

Operating a Federal Work-Study Program

This chapter covers issues specific to operating Federal Work-Study, Job Location and Development, and Work-College programs. For student eligibility criteria relating to campus-based programs, including FWS, refer to Volume 1. For information on selecting campus-based recipients, and calculating and packaging campus-based awards, see Volume 3. For information on disbursing campus-based aid, see Volume 4.

ASSIGNING FWS JOBS

Federal Work-Study (FWS) jobs may be on or off campus. Off-campus FWS jobs with federal, state, or local public agencies or private nonprofit organizations must be in the public interest. Off-campus FWS jobs with private, for-profit organizations must be academically relevant to the maximum extent possible. Also, your school **must** use at least 7% of its FWS allocation to employ students in community service jobs with at least one FWS student employed as a reading tutor for children in a reading tutoring project or performing family literacy activities in a family literacy project.

A school must make FWS jobs reasonably available to all eligible students at the school. To the maximum extent practicable, a school must provide FWS jobs that complement and reinforce each recipient's educational program or career goals.

In assigning an FWS job, a school must consider the student's financial need, the number of hours per week the student can work, the period of employment, the anticipated wage rate, and the amount of other assistance available to the student. While there is no minimum or maximum award, the amount for each student should be determined based on these factors.

EMPLOYMENT CONDITIONS AND LIMITATIONS

FWS employment must be governed by employment conditions, including pay, that are appropriate and reasonable according to the type of work performed, the geographic region, the employee's proficiency, and any applicable federal, state, or local law.

FWS employers must pay students at least the federal minimum wage in effect at the time of employment (\$5.15 as of September 1997). The Small Business Job Protection Act of 1996 established a subminimum, or training wage that is lower than the minimum wage.

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34 CFR 675.18(g)

However, it is not permissible to pay the subminimum wage rate to students in FWS jobs.

Also, as noted earlier, the pay must meet the requirements of the state or local law. This means that when the state or local law requires a higher minimum wage, the school must pay the FWS student that higher wage. However, if the state or local law allows a wage that is less than the Federal minimum wage, the FWS student must be paid at least the Federal minimum wage.

A student's need places a limit on the total FWS earnings permissible but has no bearing on his or her wage rate. It is not acceptable to base the wage rate on need or on any other factor not related to the student's skills or job description. If a student's skill level depends on his or her academic advancement, the school may pay a student on that basis. For example, a junior or third-year lab student may be paid a higher rate than a sophomore or second-year lab student. However, in most cases, students performing jobs comparable to those of other employees should be paid comparable wages, whether the other employees are students at different class levels or are regular employees.

FWS employment must not displace employees (including those on strike) or impair existing service contracts. Also, if the school has an employment agreement with an organization in the private sector, the organization's employees must not be replaced with FWS students. Replacement is interpreted as displacement.

FWS positions must not involve constructing, operating, or maintaining any part of a building used for religious worship or sectarian instruction. In determining whether any FWS employment will violate this restriction, a school should consider the purpose of the part of the facility in which the work will take place and the nature of the work to be performed. If the part of the facility in which the student will work is used for religious worship or sectarian instruction, the work cannot involve construction, operation, or maintenance responsibilities. If that part of the facility is not being used for religious worship or sectarian instruction, the school should make sure that any work the student will perform meets general employment conditions and that other limitations are not violated.

Neither a school nor an outside employer that has an agreement with the school to hire FWS students may solicit, accept, or permit the soliciting of any fee, commission, contribution, or gift as a condition for a student's FWS employment. However, a student may pay union dues to an employer if they are a condition of employment and if the employer's non-FWS employees must also pay dues.

The Fair Labor Standards Act of 1938, as amended, prohibits employers (including schools) from accepting voluntary services from any paid employee. Any student employed under FWS must be paid for all hours worked.

FWS limitations on religious jobs

675.20(c)(2)(iv)

A student may earn academic credit as well as compensation for FWS jobs. Such jobs include but are not limited to internships, practica, assistantships (e.g., research or teaching assistantships), and service learning programs. However, a student employed in an FWS job and receiving academic credit for that job may not be:

- paid less than he or she would be if no academic credit were given;
- paid for time while receiving instruction in a classroom, laboratory, or other academic setting; and
- paid unless the employer would normally pay a non-FWS person for the same job.

FWS earnings for the next period of enrollment

Many FWS students must pay the bulk of their education costs in the beginning of each period of enrollment before they have had a chance to earn FWS wages. To provide the opportunity to earn wages before incurring education costs, the Department allows students to earn FWS wages to cover expenses for the next period of enrollment offered by the school. The student must be planning to enroll for that next period and must demonstrate financial need for it. The next period of enrollment is usually the next term, including a summer period, or in the case of summer earnings, the next full academic year. A student may earn FWS wages toward the next period of enrollment during any period, including during a period of non-attendance (see below) or a period of enrollment made up, in whole or in part, of mini-sessions.

Periods of non-attendance for FWS students

A student may be employed under FWS during a period of nonattendance, such as a summer term, an equivalent vacation period, the full-time work period of a cooperative education program, or an unattended fall or spring semester. The student must be planning to enroll for the next period of enrollment and must have demonstrated financial need for that period. The student's net earnings (earnings minus taxes and job-related costs) during this period of nonattendance must be used to cover expenses associated with her financial need for the next period of enrollment, which is usually the next term, including a summer period, or in the case of summer earnings, the next full academic year.

A student who was not attending school in the summer but who was eligible for summer FWS employment because he anticipated being enrolled in the fall may fail to then attend school. When a student fails to attend for the next period of enrollment, the school that employed him must be able to demonstrate that he was eligible for employment and that the school had reason to believe the student intended to study at that school in the next period of enrollment. At a minimum, the school that employed the student must keep a written record in its files showing that he had accepted the school's offer of admittance for the next period of enrollment.

