



**NEW YORK STATE  
OFFICE OF TEMPORARY AND DISABILITY  
ASSISTANCE**

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**David A. Paterson**  
*Governor*

**Informational Letter  
Section 1**

<b>Transmittal:</b>	10-INF-10
<b>To:</b>	Local District Commissioners
<b>Issuing Division/Office:</b>	Center for Employment and Economic Supports
<b>Date:</b>	June 17, 2010
<b>Subject:</b>	Temporary Assistance (TA) and Employment Program Requirements for Individuals 18 to 21 Years Old Residing with Their Parent(s)
<b>Suggested Distribution:</b>	Temporary Assistance Directors Employment Coordinators Food Stamp Directors Medicaid Directors Staff Development Coordinators
<b>Contact Person(s):</b>	Temporary Assistance Bureau (TA) at 1-800 343-8859, extension 4-9344 Food Stamp Bureau (FS), extension 3-1469 Metropolitan Field Support Bureau, (212) 961-8207 For Medicaid: Local District Support Upstate (518) 474-8887; New York City (212) 417-4500
<b>Attachments:</b>	None
<b>Attachment Available On – Line:</b>	<input type="checkbox"/>

## Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
09 ADM-16 09 ADM-14 09 ADM-09 08 ADM-07 04 ADM -06 99 ADM -07 09 INF-03 02 INF-22 00 INF-15 93 INF-48		352.20(a)(1)(2) 352.30(a) 352.32(e) 369.2(c) 369.3(c) 385.2 385.6 385.7 385.9 385.11 385.12		TASB Chapter 13 Sections, D,F and L TA and FS Employment Policy Manual Sections 2, 6, 7, 9, 11 and 12	GIS 02 TA DCO22

## Section 2

### I. Purpose

The purpose of this Informational Letter (INF) is to reinforce with social services districts (SSDs), TA policy regarding individuals 18 to 21 years of age who reside with their parent(s). The Office of Temporary and Disability Assistance (OTDA) has recently been made aware that SSDs may not be correctly applying department regulations and policies for individuals ages 18 to 21 years old who are residing with their parent(s). SSDs must review their internal procedures and adjust them accordingly to correspond with the policies reviewed within this INF.

### II. Background

#### A. Temporary Assistance Eligibility

Applicants for TA who are between the ages of 18 and 21 years old and residing in their parents' household must be allowed to apply for TA independently. The fact that an 18 to 21 year old resides with a legally responsible relative (LRR) does not in itself make him/her ineligible for TA.

A child is a mandatory filing unit member of his/her parents' household until that child turns 18 years of age. However, if the child is otherwise eligible and meets the definition of an eligible child, the child can remain on the TA case until such time as the child no longer meets the definition of an eligible child or no longer wants TA. An eligible child is defined in 18 NYCRR § 369.2 (c) as a child under age 18 or age 18 and attending on a full-time basis a secondary school or the equivalent level of vocational or technical training.

#### B. Temporary Assistance Employment Requirements

Section 335-b of the Social Services Law provides that districts must engage all adult temporary assistance recipients in work activities as soon as practicable. Adults for the purpose of temporary assistance employment requirements include an individual who is:

- age 18 or older, or
- age 16 or 17 and not attending secondary school or the equivalent

Applicants for and recipients of TA who are between the ages of 18 and 21 must comply with the completion of an employment assessment and unless determined exempt in accordance with 18 NYCRR §385.2 may be required to participate in work activities. TA applicants or recipients who willfully and without good cause fail to comply with employment requirements are subject to an employment sanction as described in 18 NYCRR §385.12.

An exempt individual, who the district has determined has the potential to improve his/her ability to work and who without good cause fails to accept referral to or participate in reasonable medical care, treatment or rehabilitation is ineligible for assistance (individual removed from the TA case) until compliance [see 18 NYCRR Part 385.2 (e)].

### **III. Program Implications**

#### **A. Temporary Assistance Eligibility**

##### Application Rights of 18 to 21 year olds residing with their parent(s)

An 18 to 21 year old residing with his/her parent(s) must be allowed to apply for TA independently. If the parent(s) is not in receipt of TA, SSDs must make an eligibility determination using Allen budgeting policy. Information on Allen budgeting can be found in Chapter 13, Section F of the Temporary Assistance Source Book (TASB).

If the parent(s) is in receipt of TA the 18 to 21 year old applicant, if determined TA eligible, must either be added as an essential person (EP) to the parents' family assistance (FA) case or his/her case must be cooperatively budgeted with the parents' case. Information on EPs can be found in 09 ADM-09: "Essential Persons" and information on cooperatively budgeting cases with legal lines of responsibility can be found in the TASB, Chapter 13, Section D.

##### Three Generation Households

Applicants who are 18 to 21 years old who reside with their parents, but have children of their own, are subject to three generation household budgeting rules. Information on three generation household budgeting can be found in the TASB, Chapter 13, Section L.

##### Dependent Student Earnings

SSDs must disregard the full-time earnings of a dependent child who is a full-time or part-time student when determining eligibility for TA. SSDs must continue to consider essential persons under the age of 21 as dependent children for the purposes of applying this disregard. Information on dependent student earnings can be found in 04-ADM-06: "Treatment of Full-Time Earnings of Students Under Temporary Assistance (TA) Programs".

