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**Informational Letter**

**Section 1**

Transmittal:	06-INF-12 Revised
To:	Local District Commissioners
Issuing Division/Office:	Division of Employment and Transitional Supports
Date:	Revision Date: March 31, 2006/Original Release: March 29, 2006
Subject:	Clarification of Policy Regarding Verification of School Attendance
Suggested Distribution:	Temporary Assistance Directors; Food Stamp Directors; Employment Coordinators; Medicaid Directors; Staff Development Directors; Child Assistance Program Directors
Contact Person(s):	Temporary Assistance Bureau at 1-800-343-8859, extension 4-9344 WTW Technical Advisor for questions pertaining to employment requirements. Office of Medicaid Management, Bureau of Local District Support: Upstate at (518)474-8887; NYC (212)417-4500
Attachments:	
Attachment Available On – Line:	<input type="checkbox"/>

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
97 ADM-23		369.2(c) 369.4(f) 385.2 385.6 385.7 385.12	SSL 336-a SSL 349	TASB Chapter 9 WTW Manual Sections 2, 6, 7 and 12	

Note: The Welfare-to-Work employment regulations in Part 1300 of 12 NYCRR have been repealed and adopted in to Part 385 of 18 NYCRR. The WTW Employment Manual is being revised and will be posted on the OTDA website as soon as it has been updated.

**Section 2**

**I. Purpose**

OTDA 06-INF-12  
(Rev. 3/2006)

The purpose of this release is to reinforce for local social services districts the importance that The Office of Temporary and Disability Assistance (OTDA) places on children participating in and completing secondary education. OTDA strongly encourages school attendance for all minor children and believes that education is one of the most effective ways to end the cycle of poverty and of achieving self-sufficiency. Although school attendance for all minors, except as specifically outlined in this release, is not a condition of eligibility for Temporary Assistance, the State Education Department mandates that children must attend school until the end of the school year in which the child turns 16 years of age. The State Education Department also mandates that school districts have a comprehensive attendance policy to ensure that children do attend school as required. We believe that the State Education Department's mandates, combined with the OTDA requirements outlined in this release, are significant measures that promote school attendance for all minor children up until the age of 18.

In addition, this release advises local social services districts of an amendment to 18 NYCRR 369.4(f) that clarifies the appropriate Temporary Assistance (TA) case action districts must take when a head of household fails to verify school attendance for minor children who are 18 years of age. This release also consolidates and clarifies for local social services districts the appropriate TA case action for other instances when school attendance must be verified.

## II. Background

The previous 18 NYCRR 369.4(f) read as if high school attendance must be verified for a child (regardless of age) as a **condition of categorical eligibility for Family Assistance (FA)**. This has caused some confusion for districts and has resulted in incorrect case actions in some situations. 18 NYCRR 369.4(f) will now conform to the requirements of Federal Regulation 45 CFR 260.30 and State Social Services Law Section 349 and 18 NYCRR 369.2(c), regarding verification that the 18 year old is a full-time student regularly attending secondary school or in the equivalent level of vocational or technical training for the purpose of determining **FA category of assistance**.

18 NYCRR 369.4(f) was originally meant only to address the FA **categorical eligibility** of 18 year old students. If a minor is age 18 and not attending high school or the equivalent level of vocational or technical training, that minor is not eligible for the category of FA. However, due to the previous wording this regulation has sometimes been applied in a much broader sense. 18 NYCRR 369.4 "Determination of continuing eligibility" subdivision (f) stated, "Continued school attendance. Attendance in high school or the equivalent level of vocational or technical training of a minor shall be confirmed at each regular contact with the family. If such a minor fails to resume attendance at the next regular term following vacation, the minor shall be considered ineligible for Family Assistance." The amendment replaced the word "minor" with "18 year old."

## III. Program Implications

### A. Temporary Assistance

This amendment clarifies that verification of attendance in high school or the equivalent level of vocational or technical training is required for an 18 year old for purposes of determining eligibility for the category of FA. The full-time school attendance of an individual who is 18 years old (and 16 and 17 year olds as described further below) and has not completed secondary school or its equivalent must also be confirmed for employment purposes in accordance with federal and State requirements.

If the parent states that the 18 year old is attending school, failure to verify school attendance, without good cause, for purposes of FA category results in the ineligibility of the 18 year old. The 18 year old must be denied or removed from the case until such verification is provided. If the parent submits documentation to verify the 18 year old who has not completed secondary school or obtained a general equivalency diploma (GED) is attending full-time a secondary school, vocational or technical school and is residing in a household with dependent children, the 18 year old individual would be required to comply with an employment assessment, but would be exempt from further employment requirements. If the 18 year old is the only child in the case, and the parent fails

to verify school attendance, without good cause, the case must be denied/closed because this information is necessary to determine category. If the parent states that the 18 year old is not attending school and there are other children in the case, then the 18 year old can only remain on the FA case as an essential person and must also be referred for an employment assessment since he/she is residing in a household with dependent children. If the parent states that the 18 year old is not attending school and the 18 year old is the only child in the case, the case is only eligible for Safety Net Assistance (SNA/FNP). In such instances, the 18 year old (unless otherwise exempt from employment requirements) must be referred for an employment assessment and assigned to appropriate work activities.