A student in an eligible program of study abroad may be employed during a period of non-attendance preceding the study abroad if she will be continuously enrolled in her American school while abroad and if her study is part of the American school's own program. In such a case, a student may be employed in a qualified position in the United States, at the American school's additional location in a foreign country, or at a U.S. government facility abroad.

FWS Mini-sessions

If a school combines a series of mini-sessions or modules into one term (e.g., three summer mini-sessions into one summer term), an FWS student attending any of the mini-sessions may earn FWS wages at any time throughout that term. The school may apply those earnings toward the student's financial need for the mini-session(s) attended or the next period of enrollment. The school must base the student's financial need for attending the summer term on the period of time for which the student is actually enrolled in the mini-sessions.

The amount of FWS wages a student may earn at any point in the term does not depend on whether the student is then enrolled in a mini-session. The school or student may choose how to distribute the hours worked throughout the summer term.

COMMUNITY SERVICE JOBS

Schools must make students aware of FWS community service opportunities available in the local community. The program participation agreement also requires your school to work with local nonprofit, governmental, and community-based organizations to identify community service opportunities, including those that assist supportive services to students with disabilities, and inform Federal Work-Study (FWS) students of these opportunities (see Chapter 1). Schools should promote those opportunities to students by notifying each student individually or via general means such as campus websites or other publication sites.

Your school must use at least 7% of its FWS allocation to employ students in community service jobs (see Chapter 1). At least one of the FWS students your school employs to fulfill this requirement must work:

- performing family literacy activities in a family literacy project that provides services to families with preschool age children or elementary school children; or
- as a reading tutor for children who are preschool age or are in elementary school.

Employing an FWS student in these positions serves the needs of the community and gives the FWS student an enriching and rewarding experience. To further encourage schools to employ FWS students in

Community service

Dear Colleague Letter CB-97-12,
Dear Colleague Letter CB-94-4,
Dear Colleague Letter CB-07-08

these positions and as mathematics tutors, FWS regulations authorize a 100% federal share of FWS wages (see Chapter 1).

How are Community Services Defined?

Community services are defined as services that are identified by an institution of higher education through formal or informal consultation with local nonprofit, government, and community-based organizations, as designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs. These services include:

- such fields as health care, child care, literacy training, education (including tutorial services), welfare, social services, transportation, housing and neighborhood improvement, public safety, crime prevention and control, recreation, rural development, and community improvement;
- work in service opportunities or youth corps as defined in Section 101 of the National and Community Service Act of 1990, and service in the agencies, institutions, and activities designated in Section 124(a) of that act;
- support services for students with disabilities (including students with disabilities who are enrolled at the school)*; and
- activities in which an FWS student serves as a mentor for such purposes as tutoring (see “Employing reading and mathematics tutors,” in this chapter), supporting educational and recreational activities, and counseling, including career counseling.

To be considered employed in a community service job for FWS purposes, an FWS student does not have to provide a “direct” service. The student must provide services that are designed to improve the quality of life for community residents or to solve particular problems related to those residents’ needs. A school may use its discretion to determine what jobs provide service to the community.

See Appendix B at the end of this chapter for a model need assessment form that can be used with community service agencies.

The Department does not intend to indicate that certain activities are more important than others or that only jobs that have direct contact with community members are acceptable. For example, an FWS student working for the Meals on Wheels Program is performing community service when conducting research on where the program is needed, when recruiting or coordinating volunteers to distribute the meals, or when preparing meals for the program despite having no contact with the community residents. Such indirect services are very important in meeting community needs.

*This is the only statutory exception to the requirement that community service be open and accessible to the community.

Definition of community services

34 CFR 675.2(b)

The definition of community services includes the terms “service opportunity” and “youth corps program.” Section 101 of the National and Community Service Act of 1990 defines the terms as follows:

Service opportunity. A program or project, including a service learning program or project, that enables students or out-of-school youth to perform meaningful and constructive service in agencies, institutions, and situations where the application of human talent and dedication may help to meet human, educational, linguistic, and environmental community needs, especially those relating to poverty.

Youth corps program. A program, such as a conservation corps or youth service program, that offers full-time, productive work (to be financed through stipends) with visible community benefits in a natural resource or human service setting and that gives participants a mix of work experience, basic and life skills, education, training, and support services.

There is no restriction as to whether these jobs must be on or off campus. However, a university or college is not considered a community for the purposes of the FWS Program community service requirements. On-campus jobs can meet the definition of community services, provided that the services are designed to improve the quality of life for community residents, or to solve problems related to their needs, and that they meet the regulatory and statutory provisions pertaining to the applicable FWS Program employment limitations and conditions.

Private, for-profit organizations do not qualify as employers for community service under the FWS Program.

In contacting potential community service agencies, schools should place a priority on jobs that will meet the human, educational, environmental, and public safety needs of low-income individuals. The Department has determined that at this time there is no need to burden schools with a formal definition of low-income individual for purposes of providing community service under the FWS Program. There is no statutory requirement that a particular number or proportion of the individuals must be low-income persons. Some examples of jobs that provide services to persons in the community who may not necessarily be low-income individuals are jobs that provide supportive services to individuals with disabilities or that prevent or control crime in the community.

LIST OF AGENCIES, INSTITUTIONS, AND ACTIVITIES INCLUDED IN THE DEFINITION OF COMMUNITY SERVICES

The definition of “community services” includes service in agencies, institutions, and activities that are designated in Section 124(a) of the National and Community Service Act of 1990:

1. Conservation corps programs that focus on:
 - conservation, rehabilitation, and the improvement of wildlife habitat, rangelands, parks, and recreation areas;
 - urban and rural revitalization, historical and site preservation, and reforestation of both urban and rural areas;
 - fish culture, wildlife habitat maintenance and improvement, and other fishery assistance;
 - road and trail maintenance and improvement;
 - erosion, flood, drought, and storm damage assistance and controls;
 - stream, lake, waterfront harbor, and port improvement;
 - wetlands protection and pollution control;

