

Having trouble viewing this email? [View it in your web browser](#)



Policy Matters - September 2021

Welcome to the September edition of our newsletter, **Policy Matters**. In this edition we cover our efforts at federal SSI reform, our suit representing school employees in Greece, a sneak preview of our 2022 policy agenda, and an update on the sanctions bill. You can also read on our website [here](#).



Advocating for the SSI Restoration Act

In New York State, over 600,000 people rely on Supplemental Security Income (SSI), a federal program intended to keep older adults and people with disabilities out of crushing poverty. Unfortunately, Congress has failed to update the program for decades, and participants are now trapped in a cycle of poverty due to its outdated and complex rules.

The SSI Restoration Act would address these issues by increasing SSI benefits to 100 percent of the federal poverty line, raising the resource limits (for the first time since 1989!) and changing other punitive requirements.

Emilia Sicilia and **Kate Callery**, our DAP Statewide Coordinators, have been working with Congressmembers such as Jamaal Bowman to advocate for the inclusion of the SSI Restoration Act in the federal Reconciliation Bill – Rep. Bowman and Emilia wrote an op-ed for The Hill which lays out the case for passing the Act now.



Securing Pandemic Unemployment Benefits for Rochester Area School Employees

Legal advocates estimate that thousands of substitute teachers, bus drivers, and other school employees are mistakenly being told to return unemployment benefit payments.

We are representing school bus drivers and attendants employed in Greece, NY, who were told they owe back between \$4,200 and \$8,100 in federal unemployment benefits and penalties. **Peter Dellinger**, Senior Attorney, and other members of our Employment practice group are seeking to bring the case as a statewide class action.



Ramping Up To 2022

It's a new world in NYS politics, and we're getting ready for 2022 by developing our prospective legislative and policy agenda! In addition to our annual funding efforts for Consumer Health Advocates (CHA), the Disability Advocacy Program (DAP), Homeowner Protection Program (HOPP), the Liberty Defense Project (LDP), and the Legal Services Assistance Fund (LSAF), we are pulling together a collection of strong policy campaigns, including:

- **Fair Play in Employment Act** – This bill will fix the misclassification of workers as independent contractors, a tactic which allows employers to side-step labor rights and protections normally afforded regular employees. These include minimum wage and overtime guarantees; paid sick leave, Workers' Compensation and unemployment insurance; and prescribed rest and meal breaks.
- **Fixing the State Supplemental Program (SSP) for Senior and Disabled New Yorkers (A.7528/S.7035)** – This legislation will address issues around retroactive payments for certain very low income seniors and disabled New Yorkers.
- **New Guidance to School Districts for Transgender and Gender Nonconforming Students** – In 2014-2015, Empire Justice and other advocates worked with the NYS Education Department (NYSED) to develop and pass guidance for creating safe and supportive school environments for transgender and gender nonconforming students across New York State. Since then, there have been

considerable changes and advancements in law, including the enactment of the transgender non-discrimination law, GENDA, and the reinstatement of the NYS Human Rights Law over public schools. That means trans and GNC students have numerous rights which are not reflected in the current guidance! Empire Justice is pulling together new and old advocates to address this and develop updated guidance for schools.

Stay tuned as we continue to develop and refine our agenda for 2022!



The Sanctions Bill Is Still Waiting For Signature

Speaking of a new day in NYS politics – we are continuing to push for Governor Hochul to sign S.0668/A.3227 – the bill to reform the benefits sanctions process, for which we have been advocating for years. This long overdue bill would allow individuals in the rest of the state the same “second chance” in the sanctions process that public assistance recipients in New York City already receive.

A previous version of this bill was vetoed by former Governor Cuomo in 2019, so Governor Hochul’s signature could signal a new, less punitive approach to public assistance recipients from the Executive Chamber.



LONG ISLAND
**IMMIGRATION LEGAL
HELP LINE**
2:00-4:00 PM EVERY TUESDAY
1-631-533-2238

Empire Justice Center For more info or to request an appointment: EJcimmigrationhotline@gmail.com

Long Island Immigration Legal Help Line

Our **Long Island Immigration Legal Help Line** is available every Tuesday from **2:00-4:00 pm**, at **631-533-2238** to speak to an immigration attorney from Empire Justice Center who will answer your questions on your legal rights. Or email us at EJcimmigrationhotline@gmail.com to make an appointment. **¡Se habla Español!**



NEW YORK STATE
**UNEMPLOYMENT AND PAID LEAVE
LEGAL HELP LINE**
Clear, simple, up-to-date legal information
(800) 724-0490 ext. 5827

Empire Justice Center

Unemployment and Paid Leave Legal Help Line

Our **Unemployment and Paid Leave Legal Help Line** is on **temporary hold** as we work through a considerable backlog, but check back as we anticipate opening up again soon.

Thank You For Reading

If you'd like to keep up with our policy work, follow us on [Twitter](#) and [Facebook](#), or visit the **Policy Central** page on our website.

You can find all of our [COVID-19 free legal resources](#) on our website, and if you need help, you can find contact information for each of our offices [here](#).