This change will not prohibit districts from requesting school verification as a form of documenting **other eligibility factors** such as household composition, age, or residence if these factors have not been verified by other means. If verification of school attendance is necessary to document an eligibility factor and there is no other way to verify this factor, then failure, without good cause, to provide verification of school attendance for a child of any age results in a case denial or closure.

The proposed amendment would make the requirements of 18 NYCRR 369.4(f) consistent with Federal Regulation 45 CFR 260.30 and State Social Services Law Section 349 and 18 NYCRR 369.2(c). The district's objective will be clear when determining eligibility (or continued eligibility) for **FA category** by only requiring school attendance verification for those children who are 18 years of age and state they are in school.

#### Unmarried Minor Parents – School Attendance requirements

Persons under the age of 18, not married, who have a child, but no children less than 12 weeks old in their care, and who do not participate in educational activities directed toward the attainment of a high school diploma or its equivalent are ineligible for TA. The individual's ineligibility will continue unless he or she participates in educational activities directed toward the attainment of a high school diploma or its equivalent or an alternative educational or training program directly related to employment approved by the social services district. The remainder of the household may, if otherwise eligible, receive TA. A social services district may exempt the minor parent from this requirement if it has been determined by a medical, psychiatric or other appropriate professional that the minor parent lacks the requisite capacity to successfully complete the course of study.

A minor parent is not subject to this requirement during any period of time in which enrollment in required educational activities is not available.

Unmarried minor parents who refuse without good cause to take part in educational activities are ineligible for TA. This means they are removed from the TA budget, and not sanctioned on a pro-rata basis.

### **B. Employment**

#### Requirements for 16 and 17 year old individuals not attending school

School attendance must be verified for 16 and 17 year old minors for purposes of determining whether they are subject to **employment requirements**. If the parent claims that the 16 or 17 year old is attending a full-time secondary school, vocational or technical school, verification of school attendance is required. If the parent fails to provide such verification without good cause, the case is denied or closed for failure to verify a claimed exemption from employment requirements. If the parent states the 16 or 17 year old is not attending school, then the 16 or 17 year old must be referred to and must comply with the completion of an employment assessment. Section 336-a of the Social Services Law requires individuals under the age of 18 to attend educational activities designed to prepare the individual for a high school degree or equivalency certificate, unless the individual is not subject to compulsory secondary school attendance (the State Education Department requires school attendance until the end of the school year in which the individual turns 16 years of age) and the district determines the educational activities are not appropriate. Therefore, in most instances the employment assessment will indicate that educational activities are appropriate and the district would require the 16 or 17 year old individual to attend secondary school or other educational activities designed to prepare the individual for a high school degree or

equivalency certificate as their employment requirement. A 16 or 17 year old who willfully and without good cause fails to comply with an employment assessment or activity requirement as assigned by the district would be subject to a pro-rata employment sanction following the appropriate conciliation process.

### **C. Food Stamp**

There is no Food Stamp Program eligibility requirement to verify school attendance for children under age 16. For members of a food stamp household who are 16, 17 or 18 years of age verification of school attendance is intrinsic to compliance with the work requirements described below.

#### Work Requirements for 18 year olds

An 18 year old who is enrolled at least half-time in any recognized school, training program or institution of higher education would be exempt from FSET work requirements. However, students who are 18 through 49 years of age and enrolled at least half time in an institution of higher education must meet the student eligibility requirements in section 387.1 of 18 NYCRR. Individuals who are age 18 and not enrolled in school would be subject to food stamp work requirements, unless otherwise determined to be exempt for another reason.

#### Work Requirements for 16 and 17 year olds

A person age 16 or 17 who is not the head of household or who is attending school or an employment training program on at least a half-time basis would be exempt from food stamp work requirements. Documentation of such school attendance is required. In instances where the individual claims to be exempt from food stamp work requirements, but fails to provide documentation, the individual would be considered nonexempt from food stamp work rules, unless otherwise determined exempt. A nonexempt food stamp work registrant who fails to comply with food stamp work requirements without good cause would be subject to a food stamp employment sanction in accordance with 18 NYCRR 385.12.

### **D. Medicaid**

There are no school attendance requirements for Medicaid. There are no employment requirements for Medicaid, with the exception of the Medicaid Buy-In Program for Working People With Disabilities (MBI-WPD) for more information on the MBI-WPD, see 04 OMM/ADM-5.

When an applicant/recipient (A/R) claims to be a student and has earned income, school attendance may be verified, depending on the age and category of the A/R.

### **E. Additional Information**

A school attendance desk guide is being developed and will be available on CentraPort when completed.

Issued By \_\_\_\_\_

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