, despite the fact that the federal regulations allow for it and that, ultimately, a student's success in college depends on devoting a significant amount of time to homework. For students who are accepted into and satisfactorily complete these educational programs, allowing them to count both their class and homework hours toward their work requirement will provide a guaranteed path off of assistance and out of poverty. Given the State's commitment to provide programs that create ladders out of poverty, this legislation is essential and would be even further strengthened by the inclusion of homework.

Fiscal Benefits to the State. In addition to the clear benefits to low income students, there are substantial fiscal benefits for the State. Pursuant to the Deficit Reduction Act of 2005, the State's required participation rate moved from an effective rate of zero to a rate of somewhere just under 50%.¹ Individuals count toward the participation rate if they are engaging, for a required number of hours, in federally countable activities. Since October 2008, participants who attend four-year colleges and graduate schools have been doing so *without being counted toward the participation rate*. The ongoing failure to take advantage of this additional category of countable activities only hampers New York's ability to meet the rate. Given the extraordinary penalties that New York could face if it fails to meet the rate,² adding four-year college and graduate students' participation to the list of possible activities is good policy for New York State.

For all these reasons, we urge you to support the enactment of this legislation and to further consider including homework hours as a way to maximize the bill's impact. If our committee can provide any additional assistance or information, please feel free to contact me at 718-340-4408. Thank you for your consideration.

Wendy A. Bach, Esq.
Chair, Social Welfare Law Committee

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¹ Pub. L. 109-171. Although the Deficit Reduction Act (DRA) did not change the underlying mandated participation rate of 50% for all families, it did alter the base year for calculating caseload reduction credits. Prior to the DRA, States were permitted to reduce their participation rate of 50% by the percentage by which caseloads had declined since 1995. As a result of dramatic reductions in the caseload for many years prior to the DRA, the effective rate was zero. The DRA reset the base year to 2005 and thus New York State's 50% federal rate is now only reduced by the percentage by which the caseload has reduced since 2005.

² For example the federal government has the authority to impose a penalty equal to five percent of the states adjusted State Family Assistance Grant for the first infraction year. 42 U.S.C. § 609(a)(3)(B); 45 C.F.R. § 261.5.