- insect, disease, rodent, and fire prevention and control;
 - the improvement of abandoned railroad beds and rights-of-way;
 - energy conservation projects, renewable resource enhancement, and recovery of biomass;
 - reclamation and improvement of strip-mined land;
 - forestry, nursery, and cultural operations; and
 - making public facilities accessible to individuals with disabilities.
2. Human services corps programs that include service in:
- state, local, and regional government agencies;
 - nursing homes, hospices, senior centers, hospitals, local libraries, parks, recreational facilities, child and adult daycare centers, programs serving individuals with disabilities, and schools;
 - law enforcement agencies and penal and probation systems;
 - private nonprofit organizations that primarily focus on social service such as community action agencies;
 - activities that focus on the rehabilitation or improvement of public facilities, neighborhood improvements, literacy training that benefits educationally disadvantaged individuals, weatherization of and basic repairs to low-income housing including housing occupied by older adults, energy conservation (including solar energy techniques), removal of architectural barriers to access by individuals with disabilities to public facilities, activities that focus on drug and alcohol abuse education, prevention and treatment, and conservation, maintenance, or restoration of natural resources on publicly held lands; and
 - any other nonpartisan civic activities and services that the commission determines to be of a substantial social benefit in meeting unmet human, educational, or environmental needs (particularly needs related to poverty) or in the community where volunteer service is to be performed; or
3. Programs that encompass the focus and services described in both paragraphs (1) and (2).

ESTABLISHING FWS COMMUNITY SERVICE JOBS

Step #1: Identify Potential Jobs and Employers

Identify jobs

- Brainstorm types of jobs that would meet the community service requirement. What jobs do your students currently hold, on campus or off campus, that meet the community service definition?
- Communicate the community service requirements to your school's student employment office.

Identify employers

- Which local community service organizations might be interested in employing your FWS students?
- Contact local nonprofit, government, and community-based organizations to assess their needs and determine what interest exists for employing FWS students.

Talk to colleagues

- Talk to colleagues at other schools to get ideas on implementing, locating, and developing the community service jobs.

Step #2: Research Your Students' Interest in Community Service

- Research your FWS students' degrees or certificate programs, interests, and skills to determine which recipients might find community service jobs appealing.

Step #3: Promote Community Service Jobs

- Devise a plan to market community services under the FWS Program to eligible student employers and the community;
- obtain a listing of potential community service agencies;
- ask to be a presenter at various organizations' meetings;
- engage in networking activities;
- hold and attend job fairs;
- host a financial aid office "open house;" and
- visit local agencies.

What is a Family Literacy Project? How are Family Literacy activities defined?

Research shows that children whose parents work with them on literacy skills during early childhood have a better chance of reading well and independently. The family literacy concept recognizes the family as an institution for education and learning and the role of parents as their children’s first teachers.

A family literacy program integrates four components. It provides:

- literacy or pre-literacy education to children,
- literacy training for parents or other caregivers of children in the program,
- a means of equipping parents or other caregivers with the skills needed to partner with their children in learning, and
- literacy activities between parents or other caregivers and their children.

This definition is consistent with the Even Start and Head Start definitions of family literacy programs.

The Department does not define “family literacy activities” for purposes of the community service expenditure requirement or the waiver of the institutional share requirement. The Department gives schools reasonable flexibility to determine the job description and duties for an FWS student performing family literacy activities.

Family literacy activities are not limited to just tutoring positions. For example, family literacy activities may include training tutors, performing administrative tasks such as coordinating the tutors, or working as an instructional aide who prepares the materials for the project. However, it would not be reasonable to include janitorial or building repair jobs as family literacy activities.

WORK ON CAMPUS

A student may be employed on campus at any type of postsecondary institution, including at a proprietary school. A school, other than a proprietary school, may employ a student to work for the school itself, **including** certain services for which the school may contract, such as food service, cleaning, maintenance, and security. Work for the school’s contractors is acceptable as long as the contract specifies the number of students to be employed and specifies that the school selects the students and determines their pay rates. A proprietary school also may employ a student to work for the school itself with certain restrictions (discussed below under “Work for Proprietary School”).

At any type of postsecondary institution, including proprietary schools, an FWS student may be assigned to assist a professor if the student is doing work the school would normally support under its

Family literacy project definition

Dear Colleague Letter CB-98-6, dated May 1998

Reading tutor/family literacy project

34 CFR 675.18(g)

On-campus employment

34 CFR 675.21

own employment program. Having a student serve as a research assistant to a professor is appropriate, as long as the work is in line with the professor's official duties and is considered work for the school itself.

EMPLOYMENT IN A FOREIGN COUNTRY

Normally, employment in a foreign country is not permissible under the law. However, a school with an additional location in a foreign country may employ students under FWS if the branch has its own facilities, administrative staff, and faculty. Students may also be employed by a U.S. government facility such as an embassy or a military base. A student may not be employed for a nonprofit organization in a foreign country.

WORK FOR PROPRIETARY SCHOOL

A proprietary school may employ a student to work for the school itself but only in jobs that meet certain criteria:

1. If the jobs are in community service, they may be either on or off campus. Students employed by a proprietary school and performing community service do not have to furnish student services that are directly related to their education.
2. If the jobs are **not** in community service, they must be on campus and must:
 - provide student services that are directly related to the FWS student's training or education;
 - not involve soliciting potential students to enroll at the proprietary school; and
 - to the maximum extent possible, complement and reinforce the FWS student's educational program or vocational goals.

Student Services

At a proprietary school, FWS students may not work in non-community service jobs that are not student services. In general, jobs that primarily benefit the proprietary school are not student services. For example, jobs in facility maintenance or cleaning are never student services. See the sidebar for a list of examples of jobs that do not provide student services. Again, this list is not exhaustive. Jobs in the admissions or recruitment area of a school are not acceptable student services because such jobs are considered to involve soliciting potential students to enroll at the school.

