

Federal Definitions for Countable Work Activities

The following definitions are effective October 1, 2006, for all temporary assistance and food stamp work activity enrollments. Districts should review each enrollment to ensure consistency with these standards.

OTDA will be providing information on local plan amendments to adopt these definitions as part of the district's bi-annual local employment plan through a separate policy directive.

OTDA has defined each work activity consistent with federal requirements while providing flexibility where possible.

Districts should refer to 18 NYCRR Part 385.8 for information regarding how each definition counts towards the work participation rate. These standards are not changed by this release or the Interim Final TANF rule (45 CFR Parts 261, 262, 263, 265).

- **Unsubsidized employment:** Full-time or part-time employment in the public or private sector in which an employer is not subsidized by TANF or any other public program. (Positions for which the employer receives a tax credit, but no other public subsidy are considered unsubsidized employment). Unsubsidized employment includes self-employment or paid internships if approved by the district.
 - Districts may report projected actual hours of employment participation for up to six months based on current, documented actual hours of work. Any time the district receives information that the participant's actual hours of work have changed, or no later than the end of any six month period, the district must re-verify the participant's current, actual average hours of work and may report these projected actual hours of work for the succeeding six month period, unless changes in the number of hours worked are subsequently reported which must be acted upon by the district in a timely manner.
 - The number of hours that may be reported for an individual participating in self-employment may be determined by dividing the individual's net income after subtracting business expenses (this is the amount budgeted before disregards in ABEL) by the federal minimum wage. Districts may secure alternate documentation of self-employment hours including statements from supervisors, business contacts or customers to verify hours of self-employment. For example, districts may document and verify hours of work

by an informal child care provider based upon time records used to authorize child care payments or based upon statements from the parent of the child for whom the client is providing care.

- **Subsidized private sector employment:** Employment in the private sector for which the employer receives a subsidy from TANF or other public funds (excluding tax credits) to offset some or all of the wages and costs of employing and training a recipient in accordance with New York State Social Services Law (SSL) 336-e. Subsidized private sector employment may include positions subsidized through grant diversion, supported employment programs, and paid college work-study programs at private institutions. Districts are reminded that income from paid work study may not be budgeted to determine the family’s TA eligibility since the income may be treated as a grant. Individuals participating in subsidized private sector employment are paid wages and receive the same benefits as non-subsidized employees who perform similar work. An employment situation may be subsidized for up to the full amount of wages/benefits provided to the program participant and may be subsidized for the length of time as determined appropriate by the State or district.
 - Subsidized private sector employment does not include OJT programs where employers are subsidized to offset the costs of training.
 - Districts may report projected actual hours of employment participation for up to six months based on current, documented actual hours of work. Any time the district receives information that the participant’s actual hours of work have changed, or no later than the end of any six month period, the district must re-verify the participant’s current, actual average hours of work and may report these projected actual hours of work for the succeeding six month period, unless changes in the number of hours worked are subsequently reported which must be acted upon by the district in a timely manner.

- **Subsidized public sector employment:** Employment in the public sector for which the employer receives a subsidy from TANF or other public funds (excluding tax credits) to offset some or all of the wages and costs of employing and training a recipient in accordance with New York State Social Services Law 336-f. Subsidized public sector employment may include positions subsidized through grant diversion, supported employment programs, and paid college work-study programs at public institutions. Districts are reminded that income from paid work study may not be budgeted to determine the family’s TA eligibility since the income may be treated as a grant. Individuals participating in subsidized public sector employment are paid wages and receive the same benefits as non-subsidized employees who perform similar work. An employment situation may be subsidized for up to the full amount of wages/benefits provided to the program participant and may be subsidized for the length of time as determined appropriate by the State or district.
 - Subsidized public sector employment does not include OJT programs where employers are subsidized to offset the costs of training.

