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| LOCAL COMMISSIONERS MEMORANDUM |
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DSS-4037EL (Rev. 9/89)

Transmittal No: 94 LCM-29

Date: March 16, 1994

Division: Office of Employment
Programs

TO: Local District Commissioners

SUBJECT: Food Stamp Employment and Training (FSE&T) Work Experience
Programs

ATTACHMENTS: Agreement With Worksite Sponsor Agency
(Available On-Line)

The purpose of this memorandum is to provide guidance in establishing work experience programs for employable Food Stamp (FS) recipients.

The New York State FSE&T State Plan allows local districts to use their FSE&T funds (both 100% and 50% federal allocations) to provide work experience opportunities for their Non-Public Assistance and Home Relief/FS recipients who are not exempt from FSE&T requirements.

Program Description

If you operate FSE&T work experience programs, you are responsible for:

- o establishing and monitoring job sites;
- o interviewing and assessing eligible recipients;
- o assigning recipients to available job sites;
- o monitoring recipient compliance; and,
- o determining non-compliance.

At certification or recertification a determination of which household members are eligible for the program must be made. The household representative must be informed of the nature of the program and the penalties for non-compliance. The representative must also be informed of the effect of changes in the household's circumstances on the work experience requirement.

Household members subject to FSE&T work registration requirements may be required to participate in work experience. Work experience obligations must be scheduled so as not to conflict with other FSE&T activities.

The maximum total number of hours of work required of a household each month is determined by dividing the household's coupon allotment by the Federal or State minimum wage or the prevailing wage for comparable work, whichever is higher. Recipients may be required to work up to 30 hours per week or, with the recipient's consent, more than 30 hours in one week as long as the total hours for the month does not exceed 120. A recipient may not be required to work more than eight hours per day.

When determining the total number of hours required to be worked by a household which is also in receipt of Home Relief, the household's coupon allotment may be combined with the Home Relief grant, as long as the resulting number of hours does not exceed the 30 hours per week limit.

Employer Agreements

Work experience slots may only be located in public or private, non-profit agencies meeting the requirements outlined in Department Regulations 385.12 and 385.13.

The social services district, or the public employment or training agency with which the district contracts, must develop an agreement with the employer at each work site. The model "Agreement With Worksite Sponsor Agency" attached to this LCM has been modified to include the appropriate FS references.

Participant Reimbursement

Participants are to be reimbursed for expenses that are reasonably necessary and directly related to participation in an FSE&T work experience program. Guidelines for reimbursement are contained in FSSB, Section IX-G-3, and 93 LCM-66. Please note that the cost of meals away from home is not an allowable expense under the FSE&T program.

Sanctions

When a participant in an FSE&T work experience program fails to comply with program requirements, procedures specified in FSSB, Sections IX-I, J and K for conciliation, determining good cause, determining the length of the disqualification and fair hearings must be followed.

In the event a participant's required hours of work experience are determined by combining the FS coupon allotment and the Home Relief grant, a FS sanction may not be imposed as long as the participant has met his/her required hours for the FS program. When determining if the FS requirement has been met, you may apportion hours for each program on a daily, weekly or monthly basis. The participant must be informed of the number of hours to be worked for each program and how these hours will be apportioned.

For example, a Home Relief/FS recipient is determined to have an 80 hour monthly work experience requirement for the Home Relief program and a 20 hour monthly requirement for FS. In a county which apportions the hours on a daily basis, the participant is assigned to work five hours per day: one hour to be applied to the FS requirement and four hours to be applied to the Home Relief requirement. Should the participant fail to appear for the assignment on any given day, without good cause, a sanction may be imposed for both programs. However, if the participant fails to meet the Home Relief work experience requirement because he/she only works one hour, the minimum has been met for FSE&T for that day, and no FSE&T sanction would occur. Also, please be reminded that for purposes of the FSE&T program, a participant may avoid an adverse action or end a disqualification period by demonstrating compliance with the FSE&T component which caused the disqualification, or with another component, if assigned.

Reporting Requirements

Home Relief recipients who are working the total number of hours allowed by their public assistance grant and their household's coupon allotment are reported on the Employment Subsystem as enrolled in Work Experience (Activity Code 3) in the usual manner. The weekly hours on Update Screen 2 must be updated for any existing HR work experience enrollments whose hours are increased for the Food Stamp coupon allotment.