The non-community service job must provide student services that are directly related to the FWS student's training or education. This does not mean that the FWS student must be enrolled in an academic program for that field. Instead, it means that the FWS student must be receiving work experiences that are directly applicable to the skills

Proprietary school employment

34 CFR 675.21(b)

Student services definition cite

34 CFR 675.2(b)

needed for his or her career path. For example, an FWS student enrolled in an air-conditioning repair program wants to work in the school's library. Although the student is not pursuing a career as a librarian, the student would still be able to work in the library. The job is directly related to his or her training because he or she is learning customer service and basic office functions that are applicable to work in an air-conditioning repair shop or dealership. Similarly, a job in another student service office such as financial aid, registrar, and job placement would also be considered directly related to the FWS student's training.

Student services are services that are offered to students. Students are persons enrolled or accepted for enrollment at the school. An FWS student who provides services only to the school's former students is not providing student services because the services are not offered to currently enrolled students. However, an FWS student who provides services to both current students and former students *is* providing student services, because the services *are* offered to currently enrolled students. For example, an FWS student provides job placement assistance to current students and alumni of the school. The FWS student is considered to be providing student services because his or her services are offered to current students, as well as alumni.

Student services do not have to be direct services or involve personal interaction with other students. Services are considered student services if the services provide a benefit either directly or indirectly to students. For example, an FWS student may work in assisting an instructor in the lab or in other work related to the instructor's official academic duties at the school. See the sidebar for an expanded list of examples of jobs that provide student services. The list is not exhaustive. The fact that a job has some operational functions does not preclude it from being an acceptable FWS job as long as it furnishes student services.

Student services may include:

- jobs in financial aid
- jobs in a library
- peer guidance counseling
- job placement
- assisting an instructor with curriculum-related activities (e.g., teaching assistant)
- security
- social and health services
- tutoring

Student services never include:

- facility maintenance
- cleaning
- purchasing
- public relations

WORK OFF CAMPUS

Work Off Campus for Nonprofit or Government Agency

If a student is employed off campus by a federal, state, or local public agency or by a private nonprofit organization, providing jobs related to the student's academic or vocational goals is encouraged, but not required. However, the work performed **must be in the public interest**. Work in the public interest is defined as work performed for the welfare of the nation or community, rather than work performed for a particular interest or group.

Work is not "in the public interest" if:

- it primarily benefits the members of an organization that has membership limits, such as a credit union, a fraternal or religious order, or a cooperative;

- it involves any partisan or nonpartisan political activity or is associated with a faction in an election for public or party office;
- it is for an elected official unless the official is responsible for the **regular** administration of federal, state, or local government;
- it is work as a political aide for any elected official;
- it takes into account a student's political support or party affiliation in hiring him or her; or
- it involves lobbying on the federal, state, or local level.

A private nonprofit organization is one in which no part of the net earnings of the agency benefits any private shareholder or individual. An organization must be incorporated as nonprofit under federal or state law. A school classified as a tax-exempt organization by either the federal or state Internal Revenue Service meets this requirement. Examples of private nonprofit organizations generally include hospitals, daycare centers, halfway houses, crisis centers, and summer camps.

Nonprofit agencies do not qualify automatically as community service employers for purposes of the FWS Program because the work performed must meet the definition of community services in the regulations. A list of programs or activities that are recognized as appropriate work in community services under the FWS Program is included at the end of this section. In addition, work off campus for a nonprofit agency must be in the public interest.

However, in deciding whether work is in the public interest, schools must consider the nature of the work as well as that of the organization. For example, a private nonprofit civic club may employ a student if the student's work is for the club's community drive to aid handicapped children. If the student's work is confined to the internal interests of the club, such as a campaign for membership, the work would benefit a particular group and would not be in the public interest. As another example, a student may work for a private nonprofit membership organization, such as a golf club or swimming pool, if the general public may use the organization's facilities on the same basis as its members. If only members may use the facilities, FWS employment is not in the public interest.

Political activity, whether partisan or nonpartisan, does not qualify as work in the public interest. For example, a student is not considered to be working in the public interest if working at voting polls—even if he or she only checks off the names of those who came to vote and does not pass out flyers supporting a particular candidate. Also, a student is not considered to be working in the public interest if working to support an independent candidate. Another example of nonpartisan political activity is work for a city political debate.

Working for an elected official as a political aide also does not qualify as work in the public interest. For example, a student could not represent a member of Congress on a committee. However, a

student could be assigned to the staff of a standing committee of a legislative body or could work on a special committee, as long as the student would be selected on a nonpartisan basis and the work performed would be nonpartisan.

Under certain circumstances, work for an elected official responsible for the **regular administration** of federal, state, or local government may be considered to be in the public interest. “Regular administration” means the official is directly responsible for administering a particular function. Such a person would not create, abolish, or fund any programs, but would run them. Working for a sheriff would be acceptable, as would working for an elected judge (because he or she has direct responsibility for the judicial system). As stated above, any **political** activity would not be acceptable—raising funds for the official’s reelection, for example. An FWS position that involves lobbying at the federal, state, or local level is not work in the public interest. FWS students are prohibited from working for the Department of Education due to the potential appearance of conflict of interest.

Work Off Campus for Private For-Profit Companies

Schools also may enter into agreements with private for-profit companies to provide off-campus jobs for students; however, these jobs must be academically relevant, to the maximum extent practicable, to the student’s program of study. (A student studying for a business administration degree could work in a bank handling customer transactions, for example.) Private for-profit organizations do not qualify as employers for community service under the FWS Program.

Private for-profit organizations may not hire FWS employees to replace regular employees.

Chapter 1 describes further limitations on the use of FWS funds to pay students employed at private for-profit organizations.

OFF-CAMPUS AGREEMENTS

If your school would like an off-campus organization to employ FWS students, your school must enter into a written agreement—a contract—with the off-campus organization. A written agreement is required with the off-campus organization even if your school is considered the employer of the FWS student. The school must make sure the off-campus organization is a reliable agency with professional direction and staff and that the work to be performed is consistent with the purpose of the FWS Program. (See Appendix A at the end of this chapter for a model off-campus agreement. The sample need not be followed exactly but serves as a guide.)

