

CHAPTER 35**WORKFARE****Authority**

N.J.S.A. 34:1-20, 34:1A-3(e) and 44:8-114.

Source and Effective Date

R.1995 d.363, effective June 12, 1995.
See: 27 N.J.R. 1740(a), 27 N.J.R. 2589.

Executive Order No. 66(1978) Expiration Date

Chapter 35, Workfare, expires on June 12, 2000.

Chapter Historical Note

Chapter 35, Workfare, became effective May 1, 1980 as R.1980 d.162. See: 12 N.J.R. 128(b), 12 N.J.R. 280(b). Pursuant to Executive Order No. 66(1978), Subchapters 1, 2, 3 and 4 expired May 1, 1985. Subchapters 1, 2, 3 and 4 were readopted as new rules and Subchapter 5 was adopted as new rules as R.1985 d.404, effective August 5, 1985. See: 17 N.J.R. 1048(a), 17 N.J.R. 1896(a). Pursuant to Executive Order No. 66(1978), Chapter 35 was readopted as R.1990 d.396, eff. June 12, 1995. See: 27 N.J.R. 1740, 27 N.J.R. 2589. Chapter 35 was readopted as R.1995 d.363, eff. June 12, 1995. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

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SUBCHAPTER 1. GENERAL PROVISIONS**12:35-1.1 Purpose and scope**

(a) These rules establish the general assistance employability program or workfare and set forth the appropriateness of worksite assignments.

(b) These rules apply to each person eligible to receive public assistance from a municipality.

Repeal and New Rule, R.1990 d.396, effective August 6, 1990.
See: 22 N.J.R. 1430(a), 22 N.J.R. 2326(b).

12:35-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Agency” means either a municipal welfare department or the Employment Service.

“Employment Service” means the New Jersey Department of Labor, Division of Employment Services.

“GA” means general assistance.

“General Assistance Employability Program or Workfare” means the program established by the New Jersey Department of Labor, Division of Employment Services, pursuant to N.J.S.A. 44:8-114.

“Municipal worksite agreements” means an agreement between the New Jersey Department of Labor, Division of Employment Services, a public or non-profit agency representative and a municipal welfare department to establish a worksite for a recipient.

“Participant” means a recipient who has been assigned to a worksite.

“Recipient” means an employable person who is receiving general assistance from a municipal welfare department.

“Worksite agent” means a paid employee of the agency for whom the worksite activity is being performed and who is authorized by that agency to conduct on-site supervision of participants and maintain time and attendance reports.

New Rule, R.1990, d.396, effective August 6, 1990.
See: 22 N.J.R. 1430(a), 22 N.J.R. 2326(b).
Recodified to 12:35-1.3.

Section was registration and reporting requirements forms.

12:35-1.3 Registration and reporting requirements

(a) Each employable general assistance recipient not specifically exempted by the municipal welfare department from workfare due to participation in the work training requirements of the Family Development Program in accordance with N.J.A.C. 10:86 shall register for workfare at his or her municipal welfare department. The recipient shall complete Form NJES-1A which is available at the municipal welfare department.

(b) The municipal welfare department shall submit Form NJES-1A to the appropriate Employment Service office. Receipt of Form NJES-1A by the Employment Service shall fulfill a recipient's registration requirement.

(c) Once registered with the Employment Service, a recipient remains registered as long as he or she remains on an employable general assistance grant and is not exempt from the work requirement.

(d) Each recipient for whom a Form NJES-1A is received shall be interviewed by the Employment Service for an appraisal of their employability potential and referral to an appropriate worksite, employability development service and/or job. The recipient shall sign the appraisal sheet to certify that the interview was conducted.

Amended by R.1985 d.404, effective August 5, 1985.
See: 17 N.J.R. 1048(a), 17 N.J.R. 1896(a).

Amended (a); added (b), (c), (d).

Amended by R.1990 d.396, effective August 6, 1990.

See: 22 N.J.R. 1430(a), 22 N.J.R. 2326(b).

Recodified from 12:35-1.2. Added new (a); redesignated existing (a)-(d) as (b)-(e). In (e), added last sentence.

Amended by R.1995 d.363, effective July 3, 1995.

See: 27 N.J.R. 1740(a), 27 N.J.R. 2589(a).

In (a) inserted "not specifically exempted by the municipal welfare department from workfare due to participation in the work training requirements of the Family Development Program in accordance with N.J.A.C. 10:86"; deleted (b); and recodified existing (c) to (e) as (b) to (d).