Non-Public Assistance (NPA) Food Stamp work experience enrollments must be reported manually until the Subsystem's Food Stamp Employment and Training Report (WINR 9441) can be revised to include NPA work experience. A quarterly report noting the number of NPA Food Stamp Work Experience enrollments and the number of Notices of Adverse Action resulting from these enrollments must be sent to:

John Healey
New York State Department
of Social Services
Office of Employment Programs
40 North Pearl Street
Albany, New York 12243

Reports are due by the 20th of the month following the end of the quarter.

Any questions regarding the FSE&T work experience program should be directed to the State Employment Program Technical Advisor assigned to your district at 1-800-343-8859, extension 3-8377.

Jack Ryan
Assistant Commissioner
Office of Employment Programs

AGREEMENT WITH WORKSITE SPONSOR AGENCY

THIS AGREEMENT, made the _____ day of _____ 19____, by and
between _____ in
THE COUNTY OF _____, having its offices at

hereinafter designated the "DEPARTMENT" and

(Name of Sponsor and Address)

hereinafter designated the "SPONSOR"

WHEREAS, the Department is authorized, pursuant to Section 164 of the Social Services Law of the State of New York, to provide for the establishment of work experience projects for the assignment of employable persons in receipt of Home Relief ; pursuant to the Code of Federal Regulations, Title 45, Part 238 and Section 336-c of the Social Services Law of the State of New York, for employable persons in receipt of Aid to Families with Dependent Children; and, pursuant to the Code of Federal Regulations, Title 7, Part 273.7, for employable persons in receipt of Food Stamps. Work experience projects may include the performance of work in the operation of or in an activity of a governmental unit, a non-profit agency or institution pursuant to a contract with the Department in accordance with regulations of the State Department of Social Services, and

WHEREAS, the Sponsor is a state or federal government institution, a municipality, a public agency, or a public or private nonprofit corporation desiring to provide work experience for recipients of Home Relief, Aid to Dependent Children and Food Stamps under a contract complying with such provision of law and regulations;

NOW, THEREFORE, in consideration to the premises it is agreed as follows:

1. The Department shall assign to the Sponsor employable recipients of Home Relief, Aid to Dependent Children or Food Stamps (hereinafter called "Participants") to whom the Sponsor shall assign work in accordance with the provisions of this agreement and applicable law and regulations.
2. The work to be performed by such Home Relief, Aid to Dependent Children or Food Stamp recipients shall be useful, productive and shall provide experience which will maintain or develop work habits, maintain or improve existing skills, or develop new skills leading to self-sufficiency.

3. Such work shall be performed at the Sponsor's Office or at such other worksite locations as shall be mutually agreed upon between the Department and the Sponsor. The work experience site, however, must serve a useful public purpose in fields such as health, social services, environmental protection, education, urban and rural development and re-development, welfare, recreation, operation of public facilities, public safety and child day care.
4. No participants shall be used to replace or to perform any work ordinarily and actually performed by regular employees, or to replace or to perform any work which would ordinarily be performed by craft or trade unions in private employment.
5. The assignment of a participant to a work experience program must not result in:
 - a. the displacement of any currently employed worker or loss of job or position, including partial displacement such as a reduction in the hours of non-overtime work, wages or employment benefits, or result in the impairment of existing contracts for services or collective bargaining agreements;
 - b. the employment or assignment of a participant to a position when any other person is on layoff from the same or any equivalent position or the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the effect of filling the vacancy so created with such participant; or
 - c. any infringement of the promotional opportunities of any currently employed person.
6. Work experience positions shall not be developed at religious or religiously affiliated institutions unless the conditions described in section 385.12(e) of Department rules and regulations are met.
7. Participants shall receive credit for work performed for the Sponsor at the Federal or State minimum wage or the prevailing wage for comparable work, whichever is higher. No participant shall be required to work for more than the number of days necessary to earn an amount equal to his or her public assistance grant and/or food stamp benefit. No participant shall be required to work for more than eight hours in a day, or for more than 40 hours in any one week (30 hours for Food Stamp recipients), or for more than the customary full-work week of the Sponsor, if less. The Department will advise the Sponsor as to the number of mandatory work hours for each participant for each month, based upon the rate specified in this paragraph.
8. Appropriate standards of health, safety and other work conditions will be established and maintained to ensure that the participants are adequately protected against hazards or activities which may adversely affect their health or safety.
9. Participants will be required to perform only those activities that are within their physical capabilities.

