

THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK

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REPORT ON LEGISLATION

SOCIAL WELFARE LAW COMMITTEE

A.11297
S. 8416

Assembly Member Wright
Senator Kruger

AN ACT that Allows for baccalaureate and advanced degree programs to count towards the work participation rate and further provides for certain educational and training activity (homework expected or required by the educational institution) to count towards the satisfaction of the participant's work activity requirement.

THIS BILL IS APPROVED

The Association of the Bar of the City of New York endorses and supports passage of Assembly Bill 11297, a vital piece of legislation that will bring New York State into conformance with federal regulations concerning participation in education and training for public assistance recipients. We urge support for this legislation for several reasons. First, allowing motivated students to pursue and complete baccalaureate and advanced 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.

As you no doubt know, in February of this year, 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 provided that only one hour is unsupervised and the remaining hours are supervised by the educational institution. The Assembly bill does nothing more than conform New York State legislation to these allowances. Under the bill, participants who wish to engage in these activities cannot be unreasonably denied the opportunity to do so, so long as their participation does not impair the State's ability to meet federally required work participation rates. For students who are accepted into and satisfactorily complete these educational programs, there is no doubt that allowing them to do so, and allowing them to count 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.

In addition to the clear benefits to poor 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 rate if they are engaging, for a required number of hours, in federally countable activities. Unless New York State acts during this legislation session, beginning in October four-year and graduate students' participation will not count toward the rate, despite a federal allowance that would allow New York State to count them. Failure to take advantage of this additional category of countable activities therefore only hampers New York's ongoing 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 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 introduce and support the passage of this legislation.

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 the 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.