

Schools must pay FWS students in accordance with the provisions of the Federal Work Study Program. For information about determining the federal share and institutional share of Federal Work-Study (FWS) payments to students, refer to chapter 1.

ESTABLISHING WAGE RATES

Undergraduate students are paid FWS wages on an hourly basis only. Graduate students may be paid by the hour or may be paid a salary. Regardless of who employs the student, the **school** is responsible for making sure the student is paid for work performed.

A school should determine the number of hours a student is allowed to work based on the student's financial need and on how the combination of work and study hours will affect the student's health and academic progress. There are no statutory or regulatory limits on the number of hours per week or per payment period a student may work, provided no overaward occurs. (See *Volume 4 - Campus-Based Programs Common Provisions.*)

A student must be paid at least the federal minimum wage in effect at the time of employment (\$5.15 as of September, 1997), but there is no maximum wage rate. As noted in chapter 1, it is not permissible to pay a lower "subminimum" or "training" wage to students in FWS jobs. A school may not count fringe benefits as part of the wage rate and may not pay a student commissions or fees. In determining an appropriate rate, the school must consider the following:

- the skills needed to perform the job;
- how much persons with those skills are paid in the local area for doing the same type of job;
- rates the school would normally pay similar non-FWS employees; and
- any applicable federal, state, or local laws that require a specific wage rate.

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

Wage Rate Cite
34 CFR 675.24

School Responsibility Cite
34 CFR 675.16(a)(10)

Minimum Wage Cite
34 CFR 675.24(b)
Dear Colleague Letter CB-96-23, dated November 1996

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.

PAYMENT FOR TRAVEL AND/OR TRAINING

Training and Travel Cite
34 CFR 675.18(h)

A student may be paid for a reasonable amount of time for **training** for any FWS employment and **travel** that is directly related to a community service job.

Training: Since every job consists of some type of training, whether formal or informal, FWS students may be paid wages during a training period that is directly related to the FWS job and is conducted for a reasonable length of time. This policy applies regardless of the type of FWS job the student worked.

A reasonable training period is one that occurs immediately prior to the student beginning regular duties of the FWS employment and does not exceed approximately 20 hours. Students may also be compensated for a reasonable amount of time to perform ongoing training activities (i.e., preparation and evaluation time) necessary to accomplish their jobs.

See chapter 5 for acceptable training periods for reading tutorships.

Travel: Students may be paid for a reasonable amount of time spent for travel that is directly related to employment in community service activities. Time spent for travel should be reported on the student's FWS time record in the same way hours actually worked are currently reported. It is recommended that schools provide their students with a time record that separates time spent in travel from actual hours worked.

DISBURSEMENT

A school must pay a student at least once a month. The school may use any type of payroll period it chooses, provided students are paid at least monthly. It is a good idea to have the FWS payroll correspond to other similar payrolls at the school. Unless you are paying the student with noncash contributions (see below), you must pay the nonfederal share to the student at the same time you pay the federal share. (See chapter 1 for a discussion of federal and institutional shares of FWS compensation.)

Your school can pay a student by check or similar method¹ that requires the student's endorsement. Upon the student's request, you can also make payments directly to the student's bank account or credit the student's school account for tuition and fees, room and board (**if contracted by the student through the school**), and other institutionally provided goods and services.

The school also has the option of paying its share of a student's FWS wages in the form of a noncash contribution of services or equipment—for example, tuition and fees, room and board, and books and supplies. If a school has assessed a charge against a student who is employed under FWS (such as a parking fine or library fine), the school may not include forgiveness of such a charge as part of the school's noncash contribution for the student.

If the school pays a student its share of FWS wages for an award period in the form of a **noncash contribution** (tuition, fees, services, or equipment), it must do so before the student's final payroll period of the award period. If the school pays its share for a forthcoming academic period in the form of **prepaid tuition**, fees, services, or equipment, it must give the student—again, before the end of the student's final payroll period—a statement of the amount of the noncash contribution earned.

When a payment period is in two award years (that is, when it begins before and ends after July 1), the student is ordinarily paid for compensation earned through June 30 with funds allocated for the first award year and for compensation earned beginning July 1 with funds allocated for the following award year. (See chapter 1 for a discussion of carrying back funds for summer employment.)