The agreement should specify what share of student compensation and other costs will be paid by the off-campus organization. For-profit organizations **must** pay the nonfederal share of student earnings. Any off-campus organization **may** pay:

Work for Private for-profits

34 CFR 675.23

Off-campus agreements

34 CFR 675.20(b)

- the nonfederal share of student earnings;
- required employer costs, such as the employer's share of Social Security or workers' compensation; and
- the school's administrative costs not already paid from its administrative cost allowance (ACA).

The agreement sets forth the FWS work conditions and establishes whether the school or the off-campus organization will be the employer for such purposes as hiring, firing, and paying the student. The employer is generally considered to be the entity that will control and direct the work of the FWS students—supervising them at the work site, regulating their hours of work, and generally ensuring that they perform their duties properly. However, the school is ultimately responsible for making sure that payment for work performed is properly documented and that each student's work is properly supervised.

The agreement should define whether the off-campus organization will assume payroll responsibility and bill the school for the federal share of the students' wages, or whether the school will pay the students and bill the off-campus organization for its contribution. The school must make up any payments the off-campus organization does not make. It is the school's responsibility to ensure that FWS payments are properly documented, even if the off-campus organization does the payroll. To fulfill that responsibility, the school must keep copies of time sheets and payroll vouchers and keep evidence that the students were actually paid (usually copies of the canceled checks or receipts signed by the students). Payroll records are discussed in detail later in this chapter.

The school is also responsible for ensuring that each student's work is properly supervised. School officials should periodically visit each off-campus organization with which they have an off-campus agreement to determine whether students are doing appropriate work and whether the terms of the agreement are being fulfilled.

The agreement must state whether the school or off-campus organization is liable for any on-the-job injuries to the student. The employer is not automatically liable. Federal FWS funds cannot be used to pay an injured student's hospital expenses.

In determining whether to continue an off-campus agreement, many schools have found it helpful to require that students submit a formal evaluation of their work experience at the end of the assignment. The school may also use the evaluation to help off-campus agencies improve their work programs.

Staff members of the off-campus organization must become acquainted with a school's financial aid and student employment programs to better understand the school's educational objectives. The school must supply the off-campus organization with this information.

EMPLOYING FWS STUDENTS AS TUTORS

Many schools employ FWS students as reading or mathematics tutors. This type of employment allows students to help children develop reading or mathematics skills necessary for their education and future employment.

There is no limit on the amount of funds a school can spend from its FWS allocation to pay FWS reading or mathematics tutors.

When employing students as reading tutors, schools must, to the maximum extent possible, give placement priority to schools that are participating in a reading reform project that is (1) designed to train teachers how to teach reading on the basis of scientific research on reading; and (2) is funded under the Elementary and Secondary Education Act of 1965. The school must further ensure that reading tutors receive training from the employing school in the instructional practices used by the school.

For more information, see Frequently Asked Questions (FAQs) on the next page.

Reading reform cite

34 CFR 675.18(g)(3)

Reading and math tutors

Dear Colleague Letter CB-97-12, dated July 1999

Dear Partner Letter CB-99-12, dated July 1997

EMPLOYING FWS STUDENT AS TUTORS: FAQs

What are the requirements for a “reading tutor” or “math tutor?”

The Department does not define “tutor” for the FWS Program. This gives schools flexibility in determining the job description and duties of a tutor. For example, a reading tutor could be an FWS student who reads to a group of preschoolers in a public library.

An FWS student employed as a tutor does not have to meet certain statutory (for reading tutors) or regulatory (for reading and mathematics tutors) educational standards or qualifications for the school to receive an institutional-share waiver. However, an FWS reading or math tutor must have adequate reading or math skills, as appropriate, and the Department strongly recommends that the tutors be well trained before they tutor.

The Department does not require background checks of FWS tutors. However, some state and local jurisdictions may require such checks. The requirements will vary according to the agency or organization involved.

What is a preschool age child?

A preschool age child is a child from infancy to the age at which his or her state provides elementary education.

What is the definition of an elementary school?

The definition of an elementary school varies from state to state. Because the Department does not wish to interfere with a state’s determination of what constitutes children who are in elementary school, we will not provide guidance on the maximum grade level for elementary school for purposes of the institutional-share waiver for tutoring.

What setting must the tutoring take place in?

Tutoring may be one-on-one or in a group. Tutoring sessions can take place in a school setting or another location, such as a public library or community center. Tutoring sessions can be held during regular school hours, after school, on weekends, or in the summer.

Can FWS students tutor children in parochial schools?

An FWS student can tutor a child in a parochial school under certain conditions:

- The parochial school must be classified as a private, nonprofit school by the Internal Revenue Service or a state taxing body;
- The work may not involve constructing, operating, or maintaining any part of a building used for religious worship or sectarian instruction; and
- The FWS tutor may not use religious material to tutor the child.

EMPLOYING FWS STUDENT AS TUTORS: FAQs (cont'd)

Should tutors be trained?

The Department strongly recommends that the tutors be well trained before they tutor. When an FWS student receives training from a specialist or expert for sufficient duration and intensity, he or she is more likely to be successful with the child he or she is tutoring. Tutor training should emphasize the importance of the tutor's communication with the regular classroom teacher to maximize effectiveness. The amount and type of training will often vary, depending on the needs of the child who is being tutored and the subject being studied. (See Chapter 1 for information on using the administrative cost allowance to pay for the cost of training tutors.)

Can students be paid while in training?

Under limited circumstances, an FWS tutor can receive FWS wages while he or she is being trained, and these wages can qualify for a waiver of the institutional share. This training period must be only for a reasonable and limited length of time. The Department would not consider a training period of an academic term to be reasonable. The Department would consider a reasonable training period to be one that occurs before the student begins tutoring and that does not exceed approximately 20 hours. A school may not pay an FWS student to take an academic course the school developed to provide classroom training on tutoring children. An FWS student may take such a course as long as he or she is not paid for taking the course (34 CFR 675.18(h)). See Chapter 4 for more information.