The Empire Justice Policy Team

Find us here:





Public Advocacy Center ♦ Touro Law School
225 Eastview Drive, Room 222 ♦ Central Islip, NY 11722
Phone 631.650.2306 ♦ Fax 631.348.3571
www.empirejustice.org

Memorandum of Support

A Fair Process for Reducing Erroneous Welfare Sanctions Should Apply Statewide A.2455 (Hunter)/S.3840 (May)

In 2014, a new state law dramatically improved the process by which public assistance recipients can respond to an allegation that they have failed to comply with a welfare work requirement. Unfortunately, at the last minute, the statewide bill was modified to apply only to New York City, leaving all other jurisdictions out. The law provides common sense protection against the imposition of unwarranted and unduly harsh sanctions on the poorest New Yorkers. **Empire Justice Center strongly supports A.2455/S.3840, which would broaden the law to apply statewide.**

For the entire state outside of New York City, a local Department of Social Services' (DSS) belief that a person has failed to comply with a work rule triggers a sanction process. Individuals may use an informal "conciliation" process or may request a Fair Hearing, but they essentially have the burden to demonstrate that they either did in fact comply, or had good cause for not complying. Although clients often prevail when they ask for a hearing, far too many individuals, but particularly those who may be disabled, have difficulty accessing the hearing process or otherwise asserting their rights.

Three powerful considerations guide our support for expansion of this law to the whole state:

(1) A disproportionate number of those who are sanctioned have disabilities or face other barriers that make it difficult for them to comply with work rules.¹ People with serious physical or mental health limitations that were not identified by DSS are often ill-equipped to comply with work requirements and are therefore at greater risk of sanction. Individuals with lower levels of literacy, education, and skills, as well as those with domestic violence issues and limited English proficiency are all more likely to be sanctioned.²

(2) Sanctions cause serious hardship.³ The full welfare benefit is extremely inadequate. Any reduction due to a sanction is likely to cause severe hardship. Parents and children in sanctioned families are more likely to experience hunger and food insecurity, increases in hospitalization, eviction, homelessness, loss of utility and telephone service, and the need for emergency services including emergency housing, food and clothing aid.

(3) Decisions to impose sanctions are often the result of administrative errors, inadequate notice or client disabilities.⁴ Factors include:

- Notices that do not clearly explain the clients' rights,
- Notices that are not timely sent or are not properly addressed, and
- Non-compliance that is the result of a disability that DSS failed to detect, or detected but did not accommodate.

A.2455/S.3840 would protect against inappropriate sanctions by requiring that:

- Before imposing a sanction, districts must determine whether the alleged failure to comply was related to a disability, a child care problem or transportation difficulties.
- Mandatory durational sanctions, with inflexible punishment periods of reduced benefits, are eliminated. Instead, sanctions can be avoided, or lifted if already in effect, if the client demonstrates a willingness to comply with the work requirements, or establishes that they are unable to do so.
- A client who is otherwise satisfactorily participating in assigned work activities must not be sanctioned for a single infraction.

There is no justification for failing to apply these fair and reasonable measures statewide. They provide critical protection to clients who may be unable to comply with a work requirement for reasons beyond their control, or who have a single lapse in a system that is often rigid and punitive. This bill will afford **all** public assistance recipients in New York the opportunity to participate in appropriate activities and limit the risk of unwarranted punishment.

For more information contact:

Don Friedman, Managing Attorney, Long Island Office
(631) 650-2316, dfriedman@empirejustice.org

¹ See Nadel, Wamhoff and Wiseman, footnote 2; Dan Bloom and Don Winstead, "Sanctions and Welfare Reform," Brookings Institution, Policy Brief No. 12, Jan. 2002, <http://www.mdrc.org/publications/191/policybrief.html>; Shawn Fremstad, "Recent Welfare Reform Research Findings: Implications for TANF Reauthorization and State TANF Policies," Center on Budget and Policy Priorities, Jan. 2004.

² LaDonna Pavetti, "TANF Studies Show Work Requirement Proposals for Other Programs Would Harm Millions, Do Little to Increase Work," Center on Budget and Policy Priorities, November 13, 2018. This article includes a helpful compilation of research sources on the barriers welfare recipients often have, and their relation to sanctions. See also, LaDonna Pavetti, "Review of Sanction Policies and Research Studies-Final Literature Review," Submitted to Department of Health and Human Services by Mathematica Policy Research, Inc., March 10, 2003.

³ Tim Casey, *The Sanction Epidemic in the Temporary Assistance for Needy Families Program*, Legal Momentum, August 2010, <http://www.legalmomentum.org/assets/pdfs/sanction-epidemic-in-tanf.pdf>.

⁴ See, for example, Public Advocate for the City of New York, "Hearing Problem: An Analysis of Human Resources Administrations Fair Hearing Outcomes in New York City," October 2009; Brennan Center Strategic Fund, Inc., "Improving New York City's Public Benefits System: A Key Role for Help Desks," 2008, http://www.brennancenter.org/content/resource/improving_new_york_citys_public_benefits_system_a_key_role_for_help_desks/