10. The Sponsor will maintain time records with respect to all participants, adequate to meet the needs of the Department, which shall be furnished to the Department (weekly) (bi-weekly) (monthly). Such time records will include the Sponsor's name, the participant's name and the period covered by the report. The Sponsor will notify the Department if an individual refuses/fails to perform assigned responsibilities. (Call if participant misses 3 days in a month).
11. There will be no discrimination on the grounds of race, color, religion, sex, sexual orientation, age, marital status, national origin, prior criminal record, mental or physical disability, or veteran status.
12. Each participant's work will be so scheduled as to make time available for him or her to seek regular employment and/or secure appropriate training or retraining opportunities that may be available, as well as necessary time to meet with Department staff.
13. Participants shall not be required to travel an unreasonable distance from their homes (generally a round trip lasting more than two (2) hours) or remain away from their home overnight for the purpose of participating in a work experience assignment.
14. Participants shall be provided appropriate workers' compensation or equivalent protection for on-the-job injuries and tort claims protection on the same basis as they are provided to other persons in similar employment.
15. The Sponsor shall promptly notify the Department of a participant's absence (whether for illness or otherwise), except when such absence is on a pre-planned basis approved by the Department. Such notification shall include prompt telephone notice to the Department followed by written confirmation, if requested. The Sponsor shall report any injury to or illness of any participant.
16. The Sponsor shall provide adequate supervision to the participant. These supervisors will cooperate in reviewing performance and attitude of all participants with a representative of the Department at regular and mutually convenient intervals.
17. The Department will provide transportation, or meet the cost of transportation, provide necessary allowance for lunches and child care and provide other supportive services as may be required for participation. Allowances for lunch shall not exceed \$2.00 per day for recipients of Aid to Families with Dependent Children. Food Stamp recipients may not be reimbursed for lunch.
18. It is understood that the Sponsor shall provide any special clothing, specific tools or equipment which may be required for the participants to perform the work assigned by the Sponsor.
19. Participants may be assigned to work requiring the use of a motor vehicle. The Sponsor shall provide the motor vehicle and adequate liability insurance for such motor vehicle which shall cover the participant who may be operating it on behalf of the Sponsor. Only properly licensed participants shall be assigned to such duties.

20. The Sponsor may discharge any participant at will, provided that the Sponsor shall furnish the Department with written evaluation of the participant's work performance and the reason for the termination.
21. The Sponsor may offer full-time paid employment to any participant provided the Sponsor has furnished to the Department written notice of such offer, and the participant's acceptance or rejection thereof, including details as to the job description, wages and date of employment.
22. The Contractor hereby agrees to indemnify and save harmless the State of New York and the County of _____, their officers, employees and agents from and against all liability, loss or damage the County may suffer as a result of any claims, demands, costs, judgements or damage to County property in the care, custody or control of the Contractor, arising directly or indirectly out of this Agreement including losses arising out of the negligent acts or omissions of the Contractor. The Contractor further agrees to provide defense for and defend any claims or causes of action of any kind or character directly or indirectly arising out of this Agreement at its sole expense and agrees to bear all other costs and expenses relating thereto. The foregoing provisions shall not be construed to cause the Contractor to indemnify the State and the County, their officers, agents or employees from its or their sole negligence. Contractor affirms that he will comply in the performance of the Contract with all applicable provisions of the Labor Law, Workers' Compensation Law, State Employment Insurance Law, State General Obligations Law, Federal Social Security Law and any and all rules and regulations promulgated by the Federal Department of Labor and/or the Commissioner of Labor of the State of New York and any other applicable laws, rules and regulations and all amendments and additions thereto.
23. This agreement shall take effect as of _____, 19__ and may be terminated at any time by either party upon 30 days written notice by registered or certified mail, return receipt requested.
24. This agreement shall not be modified except by a further written agreement signed by both parties.

In witness thereof, the parties have executed this agreement on the day and year first mentioned.

BY: _____, Commissioner
_____ County Department of Social Services

BY: _____
Sponsor Agency