Can students be paid during preparation and evaluation activities?

The preparation time and evaluation time worked by an FWS tutor qualify for a 100% federal share as long as the time spent for this purpose is reasonable. For example, the Department would consider attending evaluation and preparation meetings once a week for approximately one hour to be reasonable. The Department wants to give some flexibility because of the value of evaluation and preparation time. However, the goal is to spend funds for FWS students to interact with the children and in family literacy programs, not for other activities.

Will a tutoring job always satisfy the community service requirement?

An FWS tutor job might qualify for a waiver of the institutional share (100% federal share) but not qualify as part of the 7% community service requirement. If, for example, a postsecondary school employs FWS students to tutor young children in its daycare center and the center is not open and accessible to the community, the job would qualify for the waiver, but would not qualify as part of the 7% community service requirement.

EMPLOYING FWS STUDENT AS TUTORS: FAQs (cont'd)

What if the FWS student is training tutors, performing related administrative tasks, or works another FWS job?

The wages of an FWS student who is training tutors or who is performing administrative tasks related to supporting other people who are actually providing the reading or mathematics tutoring do not qualify for a federal share of up to 100%; rather, an institutional share is required.

Remember that it is the FWS reading or mathematics tutor job, not the student working in the job, that qualifies for the institutional-share waiver. Thus, an FWS student who is working another FWS job in addition to the tutor job can be paid with 100% federal funds only for the time he or she is working as a tutor, not for time spent on the other job. If, for example, an FWS student spends only half of his or her time working as a reading tutor (including preparation and evaluation time) and the other half on non-tutoring tasks, the student may be paid 100% federal funds only for half the time and the other half must be paid with a maximum of 75% federal funds and a minimum of 25% nonfederal funds.

How can my school start placing FWS students as tutors?

Your school may construct its own reading tutor program or join existing community programs.

You may use the Job Location and Development (JLD) Program to locate or develop jobs for FWS students as tutors of children. However, you may not use JLD funds exclusively for this purpose because you would be in violation of the JLD statutory requirement to expand off-campus jobs for currently enrolled students who want jobs regardless of their financial need.

JOB LOCATION AND DEVELOPMENT PROGRAM

JLD purpose cite

34 CFR 675.31

The Job Location and Development (JLD) Program is one of the FWS Programs. An institution is allowed to use part of the federal funds it receives under the FWS Program to establish or expand a JLD Program.

The JLD Program locates and develops off-campus job opportunities for students who are currently enrolled in eligible institutions of higher education and who want jobs regardless of financial need. This means that jobs may be located and developed under the JLD Program for FWS and non-FWS eligible students.

Under the JLD Program, your school must locate and develop off-campus jobs that are suitable to the scheduling and other needs of the employed student and must, to the maximum extent practicable, complement and reinforce the educational program or vocational goal of the student.

JLD jobs may be part time or full time, for either a for-profit or nonprofit employer.

The JLD Program encourages students to participate in community service activities. Your school must inform all eligible students of the opportunity to perform community services and must develop and make available information about community service opportunities. The JLD Program uses the same definition of community services that the FWS Program employs. However, the JLD Program does not have a specific minimum community service requirement, as does the FWS Program.

JLD Program Participation

A school that participates in the FWS Program is also eligible to participate in the JLD Program. A school that has an executed Program Participation Agreement (PPA) for the FWS Program may participate in the JLD Program without any prior contact with the Department and without any revision to its PPA. Under the PPA, the school agrees to administer the JLD Program according to the appropriate statutory and regulatory provisions.

If the Department terminates or suspends a school's eligibility to participate in the FWS Program, that action also applies to the school's JLD Program.

Student Eligibility

Any student employed in a job developed under the JLD Program must be currently enrolled at the school placing him or her in a job. A school may place in JLD jobs both students who do not meet FWS student eligibility criteria and those who do meet those criteria. However, using JLD funds to find jobs only for FWS students would not satisfy the program purpose of expanding off-campus jobs for students who want jobs regardless of financial need.

Maximum federal funds for JLD Programs cite

34 CFR 675.32

Use of FWS Allocation for JLD Program

When establishing or expanding a program to locate and develop off-campus jobs, including community service jobs, a school may use up to the lesser of the following two amounts:

- 10% of its FWS allocation and reallocation; or
- \$50,000.

Use of JLD funds cite

34 CFR 675.35(d)(2)

Use of JLD Program Funds

Your school may use federal JLD funds to pay for the cost of establishing and administering the JLD Program. You may not use JLD funds to:

- pay students whose jobs were located and developed through the JLD Program;
- locate and develop jobs at your school or other eligible schools;
- place students upon graduation; and
- displace employees or impair existing service contracts.

A school is expected to generate total student wages exceeding the total amount of the federal funds spent under JLD.

Federal and institutional shares

34 CFR 675.33(b)

34 CFR 675.33(c)

Federal Share Limitation

You may use federal FWS funds to pay up to 80% of the allowable costs (listed below). Your school must provide the remaining 20% of allowable costs either in cash or in services. This requirement, unlike the institutional-share requirement for FWS earnings, cannot be waived.

The institution's 20% share may be either (1) 20% of each allowable cost, or (2) varying percentages of allowable costs, as long as its total expenditures of institutional funds and/or provision of services equals at least 20% of the total allowable costs for the JLD Program.

You must maintain records that indicate the amount and sources of your school's matching share. Procedures and records requirements for JLD are the same as those for all campus-based programs.

Allowable Program Costs

Allowable costs of carrying out the JLD Program include:

- staff salaries (and fringe benefits, if they are the same as those paid to other institutional employees in comparable positions and are not paid to a student employed through the FWS Program);
- travel expenses related to JLD activities;
- printing and mailing costs for brochures about the JLD Program;

Allowable costs cite

34 CFR 675.33(a)

- JLD telephone charges, including installation of a separate line for off-campus employers;
- JLD costs for supplies, equipment, and furniture;
- newspaper or other types of advertising that inform potential employers of the services JLD offers; and
- JLD workshops for students and employers.