- Districts may report projected actual hours of employment participation for up to six months based on current, documented actual hours of work. Any time the district receives information that the participant's actual hours of work have changed, or no later than the end of any six month period, the district must re-verify the participant's current, actual average hours of work and may report these projected actual hours of work for the succeeding six month period, unless changes in the number of hours worked are subsequently reported which must be acted upon by the district in a timely manner.
- **Work Experience:** Unpaid work performed at a public or not for profit organization to enable participants who cannot find unsubsidized employment to improve his or her employability in accordance with New York State Social Services Law 336-c. Work experience provides participants with an opportunity to acquire the general skills, training, knowledge and work habits necessary to obtain and retain employment. Work experience participants must be supervised by a work site sponsor, or other responsible party, on an ongoing basis, no less frequently than daily.
 - As established in SSL 336-c, the maximum hours an individual may be required to participate in work experience is limited to the number of hours derived by dividing the amount of the household's temporary assistance and food stamp benefits by the higher of the federal or State minimum wage.
 - An individual participating in work experience for the maximum number of hours permitted by the above limitation will be considered to have fulfilled the 20 core hours of work participation (or 30 for two-parent households or 50 for two-parent households receiving federally subsidized child care) required for participation rate purposes even if the resulting hours of participation are less than would otherwise be required. If an individual is required to work more hours than the core work hours (i.e., 30, 35 or 55) to count toward the work participation rate, the individual must participate in another countable work activity to fulfill those hours for work participation rate purposes.
 - Districts are authorized to assign individuals to additional work activities that are not limited to the minimum wage calculation for up to 40 hours weekly unless the individual is unable to work such hours due to medical or other work limitations.
 - New York State statute requires that work experience placements are provided workers' compensation coverage.
 - Any work component that is required as part of a treatment program for an individual participating in a residential treatment program and which is consistent with the definition of work experience may be reported as participation in work experience for those actual hours documented by the district or treatment provider that the individual participated in such work component.
- **On-the-Job Training (OJT):** Participation in a public or private sector employment setting during which the paid employee receives work-essential training while he or

she is engaged in productive work that provides participants with the knowledge and skills essential to the full and adequate performance of the job.

- OJT may be subsidized or unsubsidized. If OJT is subsidized, TANF funds or other funds are used to offset up to the full cost of the training provided to the participant.
 - Positions may be subsidized for the length of time determined appropriate by the State or district.
 - OJT is generally distinct from subsidized employment due to the fact that the individual must participate in workplace training to attain full and adequate job performance and the subsidy provided is intended to offset the costs of such training.
 - Includes unpaid internships that are part of a non-graduate student's curriculum (if the internship is approved by the district according to section 3.6(e) of the district's bi-annual Employment Plan), regardless of whether the non-graduate education program is approved. Such positions would be required of all students to fulfill the education requirements and not a requirement due to receipt of temporary assistance. The current federal definition of OJT includes only paid positions; however, because New York has to date included unpaid internships as on-the-job training and districts were previously instructed to report unpaid internships as on-the-job training, districts are instructed to continue to report unpaid internships as OJT.
 - For unpaid internships that are part of a non-graduate student's curriculum, participants must be supervised by a work site sponsor or other responsible party on an ongoing basis, no less frequently than daily. Participation in any unpaid internships reported as OJT must be documented through worksite attendance records or other supporting documentation provided by the worksite and must be collected no less frequently than monthly.
 - Districts may report projected actual hours of employment participation, including any paid OJT employment position, for up to six months based on current, documented actual hours of work. Any time the district receives information that the participant's actual hours of work have changed, or no later than the end of any six month period, the district must re-verify the participant's current, actual average hours of work and may report these projected actual hours of work for the succeeding six month period, unless changes in the number of hours worked are subsequently reported which must be acted upon by the district in a timely manner.
- **Community Service:** Structured programs or activities in which participants perform work for the direct benefit of the community under the auspices of public or nonprofit organizations in accordance with paragraph (g) of section 336 of SSL. Community Service placements must be projects that serve a useful community purpose in fields such as health, social services, environmental protection, education, urban and rural redevelopment, welfare, recreation, public facilities, public safety, and childcare. Community Service programs are designed to improve the employability of participants not otherwise able to obtain unsubsidized employment and must be

supervised on an ongoing basis no less frequently than daily. Districts must take into consideration, to the extent possible, the prior training, experience, and skills of a recipient when making or approving community service assignments.