Paying students from the correct award year is important; schools have been held liable when students were paid from the wrong FWS authorization. For audit and program review purposes, the school must have documentation (e.g. canceled checks, bank statements) in its files to show that students received payment in the amount charged to the FWS Program.

FWS wages are earned when the student performs the work. A school may pay the student after the last day of attendance for FWS wages earned while he or she was still in school. However, when a student has withdrawn from school, FWS funds may not be used to pay for work performed after the student withdrew. A correspondence student must submit the first completed lesson before receiving payment under the FWS Program.

A school may not obtain a student's power of attorney to authorize any disbursement of funds unless the U.S. Department of Education has granted prior approval. The Department would not grant such a power of attorney (to allow a school to act on behalf of a student) unless the school could demonstrate that there is no one else (such as a relative, landlord, or member of the clergy, for example) who could act on behalf of the student.

Payment to Students Cite *34 CFR 675.16*

Payment Period in Two Award Years Example

John's payment period extends from June 15, 2001 to July 15, 2002. Caravello College pays John with its 2000-2001 allocation through June 30 (the end of the 2000-2001 award year) and with its 2001-2002 allocation beginning July 1, 2001 (the beginning of the 2001-2002 award year).

1. For example, the school may pay the student with a draft or purchase order or electronic transfer to the student's bank account.

Payment to Accounts Cite
34 CFR 675.16

Student Authorization Cite
34 CFR 675.16(a)(4)(i)

PAYMENT DIRECTLY TO STUDENT ACCOUNTS

A school, upon obtaining a written authorization from a student, may make FWS payments directly to the student's account at a financial institution or the school to satisfy current award year charges for:

- tuition and fees;
- room and board, if contracted through the school; and
- other school-provided educationally related goods and services.

In addition, a school may credit a student's account to satisfy minor prior award year charges if these charges are less than \$100, or if the payment of these charges does not and will not prevent the student from paying current educational costs.

In order to make FWS payments directly to the student's account at the school or to initiate an electronic funds transfer (EFT) to the student's bank account, the school must obtain written authorization from the student. The school must:

- not include the authorization as part of a list or in combination with other types of authorizations signed by the student;
- not require or coerce the student to provide the authorization;
- allow the student to cancel or modify the authorization at any time; and
- clearly explain how it will use the authorization.

The authorization to transfer funds to a student's account at the school must be separate from the authorization to have funds transferred to his or her bank account. For purposes of the authorization to transfer FWS funds to a student's bank account, the bank forms required to initiate a direct EFT deposit can be considered the authorization.

If the total amount of FWS funds credited exceeds the amount of tuition and fees, contracted room and board, and charges for other school-provided educationally related goods and services, the student must be paid the balance as soon as possible, but no later than 14 days after the balance occurred on the student's account.

HOLDING EXCESS FWS FUNDS ON BEHALF OF STUDENTS

With written authorization from a student, a school may hold, on behalf of the student, FWS funds that would otherwise be paid directly

Excess Funds Cite
34 CFR 675.16(a)(8)

to the student (unless this is prohibited by the terms of a reimbursement payment method) The restrictions for such an authorization are the same as those that apply to written authorizations for payments to student accounts (see above). If your school holds excess FWS funds on behalf of students, it must:

- identify the amount of FWS funds held in excess for each student in a designated subsidiary ledger account;
- maintain cash in its bank account that is always at a minimum equal to the FWS funds being held for students; and
- pay any remaining balance by the end of the school's final FWS payroll period for the award period.

GARNISHMENT OF WAGES

A student's FWS wages may be garnished only to pay any costs of attendance that the student owes the school or that will become due and payable during the period of the award. Schools must oppose any garnishment order they receive for any other type of debt; paying FWS funds in such cases would not be in compliance with the Student Financial Assistance Programs requirement that funds be used solely for educational purposes. As schools may not necessarily be the employers in an off-campus employment arrangement, they must adopt effective procedures to notify off-campus employers that garnishment of FWS wages for any debt other than a cost of attendance is not permissible.