Costs that are not allowable are costs related to purchasing, constructing, or altering the facilities that house a JLD project. Indirect administrative costs also are not allowable. One example of an indirect administrative cost is a portion of the salary of someone who is not directly involved in the program, such as the JLD director's supervisor. Other examples of indirect administrative costs are lighting, heating, or custodial costs incurred as part of the normal operations of the facility in which the JLD Program is administered, such as the financial aid or placement offices.

Students as Staff in the JLD Program office

The prohibition against using JLD funds to locate and develop jobs at any school **does not** mean that your school is also prohibited from employing FWS and non-FWS students as staff in the JLD Program office. Your school may employ FWS and non-FWS students as staff in the JLD Program office as long as you do not use JLD funds to locate and develop these jobs. For example, your school could use the FWS Program to employ an FWS student as a staff member in the JLD Program office.

If your school places an FWS student as staff in the JLD Program office, there are some important points to note. The statute and the FWS regulations prohibit the use of any funds allocated under the FWS Program from being used to pay the institutional share of FWS compensation to its students. Hence, your school may not use federal JLD funds to pay the institutional share of FWS wages earned by an FWS student working as staff in the JLD Program office. Instead, you must use your school's funds to pay the institutional share of these wages.

JLD Reporting on the FISAP

If your school participates in the JLD Program during an award year, you must provide information about its JLD activities on the *Fiscal Operations Report and Application to Participate* (FISAP). You must report the total JLD expenditures, federal expenditures for JLD, institutional expenditures for JLD, number of students for whom jobs were located or developed, and total earnings for those students.

Your school **may not** include student staff jobs in the JLD Office on the FISAP in the JLD section for reporting the count of students and the earnings of students for whom jobs were located or developed through the JLD Program. However, if your school used its own funds to pay the institutional share of wages for student staff jobs, you may count those funds in meeting the minimum 20% institutional-share requirement for the JLD Program.

Multi-Institutional JLD Programs

Your school may enter a written agreement with other eligible schools for those schools to establish and to operate a JLD Program for its students. The agreement must designate the administrator of the program and must specify the terms, conditions, and performance standards of the program. Each school that is part of the agreement retains responsibility for properly disbursing and accounting for the federal funds it contributes under the agreement.

For example, each school must show that its own students have earned wages that exceed the amount of federal funds the school contributed to locate and develop those jobs. This fiscal information must be reported on each school's FISAP.

If your school uses federal funds to contract with another school, suitable performance standards must be part of that contract. Performance standards should reflect each school's philosophy, policies, and goals for the JLD Program. You may not develop performance standards, conditions, or terms that are inconsistent with the statute or regulations. In all cases, the performance standards should be clearly understandable, because they will be included in the formal written agreement that each party must observe as part of its responsibility within the particular arrangement.

WORK-COLLEGES PROGRAM

The Higher Education Amendments of 1992 authorized the Work-Colleges Program. Schools that satisfy the definition of "work-college" may apply to the U.S. Department of Education to participate in the program. A work-college may transfer funds from its allocation for the FWS Program and/or Federal Perkins Loan Program to fund the school's Work-Colleges Program.

The Work-Colleges Program recognizes, encourages, and promotes the use of comprehensive work-learning programs as a valuable educational approach when used as an integral part of the school's educational program and as a part of a financial plan that decreases reliance on grants and loans. The program also encourages students to participate in community service activities.

The term "work-college" is defined as an eligible institution that:

- is a public or private nonprofit school with a commitment to community service;
- has operated a **comprehensive work-learning program** for at least two years;
- provides students participating in the comprehensive work-learning program with the opportunity to contribute to their education and to the welfare of the community as a whole;

Multi-institutional programs cite

34 CFR 675.34

Application to participate in the Work-Colleges Program

DCL CB-07-02

Purpose of Work-Colleges Program cite

34 CFR 675.43

Definition of Work-College cite

34 CFR 675.41

- requires all students who reside on campus to participate in a comprehensive work-learning program; and
- requires providing services as an integral part of the school's educational program and as part of the school's educational philosophy.

A “comprehensive student work-learning program” is defined as a student work/service program that:

- is an integral and stated part of the institution's educational philosophy and program;
- requires participation of all resident students for enrollment, participation, and graduation;
- includes learning objectives, evaluation, and a record of work performance as part of the student's college record;
- provides programmatic leadership by college personnel at levels comparable to traditional academic programs;
- recognizes the educational role of work-learning supervisors; and
- includes consequences for nonperformance or failure in the work-learning program similar to the consequences for failure in the regular academic program.

Comprehensive student work-learning program definition cites

HEA Section 448
34 CFR 675.41(b)

Allowable Costs

The Higher Education Amendments of 1998 provided for additional flexibility for work-colleges in the use of funds. Allocated program funds may be used to:

- support the educational costs of students through self-help provided under the work-learning program within the limits of their demonstrated financial need;
- promote the work-learning-service experience as a tool of education and community service;
- carry out FWS and JLD program activities;
- administer, develop, and assess comprehensive work-learning programs;
- coordinate and carry out joint projects and activities to promote work-service learning; and
- conduct a comprehensive longitudinal study of academic progress and academic and career outcomes.

Additional requirements for the Work-Colleges Program are found in 34 CFR 675, Subpart C.

Volume 6 Appendices

Appendix A: Model Off-Campus
Agreement

Appendix B: Need Assessment for
FWS Community Service Program

Model Off-Campus Agreement

APPENDIX

a

The paragraphs below are suggested as models for the development of a written agreement between a school and a Federal, State, or local public agency or a private nonprofit organization that employs students who are attending that school and who are participating in the Federal Work-Study (FWS) Program. Institutions and agencies or organizations may devise additional or substitute paragraphs as long as they are not inconsistent with the statute or regulations.

This agreement is entered into between _____, hereinafter known as the “Institution,” and _____, hereinafter known as the “Organization,” a (Federal, State, or local public agency), (private nonprofit organization), (strike one), for the purpose of providing work to students eligible for the Federal Work-Study Program [FWS].