OTDA will define and report work activity participation in an activity that meets the Work Experience definition as Work Experience and reserve Community Service for the two instances noted below:

- Participation that is truly volunteer in nature including unpaid work performed at a school, Head Start program, religious or faith-based institutions, government or non-profit agency, or as a volunteer in programs such as Americorps or Volunteers in Service to America (VISTA). Community service will also include court ordered activities, when such activities are consistent with the definition of Community Service. These placements would be distinct from Work Experience in that due to the voluntary nature of the participation the hourly participation would not necessarily be limited to the number of hours derived by dividing the amount of the household's temporary assistance and food stamp benefits by the higher of the federal or State minimum wage. However, a social services district cannot mandate that a recipient perform community services for more hours than the number derived by the grant calculation described above. Participation in a voluntary self-initiated community service activity must be evaluated by the district to determine that such participation provides workplace experience and is expected to improve the employability of the participant. This evaluation would be based upon a review by the district of the tasks involved with the placement and the extent to which those tasks and routine attendance can reasonably be expected to improve the participant's employability. In these instances a participant could choose to no longer participate in such activity without penalty, but would then be subject to an alternate assignment by the district; therefore, districts may want to require that these participants verify such participation on a more frequent basis than monthly.
 - Participation otherwise comparable to a work experience placement but categorized as community service to enable the district to use the corresponding federal activity "Providing Child Care to a Community Service participant" for another program participant who is providing child care for the community service participant. In this instance, the placement would need to meet the definition of community service and would not be supported by or system derived to be eligible for the deeming provision. The Welfare Reform Tracking System (WRTS) will not automatically deem an individual as meeting the core work requirement if the individual is participating for the number of hours allowed by grant divided by minimum wage for community service participants when this is less than 20 hours.
- Community service programs must involve structure and supervision.

- Community service programs do not include activities that meet the definition of another allowable TANF work activity (e.g., vocational education, job readiness training (JRT)).
- Community service excludes participation in substance abuse treatment programs, mental health and family violence counseling, life skills classes, job readiness classes and caring for a foster care child or disabled household member.
- **Job search:** The act of seeking or obtaining employment, or preparing to seek or obtain employment, looking for suitable job openings in a group or individual setting, making contact with potential employers, preparing to or applying for and interviewing for jobs and related activities. Participants must be supervised on an ongoing basis no less frequently than daily. For job search, daily supervision may include access to a case manager or district worker for the participant to report on progress or seek additional guidance as needed before the next regularly scheduled contact. In-person contact between the district worker (or program provider) and the participant must be no less frequent than weekly. Job search and job readiness assistance count toward work participation rate requirements for only six weeks every federal fiscal year, four of which may be consecutive. Districts may require that program participants continue to engage in job search beyond the six week limit.

Participation in a job search activity may include time participating in job search that is directly supervised by the program provider as verified through attendance records or other statements from the program provider but may also include a designated amount of time for a job contact of up to two hours.

- **Job readiness training (JRT):** Job readiness training includes participation in programs that include seeking and preparing an individual for work. The definition includes two types of activities:
 - The traditional activities of résumé preparation, training in interviewing skills, and instruction in workplace expectations, training in effective job seeking, including life skills training; and,
 - Activities that improve an individual’s employability, such as substance abuse treatment, mental health treatment, or rehabilitation activities. Such treatment or therapy must be determined to be necessary and certified by a qualified medical or mental health professional.

Participants must be supervised on an ongoing basis no less frequently than daily. Job search and job readiness assistance count toward work participation rate requirements for only six weeks every federal fiscal year, no more than four of which may be consecutive. Districts may require that program participants continue to engage in job readiness beyond the six week limit.

Actual hours spent by a participant in a JRT activity will be reported and may include time participating in JRT under the direct supervision of the program provider as verified through attendance records or other statements from the

program provider. Districts may record individuals in an in-patient substance abuse or other treatment program as participating for up to eight hours per day, not to exceed 40 hours per week, so long as the district documents that the individual was at the facility under the supervision of the treatment provider during the days such participation was reported.