12:35-1.4 Accident insurance coverage requirements

(a) To insure State accident insurance coverage for each worksite participant each municipal welfare department shall file a municipal worksite agreement with the Employment Service. (See Appendix 1.)

(b) The municipal welfare director, the worksite agent and a representative of the Employment Service shall sign the municipal worksite agreement. General assistance recipients may not be assigned to worksite activities until the Employment Service has received Form NJES-1A and the signed municipal worksite agreement (see the GA Manual at N.J.A.C. 10:85-3.2(g)).

(c) The Employment Service shall monitor and evaluate each municipal worksite agreement within 14 days after receipt of the agreement from the municipal welfare director. The worksite agreement shall be evaluated by the Employment Service based on the following criteria:

1. Working conditions are such that they do not represent a substantial risk to the individual's health and safety;

2. That such employable persons shall not be used to replace any regular employees of any department or unit of any municipality, county and state agency or nonprofit agency or institution; and

3. That the wage rate for the position covered by the municipal worksite agreement is commensurate with beginning regular employees similarly employed.

(d) If any of the above criteria is not met, the Employment Service shall inform the municipal welfare director that the municipal worksite agreement is not acceptable and that no participants may be assigned to the worksite.

(e) Failure to comply with Employment Service recommendations shall lead to the municipality's assumption of responsibility for liability coverage on that worksite as set forth in the GA Manual at N.J.A.C. 10:85-10.2(f).

Amended by R.1985, d.404, effective August 5, 1985.

See: 17 N.J.R. 1048(a), 17 N.J.R. 1896(a).

Amended (a) and (b); added (c), (d), (e).

Amended by R.1990, d.396, effective August 6, 1990.

See: 22 N.J.R. 1430(a), 22 N.J.R. 2326(b).

Recodified from 12:35-1.3. Stylistic revisions.

Amended by R.1995 d.363, effective July 3, 1995.

See: 27 N.J.R. 1740(a), 27 N.J.R. 2589(a).

In (b) added the second sentence.

12:35-1.5 Worksite assignments; agreement forms

(a) The Employment Service shall prepare an Individual Worksite Agreement form for each worksite participant. (See Appendix 2.) The form shall be completed by the municipal welfare director or the Employment Service GAEP representative. Copies shall be distributed to the participant, the Municipal Welfare Director and the Employment Service. The form shall contain the following information:

1. The signature of the participant;
2. A description of the worksite job;
3. The schedule of hours per month;
4. The wage rate used to determine the schedule of hours per month;
5. The name of the person to whom the participant is required to report to on the worksite;
6. The address of the worksite;
7. The date upon which the participant is to begin work; and

8. If appropriate, a description of the transportation to be provided to the worksite and a statement that the transportation is free.

(b) An Individual Training Worksite Agreement shall be prepared by the Employment Service for each training worksite participant, in accordance with N.J.A.C. 12:35-2.3, Establishment of training worksites (See Appendix 4). Copies shall be distributed to the participant, the municipal welfare director and the Employment Service.

Amended by R.1985, d.404, effective August 5, 1985.
See: 17 N.J.R. 1048(a), 17 N.J.R. 1896(a).

Added job title description, hours per month and forwarding copy of notice for evaluation.

Amended by R.1990, d.396, effective August 6, 1990.

See: 22 N.J.R. 1430(a), 22 N.J.R. 2326(b).

Recodified from 12:35-1.4. In (a), added 1-8; added (b) and (c).
Amended by R.1995 d.363, effective July 3, 1995.

See: 27 N.J.R. 1740(a), 27 N.J.R. 2589(a).

Rewrote (a) and (b); and deleted (c).

12:35-1.6 Worksite Assignments; evaluations

(a) Worksite assignments shall be evaluated by the Employment Service based on the following criteria:

1. The assigned individual is capable of performing the duties involved at the worksite. The documented employment and academic/vocational training history of the participant, developed in consultation with the participant, shall be the basis of the worksite assignments.

2. Working conditions are such that they do not represent a substantial risk to the individual's health and safety.

3. The participant has a reasonable means of transportation to the worksite assignment. "Reasonable" means at no cost to the participant. (See the GA Manual at N.J.A.C. 10:85-10.2(e)3.)