Schedules to be attached to this agreement from time to time must be signed by an authorized official of the institution and the organization and must set forth—

- 1 brief descriptions of the work to be performed by students under this agreement;
- 2 the total number of students to be employed;
- 3 the hourly rates of pay, and
- 4 the average number of hours per week each student will be used.

These schedules will also state the total length of time the project is expected to run, the total percent, if any, of student compensation that the organization will pay to the institution, and the total percent, if any, of the cost of employer’s payroll contribution to be borne by the organization. The institution will inform the organization of the maximum number of hours per week a student may work.

Students will be made available to the organization by the institution to perform specific work assignments. Students may be removed from work on a particular assignment or from the organization by the institution, either on its own initiative or at the request of the organization. The organization agrees that no student will be denied work or subjected to different treatment under this agreement on the grounds of race, color, national origin, or sex. It further agrees that it will comply with the provisions of the Civil Rights Act of 1964 (Pub. L. 88-352; 78 Stat. 252) and Title IX of the Education Amendments of 1972 (Pub. L. 92-318) and the Regulations of the Department of Education which implement those Acts. Two examples of Off-Campus Agreements are included to provide additional guidance.

(Where appropriate any of the following three paragraphs or other provisions may be included.)

- 1 Transportation for students to and from their work assignments will be provided by the organization at its own expense and in a manner acceptable to the institution.
- 2 Transportation for students to and from their work assignments will be provided by the institution at its own expense.
- 3 Transportation for students to and from their work assignments will not be provided by either the institution or the organization.

(Whether the institution or the organization will be considered the employer of the students covered under the agreement depends upon the specific arrangement as to the type of supervision exercised by the organization. It is advisable to include some provision to indicate the intent of the parties as to who is considered the employer. As appropriate, one of the following two paragraphs may be included.¹⁾)

- 1 The institution is considered the employer for purposes of this agreement. It has the ultimate right to control and direct the services of the students for the organization. It also has the responsibility to determine whether the students meet the eligibility requirements for employment under the Federal Work-Study Program, to assign students to work for the organization, and to determine that the students do perform their work in fact. The organization's right is limited to direction of the details and means by which the result is to be accomplished.
- 2 The organization is considered the employer for purposes of this agreement. It has the right to control and direct the services of the students, not only as to the result to be accomplished, but also as to the means by which the result is to be accomplished. The institution is limited to determining whether the students meet the eligibility requirements for employment under the Federal Work-Study Program, to assigning students to work for the organization, and to determining that the students do perform their work in fact.

(Wording of the following nature may be included, as appropriate, to locate responsibility for payroll disbursements and payment of employers' payroll contributions.)

Compensation of students for work performed on a project under this agreement will be disbursed—and all payments due as an employer's contribution under State or local workers' compensation laws, under Federal or State social security laws, or under other applicable laws, will be made—by the (organization) (institution) (strike one).

(Where appropriate any of the following paragraphs may be included.)

- 1 At times agreed upon in writing, the organization will pay to the institution an amount calculated to cover the organization's share of the compensation of students employed under this agreement.
- 2 In addition to the payment specified in paragraph (1) above, at times agreed upon in writing, the organization will pay, by way of reimbursement to the institution, or in advance, an amount equal to any and all payments required to be made by the institution under State or local workers' compensation laws, or under Federal or State social security laws, or under any other applicable laws, on account of students participating in projects under this agreement.
- 3 At times agreed upon in writing, the institution will pay to the organization an amount calculated to cover the Federal share of the compensation of students employed under this agreement and paid by the organization. Under this arrangement the organization will furnish to the institution for each payroll period the following records for review and retention:
 - a Time reports indicating the total hours worked each week in clock time sequence and containing the supervisor's certification as to the accuracy of the hours reported;

1. Although the following paragraphs attempt to fix the identity of the employer, they will not necessarily be determinative if the actual facts indicate otherwise. Additional wording that specifies the employer's responsibility in case of injury on the job may also be advisable, since federal funds are not available to pay for hospital expenses or claims in case of injury on the job. In this connection it may be of interest that one or more insurance firms in at least one state have in the past been willing to write a workers' compensation insurance policy which covers a student's injury on the job, regardless of whether it is the institution or the organization that is ultimately determined to have been the student's employer when he or she was injured.

- b A payroll form identifying the period of work, the name of each student, each student's hourly wage rate, the number of hours each student worked, each student's gross pay, all deductions and net earnings, and the total Federal share applicable to each payroll;² and
- c Documentary evidence that students received payment for their work, such as photographic copies of canceled checks.

2. These forms, when accepted, must be countersigned by the institution as to hours worked as well as to the accuracy of the total Federal share which is to be reimbursed to the organization or agency.

Need Assessment for FWS Community Service Program



Agency Name: _____

Date: _____

Contact Name: _____

Phone: _____

Address: _____

1. _____ Non-Profit _____ For Profit

2. Agency Mission Statement and Description of Clients Served:

3. Agency Funding Sources (check all that apply):

_____ Federal

_____ State

_____ County/City

_____ United Way

_____ Other (explain)

4. Agency's Fiscal Year: _____ to _____

5. Agency's Staffing (number of positions):

____ Full-time paid staff

____ Part-time paid staff

____ Student employees

____ Volunteers

6. How many student jobs may be available at your agency during:

Summer 2006 _____

2006-2007 Academic Year _____

Summer 2007 _____

7. For each student job expected to be available as indicated in #6, provide the following information, attaching a separate sheet for each position.

Job Title

Rate or Range of Pay per Hour

Begin and End Dates

Work Schedule-Days and Hours

Total Hours/Week

Description of Duties

Qualifications and Experience (indicate preferred or required)

8. Has your agency hired students through the Federal Work-Study Program in the past?

____ YES ____ NO

If YES:

Number of students: _____

Dates employed: _____

Average length employed: _____

9. Additional Comments:

