
Selecting Recipients & Assigning Jobs

GENERAL STUDENT ELIGIBILITY REQUIREMENTS

To be eligible for a Federal Work-Study (FWS) job, a student must meet all eligibility requirements listed in *Volume 1 - Student Eligibility*. In addition, a student must have financial need; that is, his or her cost of attendance (COA) must be greater than his or her Expected Family Contribution (EFC). A financial aid administrator may not award FWS employment to a student if that award, when combined with all other resources, would exceed the student's need. (See chapter 3.) However, unlike the other two campus-based programs, the FWS Program does not require that priority be given to students who have **exceptional** financial need. In choosing students for FWS employment, schools must follow the selection procedures discussed in *Volume 4 - Campus-Based Programs Common Provisions*.

Both undergraduate and graduate students are eligible to apply for employment under the FWS Program. A student who has earned a bachelor's or first professional degree is also eligible to receive an FWS job to pursue an **additional undergraduate** degree.

If a school's FWS total allocation is partly based on the financial need of less-than-full-time students and independent students, the school is required to offer a reasonable proportion of its FWS allocation to those students. This change is a result of the Higher Education Amendments of 1998. Previously, a school was required offer at least 5 percent of its total allocation to these students if the allocation was based on the need of these students and if the financial need of these exceeded 5 percent of the total financial need of all students at the school.

A school may award an FWS job to a student who is enrolled or accepted for enrollment on at least a half-time basis in an eligible teacher certification program. Criteria for an eligible teacher certification program are discussed in volume 4.

ASSIGNING JOBS

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.

Previously a school was also required (to the extent funds were available) to make available "equivalent employment" (that is, similar non-FWS jobs offered or arranged by the school) to all students at the school who wanted to work. The Higher Education Amendments of 1998 removed this requirement effective October 1, 1998.

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.

FWS jobs may be on campus or off campus. See chapter 5 for more information. Off-campus jobs must be in the public interest if the work is for a federal, state, or local public agency or for a private nonprofit organization. However, a school may use part of its FWS allocation to provide jobs in private for-profit organizations. Effective October 1, 1998, FWS jobs in the private, for-profit sector should have academic relevance only to the maximum extent possible.

FWS employment may be used for community service programs and for programs providing supportive services to students with disabilities. (See chapter 5.)

JOB DESCRIPTIONS

Each FWS position should have a job description that includes the following:

- the name and address of the student's employer (department, public agency, nonprofit organization),
- the purpose of the student's job,
- the student's duties and responsibilities,
- the job qualifications,
- the job's wage rate or range,
- the length of the student's employment (beginning and ending dates), and
- the name of the student's supervisor.

The job description has several purposes:

- It clearly defines whether the job qualifies under the FWS Program.
- It provides the information needed to explain the position to a student and to help him or her select the type of employment most closely related to his or her educational or career objectives.
- It helps the financial aid administrator, the student, and the supervisor determine the number of hours of work required at the specified wage rate to meet a student's financial need.
- It establishes a written record, for both student and employer, of the job's duties and responsibilities so that there will be no misunderstanding.

If a student is employed with an agency or organization that provides community services, the school should, as with any other FWS position, have a job description that includes the duties and the responsibilities. For example, a community food bank appears to be the type of organization that has jobs that satisfy the definition of community services; however, the institution must review the individual job descriptions and determine if certain positions at the community food bank qualify. If the FWS recipient will work as a clerk in the food bank, the duties in the job description for the position of clerk would have to meet the definition of community services in the FWS regulations before the job could be considered an FWS community service job. (See chapter 5.) The duties must include providing indirect or direct services designed to improve the quality of life for community residents, particularly low-income individuals, or designed to solve particular problems related to their needs. It is important to note that work performed off campus for a nonprofit agency must also be in the public interest. (See chapter 5.)

EMPLOYMENT CONDITIONS AND LIMITATIONS

The provisions discussed below apply to all work under FWS, whether on or off campus.

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. The Small Business Job Protection Act of 1996 established a subminimum, or training, wage that is lower than the minimum wage. However, it is not permissible to pay the subminimum wage rate to students in FWS jobs.

Employment Conditions and
Limitations Prohibited Cite
34 CFR 675.20(c)

Minimum Wage
Dear Colleague Letter CB-96-23

Displacing Regular Workers Cite
34 CFR 675.20(c)(2)

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.

Employment In Building Used For Religious Purposes Cite
34 CFR 675.20(c)(2)(iv)

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.

Fees or Commissions Prohibited Cite
34 CFR 675.27(b)

Neither a school nor an outside employer that has an agreement with the school to hire FWS students may solicit, accept, or permit soliciting 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.

Internships, Practica, or Assistantships Cite
HEA Section 443 (b)(1); 34 CFR 675.20(d)

FWS employment may include internships, practica, or assistantships (e.g., research or teaching assistantships). The Higher Education Amendments of 1998 clarify and put into law what has been a long-standing policy at the Department. Students may receive academic credit for work performed under the FWS program. However, certain restrictions apply to this type of employments:

Example of an Internship That Normally Doesn't Qualify as an FWS Job

Bernadette is employed as a student teacher at Stubbs College. Because the school doesn't normally pay persons in such positions, the internship doesn't qualify as an FWS job.

i) If a school normally pays or has paid students in an internship, practicum, or assistance, that internship, practicum, or assistantship qualifies as an FWS job. They do not qualify for FWS employment unless the school normally pays the student for the same work even if that student is not FWS eligible. (The example cited in the margin is an example of an internship that normally does not qualify as an FWS job because student teachers are not usually compensated for that activity.)

iii) The Higher Education Amendments of 1998 allow a student a student to earn FWS funds while earning academic credit because these types of jobs are considered to be outside the normal realm of classroom experience.

iv) The Higher Education Amendments of 1998 do not allow a student to be paid for receiving instruction in a classroom, laboratory, or other academic setting. Institutions must continue to ensure that students are not being paid FWS earnings for attending class.

ii) A student who receive academic credit for an FWS job cannot be paid any less than he or she would be paid if no academic credit was received.

A student may not be paid for receiving instruction in a classroom, laboratory, or other academic setting. 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 (SFA) 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.