- **Vocational education:** Organized educational programs that directly relate to the preparation of individuals for employment in current or emerging occupations that require training other than a baccalaureate or advanced degree. Such programs shall include, but not be limited to, competency based applied learning which contributes to an individual's academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, and the occupational-specific skills necessary for economic independence. Vocational education may also include applied technology education. Vocational education does not generally include basic/remedial education or English as a Second Language (ESL) but may include work-focused general education and language instruction that is a regular or necessary part of a vocational education program. Any such remedial education or ESL that is a regular part of the vocational education program must be limited in hours to less than one-half of program participation at any given time.
 - Vocational education programs are limited to activities that give individuals the knowledge and skills to perform a specific occupation.
 - Vocational education must be provided by an education or training organization and must be supervised on an ongoing basis, no less frequently than daily.
 - An individual may not count toward work participation rates due to participating in vocational education for more than 12 months during the individual's lifetime receipt of assistance.
 - Unsupervised participation in vocational education, homework time or study time may not be reported as participation in vocational education; however, monitored study sessions may be included and reported as participation in vocational education.
 - Actual hours of participation in vocational education will count toward the hours reported as work. Hours of participation in a vocational education program must be documented by the provider through attendance rosters or other supporting documentation developed by the provider.

- **Provision of child care for an individual participating in community service:** Providing unpaid child care to enable another temporary assistance or TANF/MOE funded recipient to participate in a community service program.
 - Participants must be supervised on an ongoing basis no less frequently than daily. Supervision may include access to the parent/guardian of the child through a telephone or other mechanism to seek guidance and clarification.
 - Does not include providing child care to a TANF or SN-MOE recipient participating in any activity other than community service.

- **Job skills training directly related to employment:** Training or education in job skills required by an employer or to improve a participant's employability, support job entry and/or to advance or adapt to the changing demands of the workplace. Job skills training may include customized or technical training designed to provide participants with additional workplace skills. Job skills training may also include literacy instruction, language instruction or other basic education for an individual who has already obtained a high school diploma or equivalency when determined from a client assessment that such instruction is needed to improve the participant's employability.
 - Must be supervised on an ongoing basis no less frequently than daily.

- **Education directly related to employment in the case of a recipient who has not received a high school diploma or certificate of high school equivalency:** Education directly related to employment for a recipient who has not received a high school diploma or equivalency. Education directly related to employment must be related to a specific occupation, job or job offer, or otherwise determined based on a client's assessment as necessary to improve the participant's employability to support job entry, retention or advancement. Includes courses designed to provide the knowledge and skills for specific occupations or work settings, including adult basic education and ESL instruction.
 - Where required by an employer or determined necessary to improve the participant's job opportunities with potential occupations, includes education leading to a general educational development (GED) or high school (HS) equivalency diploma.
 - Must be supervised on an ongoing basis no less frequently than daily.
 - Participants must make good or satisfactory progress; includes a standard of progress (qualitative and quantitative measures) developed by the educational program. Districts must assess participant progress in the education program and amend the individual's work activity assignment if determined appropriate based upon the client assessment.
 - Unsupervised participation in an education program, homework time, or study time may not be reported as participation in education related to employment; however, monitored study sessions may be included and reported as participation, under the respective educational activity.

 - Teen parents or minor child head of households making satisfactory progress and participating in this activity for at least 20 hours averaged weekly count fully toward work participation rate requirements.

- **Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate:** Regular attendance, in accordance with the requirements of the secondary school or a course of study at a secondary school, or in a course of study at a secondary school leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received a certificate of general equivalence.

- Must be supervised on an ongoing basis, no less frequently than daily.
 - Unsupervised participation in a secondary school program, homework time, or study time may not be reported as participation in secondary school; however, monitored study sessions may be included and reported as participation under this activity.
 - Does not include adult basic education or ESL unless linked to attending secondary school or leading to a GED.
 - Participants must make good or satisfactory progress; includes a standard of progress (qualitative and quantitative measures) developed by the State or the educational program. Districts must assess participant progress in the education program and amend the individual's work activity assignment if determined appropriate based upon the client assessment.
 - Teen parents or minor child head of households who maintain satisfactory attendance at secondary school or the equivalent count fully toward participation rate requirements.
- **Other work activities:** Districts should ensure that all local activities meet the definitions included above to the extent possible but are permitted to enroll individuals in other work activities that do not count toward work participation rates. These other activities must be outlined in the districts Temporary Assistance and Food Stamp Employment Plan. Districts are reminded that federal regulations do not permit an individual who is a foster care parent to be reported as participating in community service. New York State regulations (18 NYCRR 385.9) permit foster care parents to count as participating in Community Service, but this is no longer permitted as it is now inconsistent with federal regulations. OTDA will be submitting a regulatory change to repeal this regulation. Districts may assign these individuals to work activities as they deem appropriate.