(b) If any of the criteria in (a) above are not met, a worksite assignment will not be made by either the Employment Service or a municipal welfare director. When a municipal welfare director makes an inappropriate worksite assignment, the Employment Service shall inform the municipal welfare director that the participant must be reassigned because the criteria in (a) above are not being met. Reassignment may include job search orientation, active registrant pool, training worksite, or another worksite assignment if such is available. Failure to comply with the Employment Service recommendations for reassignment shall lead to the municipality's assumption of the responsibility for liability coverage on that worksite, as set forth in the GA Manual at N.J.A.C. 10:85-10.2(f).

Repeal and New Rule, R.1985, d.404, effective August 5, 1985.
See: 17 N.J.R. 1048(a), 17 N.J.R. 1896(a).

Amended by R.1990, d.396, effective August 6, 1990.

See: 22 N.J.R. 1430(a), 22 N.J.R. 2326(b).

Recodified from 12:35-1.5. Stylistic revisions.

Amended by R.1995 d.363, effective July 3, 1995.

See: 27 N.J.R. 1740(a), 27 N.J.R. 2589(a).

Following "shall be" deleted "made and".

12:35-1.7 Attendance and worksite activity; monitoring

Attendance and worksite activity shall be monitored by the agency that develops the municipal worksite agreement and makes the individual worksite assignments. This shall be accomplished through coordination with the worksite agent. The worksite agent shall have the authority for conducting onsite supervision of the participant and for maintaining time and attendance reports.

Repeal and New Rule, R.1985, d.404, effective August 6, 1985.

See: 17 N.J.R. 1048(a), 17 N.J.R. 1896(a).

Amended by R.1990, d.396, effective August 6, 1990.

See: 22 N.J.R. 1430(a), 22 N.J.R. 2326(b).

Recodified from 12:35-1.6. Stylistic revisions.

Amended by R.1995 d.363, effective July 3, 1995.

See: 27 N.J.R. 1740(a), 27 N.J.R. 2589(a).

Added the second and third sentences.

SUBCHAPTER 2. LOCATION OF WORKSITE ACTIVITY

12:35-2.1 Establishment of worksite assignments; municipalities

Worksite assignments may be established by the municipal welfare director in the performance of work for the municipality or a non-profit agency or institution pursuant to a contract with the municipality.

12:35-2.2 Establishment of worksite assignments; employment service

Worksite assignments may be established by the Employment Service in the performance of work for County, or State agencies as well as municipal agencies, non-profit agencies and institutions.

12:35-2.3 Establishment of training worksites

(a) Training worksites in rehabilitative and educational agencies may be established by the Employment Service staff to allow registrants in need of these services to fulfill their worksite requirement by attending educational and vocational development classes or rehabilitative and therapeutic sessions.

(b) Training worksites may be established in municipal, county and State agencies as well as non-profit social service and/or community agencies and institutions.

(c) A training worksite agreement shall be on file with the Employment Service and shall be signed by the municipal welfare director, the training agent and a representative of the Employment Service. (See Appendix 3).

Repeal and New Rule, R.1985, d.404, effective August 5, 1985.

See: 17 N.J.R. 1048(a), 17 N.J.R. 1896(a).

Amended by R.1990, d.396, effective August 6, 1990.

See: 22 N.J.R. 1430(a), 22 N.J.R. 2326(b).
Stylistic revisions.

12:35-2.4 Establishment of Job Search Orientation worksite

(a) Job Search Orientation worksite may be established by the Employment Service staff to allow registrants with marketable employment skills to fulfill their worksite requirement by attending sessions for work search techniques and a monitored job search.

(b) Individuals assigned to this worksite activity will be required to supply documented employer contacts to the Employment Service staff during the period assigned to the monitored work search. No participant shall remain in this activity more than three consecutive months without reassignment to a municipal worksite activity.

(c) A training worksite agreement shall be used to establish this worksite activity.

Repeal and New Rule, R.1985, d.404, effective August 5, 1985.
See: 17 N.J.R. 1048(a), 17 N.J.R. 1896(a).
Amended by R.1990, d.396, effective August 6, 1990.
See: 22 N.J.R. 1430(a), 22 N.J.R. 2326(b).
Stylistic revisions.

12:35-2.5 Worksites in appropriate municipality

(a) Efforts by either the Employment Service or municipal welfare director will be made to develop worksites in the municipality where the employable general assistance recipient receives his or her public assistance grant.

(b) A municipality that is unable to provide a worksite location within the municipality may enter a formal agreement with another municipality to arrange for a worksite.

New Rule, R.1985, d.404, effective August 5, 1985.
See: 17 N.J.R. 1048(a), 17 N.J.R. 1896(a).
Amended by R.1995 d.363, effective July 3, 1995.
See: 27 N.J.R. 1740(a), 27 N.J.R. 2589(a).
Designated existing text as (a); and added (b).

12:35-2.6 Unavailability of worksites in certain municipalities

If worksites are not available in the municipality where an employable general assistance recipient receives his or her public assistance grant, the municipal welfare director will immediately notify the appropriate Employment Service staff, and worksite development will become the responsibility of the Employment Service.

New Rule, R.1985, d.404, effective August 5, 1985.
See: 17 N.J.R. 1048(a), 17 N.J.R. 1896(a).

SUBCHAPTER 3. SCHEDULING WORKSITE ASSIGNMENTS

12:35-3.1 Hours of work or training

(a) Persons assigned to a municipal worksite by either the Employment Service or the municipal welfare department shall work only the number of hours equal to the amount of their grant divided by an hourly wage rate commensurate with beginning regular employees similarly employed.

(b) Persons assigned to a training worksite shall participate in accordance with the scheduling procedures of the training agency itself.

(c) Persons assigned to a job search orientation worksite shall participate the number of hours equal to the amount of their grant divided by an hourly wage rate equal to the minimum wage rate of the state.

Amended by R.1985, d.404, effective August 5, 1985.
See: 17 N.J.R. 1048(a), 17 N.J.R. 1896(a).

Added (b) and (c).
Amended by R.1990, d.396, effective August 6, 1990.
See: 22 N.J.R. 1430(a), 22 N.J.R. 2326(b).
Stylistic revisions.
Amended by R.1995 d.363, effective July 3, 1995.
See: 27 N.J.R. 1740(a), 27 N.J.R. 2589(a).
In (b) deleted the second sentence.

12:35-3.2 Determination of prevailing wage rate

In cases where there are no beginning regular employees similarly employed the Employment Services shall assign a wage rate equal to the minimum wage rate of the State, or shall contact the local labor market analyst and determine the prevailing wage rate for that particular worksite assignment.

Amended by R.1985, d.404, effective August 5, 1985.
See: 17 N.J.R. 1048(a), 17 N.J.R. 1896(a).
Deleted hourly wage rate recording.

Amended by R.1990, d.396, effective August 6, 1990.
See: 22 N.J.R. 1430(a), 22 N.J.R. 2326(b).
Stylistic revisions.

Amended by R.1995 d.363, effective July 3, 1995.
See: 27 N.J.R. 1740(a), 27 N.J.R. 2589(a).

Inserted "shall assign a wage rate equal to the minimum wage rate of the State, or".

SUBCHAPTER 4. TYPES OF WORK ALLOWABLE UNDER WORKSITE ACTIVITIES

12:35-4.1 Type of work to be performed

The type of work to be performed by an employable general assistance recipient will be based upon an assessment of the individual's employment capabilities and the service needs of the municipality. Whenever possible, worksites will permit an individual to utilize and/or enhance his/her employment capabilities in order to maximize that individual's chances of obtaining unsubsidized employment.

12:35-4.2 Prohibition on replacing or displacing regular employees

Worksite assignments will not result in employable general assistance recipients replacing or displacing regular employees through assignment to work ordinarily and actually performed by regular employees on a permanent or temporary basis.

Amended by R.1995 d.363, effective July 3, 1995.
See: 27 N.J.R. 1740(a), 27 N.J.R. 2589(a).

Substituted the reference to employable general assistance recipients for replacement or displacement of regular employees.

Amended by R.1990, d.396, effective August 6, 1990.
See: 22 N.J.R. 1430(a), 22 N.J.R. 2326(b).

In (a) 6, added without good cause and municipal welfare director.
Amended by R.1995 d.363, effective July 3, 1995.

See: 27 N.J.R. 1740(a), 27 N.J.R. 2589(a).

In (a)2 inserted references to training worksite and job search.

12:35-5.2 Notification of failure to comply

(a) When a determination of failure or refusal to participate is made, the Employment Service shall, within five days of such determination, forward written notification, through the use of the Interagency Report (NJES-1A), to the municipal welfare director.

(b) The municipal welfare director shall determine whether good cause existed for a failure or refusal to participate and shall notify the Employment Service of his or her decision through the use of the NJES-1A. (See the GA Manual at N.J.A.C. 10:85-3.2(g)7, 10:85-10.6-10.7 and 10:85-7.3-7.4).

(c) Participants determined to have failed or refused to participate by the municipal welfare director shall be denied all general assistance according to regulations developed by the Division of Family Development.

Amended by R.1990, d.396, effective August 6, 1990.
See: 22 N.J.R. 1430(a), 22 N.J.R. 2326(b).

Stylistic revisions.

Amended by R.1995 d.363, effective July 3, 1995.
See: 27 N.J.R. 1740(a), 27 N.J.R. 2589(a).

Rewrote the section.

SUBCHAPTER 5. FAILURE TO COMPLY**12:35-5.1 Patterns of behavior**

(a) The following actions or patterns of behavior shall constitute a failure or refusal to participate in the General Assistance Employment Program and will result in the Employment Service making a GA disqualification request to the municipal welfare department:

1. An oral or written statement by a GAEP registrant that he or she will not participate or continue to participate in GAEP or its activities;

2. A registrant refuses a suitable municipal worksite, training worksite or job search orientation assignment without good cause;

3. A registrant refuses a suitable job referral or job offer without good cause;

4. A registrant seriously disrupts a GAEP activity or the orderly administration of the overall program or behaves in a manner that constitutes a threat or hazard to agency staff, project agents and their staff and/or other GAEP registrants;

5. The record and employment history of the registrant shows that he or she has the required education, experience or aptitude to perform the assignment but fails to utilize these skills and experience to benefit from the activity. The determining factors would be the reasonable judgment of the Employment Service as to whether the individual intentionally is performing at or near his or her potential as documented under N.J.A.C. 12:35-1.6(a)1;

6. A registrant fails to make a bona fide application for employment without good cause when asked to do so by the Employment Service or municipal welfare director;

7. A registrant voluntarily leaves a training or rehabilitation worksite before completion of the assignment without good cause;

8. A registrant fails or refuses to respond to two call-in notices without good cause.

APPENDIX 1**GENERAL ASSISTANCE EMPLOYABILITY PROGRAM****Municipal Worksite Agreement**

The State of New Jersey Department of Labor, and the Department of Human Services, agree to establish the following worksite:

Municipality _____

Occupational Classification _____
(DOT CODE OR JOB TITLE)

Hourly Wage Rate _____

Public Works Project Agent _____
(Agency for whom public works project is performed)

Number of General Assistance Employable
Recipients to be Assigned _____

This worksite is established in accordance with P.L. 1979, Chapter 267.

Signed,

Date _____

Employment Service Manager

Municipal Welfare Director

Public Works Project Agent

APPENDIX 2

INDIVIDUAL WORKSITE AGREEMENT

Date _____

Case No. _____

Name _____

Social Security Number _____

Municipality _____

DOT Code or Job Title _____

Job Description _____

_____ Divided By _____ Requires _____

Participant's grant on a Worksite _____ Hourly Wage _____

You are to report to (name) _____

(address) _____

on (date) _____ at (time) _____

I have been informed of the purpose and regulations of the General Assistance Employability Program (G.A.E.P.), my scheduled hours on the Worksite, and the hourly wage. I understand that I am working off my welfare grant, and that failure to report to the worksite, substandard work performance, or poor attitude may result in termination of my grant.

Participant's Signature

MWD/GAEP
Representative

APPENDIX 3

GENERAL ASSISTANCE EMPLOYABILITY PROGRAM TRAINING WORKSITE AGREEMENT

The State of New Jersey Department of Labor, and the Department of Human Services, agree to establish the following worksite:

Municipality _____

Worksite Activity _____
(GED, ESL, Drug Rehabilitation ...)

Training Project Agent _____
(Agency in which training/counseling is undergone)

Number of General Assistance Employable
Recipients to be Assigned _____

This worksite is established in accordance with P.L. 1979, Chapter 267.

Signatures:

Participating Municipal Welfare
Director(s)

Department of Labor
Employment Service Manager

Training Project Agent

Date

APPENDIX 4

GENERAL ASSISTANCE EMPLOYABILITY PROGRAM INDIVIDUAL TRAINING WORKSITE AGREEMENT

Date _____

Case No. _____

Name _____

Social Security Number _____

Municipality _____

Training Description _____

Participation in this Training Site Requires _____
Hours per month

You Are to Report to (Name) _____

(Address) _____

On (Date) _____ At (Time) _____

I have been informed of the purpose and regulations of the General Assistance Employability Program (G.A.E.P.) and my scheduled hours on the worksite. I understand that I am working off my welfare grant, and that failure to report to the worksite, substandard work performance, or poor attitude may result in termination of my grant.

Participant's Signature

MWD/GAEP Representative