

CHAPTER 35

WORKFARE

Authority

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

Source and Effective Date

R.1990 d.396, effective July 16, 1990.
See: 22 N.J.R. 1430(a), 22 N.J.R. 2326(b).

Executive Order No. 66(1978) Expiration Date

Chapter 35, Workfare, expires on July 16, 1995.

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. 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 recipient 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) Each employable general assistance recipient not specifically exempted by the municipal welfare department from workfare shall report to municipal worksites only after the Employment Service is in receipt of Form NJES-1A and the municipal worksite agreement from the municipal welfare department. General assistance recipients may not be assigned to worksite activities until the Employment Service has received both 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 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.

(d) 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.

(e) 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.

12:35-1.4 Workers' Compensation coverage requirements

(a) To insure State Workers' compensation 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.

(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.

12:35-1.5 Worksite assignments; notices

(a) The Employment Service shall prepare a notice in duplicate for each worksite participant. (See Appendix 2.) Each notice 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) One copy of the worksite notice shall be retained by the participant; the other shall be kept in the participant's welfare department case folder.

(c) Municipal welfare directors shall forward an additional copy of the notice to the appropriate Employment Service office for evaluation for any worksite assignments made.

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).

12:35-1.6 Worksite assignments; evaluations

(a) Worksite assignments shall be made and 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.

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.

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.

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

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.

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

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. A notice in duplicate will be prepared for each training worksite participant and will be signed by the participant, a representative from the Employment Service and the municipal welfare director.

(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.

12:35-3.2 Determination of prevailing wage rate

In cases where there are no beginning regular employees similarly employed the Employment Service 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.

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 either the replacement or displacement of regular employees.

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 or 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.

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.

12:35-5.2 Notification of failure to comply

(a) Notification of noncompliance is established through the use of the Interagency Report (NJES-1A).

(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 in noncompliance by the municipal welfare director shall be denied all general assistance according to regulations developed by the Division of Economic Assistance.

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.

APPENDIX 1

GENERAL ASSISTANCE EMPLOYABILITY PROGRAM

Municipal Worksite Agreement

The State of New Jersey Department of Labor and Industry, 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 New Jersey Department of Labor 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 Hours Per Month Participant's Hourly Wage grant on a Worksite

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

Editor's Note: Appendix 3, Training Worksite Agreement, cited in N.J.A.C. 12:35-3.2, was not filed as a part of these rules. For information on this item, write:

Division of Employment Services CN058 Trenton, N.J. 08625

Amended by R.1990, d.396, effective August 6, 1990. See: 22 N.J.R. 1430(a), 22 N.J.R. 2326(b). Changes in Editor's note.