## **B. Temporary Assistance Employment Requirements**

Nonexempt applicants for and recipients of temporary assistance (including those determined to be work limited) are required to participate in work activities to improve their workplace skills and obtain employment (see 18 NYCRR § 385.2 [a]).

### Employment Assessment Requirements

Individuals applying for or receiving temporary assistance and who are 18 years of age or older must comply with an employment assessment as required by the social services district in accordance with 18 NYCRR §385.6 for households with dependent children and 18 NYCRR § 385.7 for households without dependent children.

Failure to comply with applicant assessment requirements will continue to result in denial (without the necessity of offering conciliation) of the temporary assistance application for the household. However, in those instances where the individual who failed to comply with applicant assessment requirements is not a legally responsible relative of another member of the assistance unit, only the individual should be denied (individual ineligible) temporary assistance. Temporary assistance eligibility for the remaining household should be determined consistent with existing procedures. For example, a 19 year old individual who is residing with his/her parent and fails to comply with applicant assessment would be denied temporary assistance benefits, but the district would still determine the eligibility of the remaining household members who applied for temporary assistance.

A temporary assistance recipient who fails to comply with an employment assessment must be offered conciliation and would be subject to an employment sanction in accordance with 18 NYCRR §385.12, in those instances where the district determines that the individual willfully and without good cause failed to comply with employment assessment requirements. (See note below for information on the change to a household's TA benefit when a recipient who is not a legally responsible relative is subject to an employment sanction.)

### The Exemption/Nonexempt Determination

Temporary assistance applicants and recipients, including individuals between the ages of 18 and 21, may be determined by the district to be exempt from participation in work activities as set forth in 18 NYCRR § 385.2 (b). For example, an 18 year old TA recipient who has not obtained a high school diploma and provides documentation of full-time attendance at a secondary, vocational or technical school would be required to comply with an employment assessment (as described below), but would be exempt from participation in work activities.

Districts must review an individual's exempt/non-exempt status at application, recertification or whenever there is reason to believe the status may have changed. Districts may also choose to review an individual's exempt/non-exempt status during the employment assessment. When the district is making a determination of whether or not an applicant or recipient suffers from physical or mental health limitations that affect the ability to participate in work activities, it must follow the disability review procedure specified in 18 NYCRR 385.2 (d).

TA applicants and recipients who fail to provide documentation or cooperate with efforts to document a claimed or suspected impairment are ineligible for assistance (TA case closes) until compliance. However, if the individual that failed to provide documentation or cooperated with efforts to document a claimed or suspected impairment is not a legally responsible relative, such as an 19 year old essential person, the individual would be ineligible for TA (removed from TA case) until compliance. The remaining TA household would continue to receive the TA benefits that the household is otherwise eligible to receive.

#### Engagement in Work Activities, Including Educational Activities

Districts may assign a nonexempt individual to work activities, including educational activities and job search, prior to the completion of the employment assessment; however, the district must first determine that an activity is appropriate before assignment.

Section 336-a (4) of the Social Services Law requires social services districts to assign individuals under 20 years of age who have not obtained a high school diploma or its equivalent to educational activities designed to improve the individual's literacy level and/or prepare the individual to attain a high school diploma or the equivalent unless it is determined through the individual's employment assessment that educational activities are not appropriate. This educational requirement also applies to those who are 16 or 17 years of age who become nonexempt due to not attending secondary school. Furthermore, social services districts must not assign an individual under the age of 20 who is required to participate in educational activities to other work activities which interfere with the educational activities.

Social services districts must encourage and may require a nonexempt temporary assistance recipient to participate in educational activities as part of the TA work requirement when the employment assessment indicates that a nonexempt participant who is not otherwise subject to the educational requirements of SSL § 336-a (4) has not attained a "basic literacy level". Additionally, nonexempt individuals who have attained a "basic literacy level" but who have not attained a high school diploma or equivalent must be offered the opportunity to participate in educational activities including activities intended to prepare them to attain a high school diploma or its equivalent as described in 09 ADM-16.

Failure to comply with applicant job search requirements will continue to result in denial (without the necessity of offering conciliation) of the temporary assistance application for the household. However, in those instances where the individual who failed to comply with applicant job search requirements is not a legally responsible relative of another member of the assistance unit, only the individual should be denied (individual ineligible) temporary assistance. Temporary assistance eligibility for the remaining household should be determined consistent with existing procedures.

A nonexempt TA applicant or recipient who refuses or fails to comply with employment requirements other than applicant assessment or applicant job search must be offered conciliation and would be subject to an employment sanction in accordance with 18 NYCRR §385.12 in those instances where the district determines the individual willfully and without good cause, refused or failed to comply with assigned employment activities.

**Note:** Unlike other employment sanctions which result in a prorata reduction in temporary assistance benefits, the change in temporary assistance benefits for the household when a non-legally responsible individual willfully and without good cause refuses or fails to comply with TA employment requirements other than applicant assessment or applicant job search would be an incremental reduction to remove the noncompliant individual from the temporary assistance budget. The district must notify the household of the employment sanction and the individual would be sanctioned from temporary assistance in accordance with the sanction progression for households with dependent children, if the household includes a dependent child or the sanction progression for households without dependent children, if the household does not include a dependent child as identified in 18 NYCRR §385.12. Essential persons receiving temporary assistance as part of a Family Assistance case would be considered to be residing in a household with dependent children for the purpose of determining the TA sanction progression under 18 NYCRR 385.12.

**Issued By**

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