

# The Federal Work-Study Program



## CHAPTER 2

*This chapter covers issues specific to operating a Federal Work-Study (FWS) program, including Community Service, Job Location and Development (JLD), 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.*

### FWS JOBS AND EMPLOYERS

A student may be employed under the FWS program by the school in which the student is enrolled (on campus). You may also arrange for your school's FWS recipients to be employed off campus by federal, state, or local public agencies or certain private nonprofit or for-profit organizations. 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.

In a normal year, but not in 2019-20 or 2020-21 (see note below on waiver of FWS community service requirements), 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.

#### **Waiver of FWS Community Service Requirements for 2019-20 and 2020-21 award years**

For the 2019-20 and 2020-21 award years, the FWS community service expenditure requirements are waived. This includes the requirement to allocate at least 7% of your school's federal FWS allocation to pay the federal share of wages to students in community service jobs, as well as the requirement to employ one or more of the school's FWS students as a reading tutor for children in a reading tutoring project or performing family literacy activities in a family literacy project. See the Electronic Announcement of April 23, 2020 on IFAP.

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**Student eligibility for FWS**

34 CFR 675.9

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**Selecting students**

34 CFR 675.10

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**FEDERAL & NONFEDERAL SHARE OF FWS WAGES**

In general, the federal share of FWS wages paid to a student may not exceed 75%. The 75% applies to expenditures for FWS wages and does not include any administrative cost allowance. Schools must provide at least 25% of a student's total FWS wages from nonfederal sources. For example, if a school wanted to spend \$45,000 of its FWS federal funds for student wages, it would be required to provide at least \$15,000 in nonfederal funds. A total of \$60,000 would then be available to pay student wages under the school's FWS Program.

There are situations when the ratio of federal share to nonfederal share of 75% to 25% does not apply:

- ◆ Any school may provide **more** than the required minimum 25% nonfederal share. For example, if a school received \$60,000 in federal funds and wished to spend a total of \$100,000 for student FWS wages, it could spend \$40,000 of nonfederal funds to do so. In this example, the federal share of students' total earned compensation under the FWS program expenditures would be 60%, while the nonfederal share would be 40%.
- ◆ For off-campus FWS jobs with private for-profit organizations, the federal share of wages paid to students is limited to 50%. The for-profit organization must provide a nonfederal share of at least 50%. The employer may contribute a nonfederal share that exceeds the required 50%. However, a school may use no more than 25% of its total current year initial allocations to pay wages to students employed with private for-profit organizations.
- ◆ The federal share of compensation paid to students may be 100% when:
  1. the student is employed as a reading or mathematics tutor for preschool age children or children who are in elementary school; or
  2. the student is performing family literacy activities in a family literacy project that provides services to families with preschool age children or children who are in elementary school; or

3. the student is employed in community service activities and is performing civic education and participation activities in a project as defined in 34 CFR 675.18(g)(4).
- ◆ The federal share can be as much as 90% (and the nonfederal share can be as little as 10%) for students employed at a private nonprofit organization, or at a federal, state, or local public organization or agency under the circumstances described in this paragraph. Only organizations that are unable to afford the cost of this employment are eligible to pay a reduced nonfederal share. In addition, the school may not own, operate, or control the organization, and the school must select the organization or agency on a case-by-case basis. No more than 10% of a school's FWS students may benefit from this provision.
  - ◆ The federal share of FWS wages paid to a student may be lower than 75% if the employer chooses to contribute more than the minimum required nonfederal share. For example, if a school has a large demand for FWS jobs from its various departments, it may contribute more than the usual 25% to allow for additional employment.
  - ◆ The federal share can be 100% for all FWS positions (except for those at private, for-profit organizations) at a school that is designated as a Title III or Title V eligible school. For more details on Title III and V eligibility, see *Chapter 1* of this Volume.

**Note:** The federal share of allowable costs in carrying out the Job Location and Development (JLD) Program may not exceed 80% of such costs. For the full discussion of the JLD Program, see the *Job Location and Development Program* section later in this chapter.

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### **FWS federal share**

34 CFR 675.26

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### **FWS at Private for-profit organizations**

34 CFR 675.26(a)(3)

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### **When a 100% federal share is authorized**

34 CFR 675.26(d)

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### **90% FWS federal share**

34 CFR 675.26(a)(2)

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### **Timing of FWS institutional share and noncash contributions**

34 CFR 675.16(e)

### *FWS nonfederal share sources*

A school can pay the nonfederal share from its own funds or other nonfederal sources such as outside funds from an off-campus employer. The school can also pay the nonfederal share in the form of documented noncash contributions of services and equipment such as tuition and fees, room and board, books, and supplies documented by accounting entries. **When matching with cash, the school must deposit its share at the same time it receives the federal share.**

A school does not need the student's permission when making the match with services and/or equipment. **However, a school paying in cash and crediting the student's account with a portion of the student's pay to cover institutional charges may not credit the student's account with FWS earnings without the student's permission.**

If a school receives more money under an employment agreement with an off-campus agency than **the sum of** (1) required employer costs, (2) the school's nonfederal share, and (3) any share of administrative costs the employer agreed to pay, the school must handle the excess in one of three ways:

- use it to reduce the federal share on a dollar-for-dollar basis;
- hold it in trust for off-campus employment during the next award year; or
- refund it to the off-campus employer.

### **Wages from Federal Agency**

The portion of the FWS wages contributed as the institutional share by a federal off-campus agency are not considered part of the "federal share." Thus, a federal agency may provide the required share of student compensation normally paid by off-campus agencies plus any other employer costs that they agree to pay.

Funds from programs sponsored by federal agencies (such as the National Science Foundation or the National Institutes of Health) may be used to pay the nonfederal share, as long as the programs have the authority to pay student wages. A school should contact the appropriate federal agency to see if the program in question does have this authority.

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### **Nature and source of FWS institutional share**

34 CFR 675.27

## FWS CONDITIONS & LIMITATIONS OF EMPLOYMENT

All FWS work, whether on campus or off campus, has certain conditions and limitations. FWS employment must be governed by those employment conditions. One of these conditions is an appropriate rate of pay, according to the type of work performed, the geographic region, the employee's proficiency, and any applicable federal, state, or local law, including state or locally established minimum wage rates.

FWS employment must not displace employees (including those on strike) or impair existing service contracts. Replacement is interpreted as displacement. 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. Replacing a full-time employee whose position was eliminated (for any reason) with a student employee paid with FWS funds is prohibited. Moreover, this prohibition extends to instances where a school first replaces the full-time employee with a student position paid with college funds.

**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.

A student may earn academic credit as well as compensation for FWS jobs. Such jobs include but are not limited to internships, practica, or assistantships (e.g., research or teaching assistantships). 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 receiving instruction in a classroom, laboratory, or other academic setting; and
- ◆ paid unless the employer would normally pay a person for the same job.

### *Working During Scheduled Class Time Prohibited*

In general, students are not permitted to work in FWS positions during scheduled class times. Exceptions are permitted if an individual class is cancelled, if the instructor has excused the student from attending for a particular day, and if the student is receiving credit for employment in an internship, externship, or community work-study experience. Any such exemptions must be documented.

### *Paying FWS Overtime*

Although there is no prohibition on paying overtime in the FWS Program (for example, someone working on a stage crew may have to work overtime during a production), FWS is a program designed to provide part-time employment, and students should not often work in excess of 40 hours in a single week. Overtime and payment for overtime hours may not be used in a way that would create an overaward in the student's financial aid package.

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#### **FWS Eligible employers**

34 CFR 675.20(a)

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#### **FWS Employment conditions, limitations, and academic credit**

34 CFR 675.20(c),(d)

Fees or commissions prohibited: 34 CFR 675.27(b)

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#### **FWS wage rates**

34 CFR 675.24

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#### **Replacement of workers prohibited**

34 CFR 675.20(c)(2)(ii)

## Disasters—Flexible Use of FWS Funds

An eligible school located in any area affected by a major disaster may make FWS payments to disaster-affected students for the period of time (not to exceed the award period) in which the students were prevented from fulfilling their FWS obligations. The FWS payments:

- may be made to disaster-affected students<sup>1</sup> for an amount equal to or less than the amount of FWS wages the students would have been paid had the students been able to complete the work obligation necessary to receive the funds; and
- must meet the FWS matching requirements described in *Chapter 1*, unless those requirements are waived by the Department.

FWS payments may not be made to a student who was ineligible for FWS, was not completing the work obligation necessary to receive the funds, or had already separated from the student's employment prior to the occurrence of the major disaster. For more details, see 34 CFR 675.18(i).

The term "major disaster" means: any natural catastrophe (including any hurricane, tornado, storm, high water, wind driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which, in the determination of the President of the United States, causes damage of sufficient severity and magnitude to warrant major disaster assistance under this chapter to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby. —Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42) U.S.C. 5122(2)

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1. \* **Disaster-affected student**—a student enrolled at an institution who 1) received an FWS award for the award period during which a major disaster occurred; 2) earned FWS wages from an institution for that award period; 3) was prevented from fulfilling his or her FWS obligation for all or part of the FWS award period because of the major disaster; and 4) was unable to make up the hours or to be reassigned to another FWS job.

## CARES Act Campus-Based flexibilities

The CARES Act allows schools certain flexibilities in addressing the challenges arising from the COVID-19 pandemic. In order to utilize these flexibilities, schools must be responding to difficulties caused by a “qualifying emergency,” which is defined in Section 3502 of the CARES Act, and are limited to events beginning March 13th, 2020, through the later of December 31, 2020, or whatever date the national emergency is in effect (see the Electronic Announcement of May 20, 2020, as amended on June 16th, 2020).

### **FWS Federal Share Waiver (CARES Act Sec 3503)**

The Department waives the requirement that a participating institution of higher education provide a non-Federal share to match Federal funds provided to the institution for the FWS and FSEOG programs for the 2019-2020 and 2020-2021 award years. Your school may reimburse itself from the FWS allocation for the nonfederal portion of wages paid to students on or after March 13, 2020. There is one exception to this waiver: it does not apply to FWS funds paid to students who are working at a for-profit employer. Your school may also, for all disbursements of FSEOG made on or after March 13, 2020, reimburse itself from the FSEOG allocation for the nonfederal portion of FSEOG awards contributed through a fund-specific match.

### **FWS 100% Transfer provision**

Section 3503 of the CARES Act also allows an institution to transfer up to 100 percent of its unexpended FWS allocation to FSEOG.

### **FSEOG Emergency Aid Grants (CARES Act Section 3504)**

The CARES act also provides that an institution of higher education may use any amount of its FSEOG allocation (including funds transferred from FWS) to award emergency financial aid grants to assist undergraduate or graduate students for unexpected expenses and unmet financial need as the result of a qualifying emergency. Eligibility for grants is determined by each institution within the parameters established in the CARES Act (grants to be made for unexpected expenses and unmet financial need). The normal FSEOG awarding rules, i.e., exceptional need, with grants made first to Pell eligible students having the lowest Expected Family Contributions, are waived for the purpose of making FSEOG Emergency Aid Grants. FSEOG Emergency Aid Grants are **not** considered Estimated Financial Assistance for packaging purposes.

Your school may contract with scholarship-granting organizations for the purpose of accepting applications for and/or disbursing FSEOG Emergency Aid Grants to students, as long as students receive the entire amount of the grant, with no FSEOG funds used to pay for such contracts.

### **Waiver of FWS Community Service Requirements for 2019-20 and 2020-21 award years**

For both the 2019-20 and 2020-21 award years, the FWS community service expenditure requirements are waived. This includes the requirement to allocate at least 7% of your school's federal FWS allocation to pay the federal share of wages to students in community service jobs, as well as the requirement to employ one or more of the school's FWS students as a reading tutor for children in a reading tutoring project or performing family literacy activities in a family literacy project.



## JOB DESCRIPTIONS

Job descriptions for all FWS positions should be a part of the control procedures included in your school's policies and procedures manual. A written job description will help you ensure that the position is one that qualifies under the FWS program regulations. In addition, a written job description provides students with the information they need to determine whether they qualify for the job, whether the job is related to their educational or career objectives, and whether the job is of interest to them. Moreover, by considering the rates of pay applicable to the position, the qualifications for each pay level, and the qualifications of a student applicant, a financial aid administrator can determine the hours a student will need to work in order to earn the funds specified in the student's FWS award. Finally, a written job description establishes a record to which all parties can refer. In addition, a written job description can help avoid disagreements and adjudication and provide a reference in such cases.

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 job duties and responsibilities. Schools should use the job description to verify that the job meets the definition of community services in the FWS regulations (see the discussion under *Community Service Jobs* later in this chapter). In addition, for students performing reading tutoring or family literacy activities, the job description should support those jobs.

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

- ◆ name of the position;
- ◆ classification of the position (e.g., reading tutor 1, reading tutor 2, laboratory assistant, library technician 1 or 2, etc.);
- ◆ name and address of the student's employer (the school, public agency, nonprofit organization, etc.);
- ◆ department or office in which the student will be employed;
- ◆ location where the student will perform his/her duties;
- ◆ name of the student's supervisor;
- ◆ purpose or role of the position within the organization;
- ◆ duties and responsibilities associated with the position and how they relate to the purpose or role;
- ◆ rates of pay for the position (cross-referenced to the wage rates appearing in the school's policies and procedures manual);
- ◆ general qualifications for the position and the specific qualifications for the various levels or rates of pay associated with the position;

- ◆ the length of the student's employment (beginning and ending dates);
- ◆ procedures for determining a student's rate of pay when a position has multiple rates; and
- ◆ evaluation procedures and schedules.

## ESTABLISHING WAGE RATES

Undergraduate students are paid Federal Work-Study (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.

FWS employers must pay students at least the federal minimum wage in effect at the time of employment. If a state or local law requires a higher minimum wage, the school must pay the FWS student that higher wage. You 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, you 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 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.

### **Minimum wage information**

The federal minimum wage is \$7.25 per hour, effective July 24, 2009. The Wage and Hour Division of the Department of Labor posts information about federal and state minimum wage laws at:

**<https://www.dol.gov/agencies/whd/minimum-wage>**

FWS pay must also 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. If the state or local law allows a wage that is less than the federal minimum wage, the FWS student must still be paid at least the federal minimum wage.

The Small Business Job Protection Act of 1996 established a sub-minimum, 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.

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#### **Wage rates**

34 CFR 675.24

FWS minimum wage: Dear Colleague Letter CB-96-23

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#### **FWS timesheets and payroll vouchers**

34 CFR 675.19 (b)

## Timesheets

You must maintain adequate timesheets or records of hours worked for FWS students. These timesheets must show, separately for each day worked, the hours a student worked, and the total hours worked during the job's payment cycle (i.e., twice a month, every week, every two weeks, etc., but not less than once a month). These amounts and hours recorded must match the hours for which the student is paid.

### **FWS timesheets must be certified by the student's supervisor.**

Students working for your school must have their timesheets certified by either their supervisor or an official at the school. Students working in off-campus jobs must have their timesheets certified by an official at the off-campus site.

If a school requires off-campus employers to maintain paper timesheets and the school allows those timesheets to be submitted by fax, the off-campus employer must provide the original copies of those timesheets to the school. Original copies should be mailed or hand delivered to the school at the first opportunity.

A school that uses electronic processes to record the hours worked by students must ensure that all signatures obtained in the certification of the hours worked satisfy the standards of the Electronic Signatures in Global and National Commerce Act. For more information about using electronic processes in your school's administration of the Title IV programs, please see the discussion under The E-sign Act and Information Security in *Volume 2, chapter 7*.

FWS records are used to compile the data submitted by schools on the Fiscal Operations Report section of the FISAP. Therefore, **a school must maintain those original FWS records for as long as it is required to maintain its FISAP data as discussed in chapter 1 of this volume.**

## Payroll Vouchers

Your school must provide payroll vouchers that contain sufficient information to support all payroll disbursements. At a minimum, a school's payroll vouchers should

- ◆ include the school's name and address;
- ◆ identify the starting and ending dates of the payroll period;
- ◆ include the student's name;
- ◆ identify the student's work-study position;
- ◆ include the number of hours the student worked during the pay period;
- ◆ for undergraduate students, specify the student's hourly rate of pay;
- ◆ for a graduate student, identify the student's hourly rate of pay or the student's salary;
- ◆ include the student's gross earnings;
- ◆ itemize any compensation withheld for federal, state, county, or city taxes, and other deductions;
- ◆ include identification of any noncash payments made to the student for work during the period, and point to an auditable record of that contribution;
- ◆ include the student's net earnings;
- ◆ include a check number, duplicate receipt, or other auditable payment identification; and
- ◆ identify and itemize any overtime earnings (a student may be paid overtime with FWS funds).

### Student Exception to FICA Tax

FICA taxes\* do not apply to service performed by students employed by a school, college, or university where the student is pursuing a course of study. Whether the organization is a school, college, or university depends on the organization's primary function. Whether employees are students for this purpose requires examining the individual's employment relationship with the employer to determine if employment or education is predominant in the relationship.

- Treasury Decision 9167: Final regulations published December 21, 2004.
- Revenue Procedure 2005-11: Safe harbor standards that colleges and universities can apply in determining if an employee is eligible for the student FICA exception.
- Background Information: Background information on the final regulations and revenue procedure providing guidance on the student FICA exception (section 3121(b)(10) of the Internal Revenue Code).
- [www.irs.gov/Charities-&-Non-Profits/Student-Exception-to-FICA-Tax](http://www.irs.gov/Charities-&-Non-Profits/Student-Exception-to-FICA-Tax)

\*Social Security and Medicare, including old age, survivors, and disability insurance tax (OASDI)

## PAYING STUDENTS

A student's FWS compensation is earned when the student performs the work, and the school must ensure that the student is paid FWS compensation at least once a month. Regardless of who employs the student, the school is responsible for ensuring that the student is paid for work performed. Before a school may make an initial disbursement of FWS compensation to a student for an award period, the school must notify the student of the total amount of FWS funds the student is authorized to earn, and how and when the FWS compensation will be paid.

**Except when a school's institutional share is paid from noncash sources (tuition, services and equipment, room and board, and books), the school must pay the student its share of his or her FWS compensation at the same time it pays the federal share.** If the school pays a student its FWS share for an award period in the form of non-cash sources, it must pay that share before the student's final payroll period within that award period.

If a school pays its FWS share in the form of *prepaid* tuition, fees, services, or equipment for a *forthcoming academic period*, it must give the student a statement before the close of his or her final payroll period within that award period listing the amount of tuition, fees, services, or equipment earned.

A school may pay a student after the student's last day of attendance for FWS compensation earned while he or she was in attendance at the school.

A school must pay FWS compensation to a student by:

- ◆ issuing a check or similar instrument that the student can cash on his or her own endorsement; or
- ◆ initiating an electronic funds transfer (EFT) to a bank account designated by the student; or
- ◆ crediting the student's account at the school (only after **obtaining written authorization from the student**).

### *Student's written authorization*

If a school is not subject to the Tier 1 and Tier 2 requirements described in *Volume 4*, it may make direct deposits by EFT once the student provides his or her banking information. However, if a student fails to provide this information, the school must find some other way to pay the student any income earned.

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**Payments to students**

34 CFR 675.16, 668.164(d)(1)(i)

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**Earnings applied to cost of attendance**

34 CFR 675.25

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**Holding FWS funds**

34 CFR 675.16(d)(5)

Please see the discussion under *Crediting FWS Funds to Students Accounts and Paying Credit Balances* on the last page of this chapter for additional details on Paying Students.

***Records of noncash FWS payment***

There are two cases under which students may not receive the net FWS earnings identified on their payroll voucher. In the first, a student who has FWS earnings at a school that provides its FWS institutional match with cash has provided written permission for the school to credit part of the student's earnings to the student's account. **A school must obtain a separate written authorization from a student before any part of the student's FWS cash earnings may be credited to the student's account at the school.** The school must maintain that authorization in the student's file. In addition, the school must provide a clear audit trail showing that the student received credit on the student's account for any earnings not paid directly to the student.

The second case involves schools that provide part (or all) of their FWS institutional match with credit for tuition, fees, services, or equipment. A school that provides its institutional match with tuition, fees, services, or equipment does **not** need to obtain a student's permission. However, **before employing a student**, this type of school must provide the student with a written explanation of this procedure, including the specific percentage of the student's earnings that the student will receive in credit for tuition, fees, services, or equipment. Moreover, **before the close of the student's final scheduled payroll period**, the school must give the student a statement that itemizes the total amount of tuition, fees, services, or equipment credited to the student's account from the student's FWS earnings. In addition **the school's records must provide a clear audit trail showing that the student received credit on the student's account for any earnings not paid directly to the student.**

## Authorization

Except when a school's institutional share is paid with noncash sources (tuition, services and equipment, room and board, and books), a school must obtain a separate written authorization from the student if the student is paid FWS compensation by crediting the student's account at the school.

Except for schools that receive funds from the Department through heightened cash monitoring, a school that obtains a written authorization from a student may hold FWS funds as part of a student's Title IV credit balance on the student's account. In obtaining the student's written authorization, a school:

- ◆ may not require or coerce the student to provide that authorization;
- ◆ must allow the student to cancel or modify that authorization at any time; and
- ◆ must clearly explain to the student how it will carry out the activity authorized.

If a student modifies the written authorization, the modification takes effect on the date the school receives the modification notice. If a student cancels a written authorization, the school may use the FWS compensation to pay only those authorized charges incurred by the student before the school received the cancellation notice. See *Volume 4* for a complete discussion of authorizations to hold students' funds.

## Crediting student accounts

With a student's permission, a school may credit the student's account at the school to satisfy current award year charges for:

- ◆ tuition and fees;
- ◆ board, if the student contracts with the school for board;
- ◆ room, if the student contracts with the school for room; and
- ◆ other institutionally-provided educationally related goods and services.

In addition, a school may credit a student's account to pay **prior award year charges** if these charges are **not more than \$200**.

If a school pays a student FWS compensation by crediting the student's account, and the result is a credit balance, the school must pay the credit balance directly to the student as soon as possible but no later than 14 days after the balance occurred on the account.



### ***Holding FWS funds***

A school receiving funds under any payment method other than advance payment (see *Volume 4*) may not hold FWS funds for students. Schools using advance payment may, if authorized by the student, hold FWS funds that would otherwise be paid directly to the student.

#### **If a school holds excess FWS funds, the school must:**

- ◆ identify the amount of FWS funds the school holds for each student in a subsidiary ledger account designated for that purpose;
- ◆ maintain, at all times, cash in its bank account in an amount at least equal to the amount of FWS funds the school holds for the student; and
- ◆ pay any remaining balance to the student by the end of the institution's final FWS payroll period for an award period.

If a student cancels the authorization to hold FWS funds, the school must pay those funds directly to the student as soon as possible but no later than 14 days after the school receives the cancellation.

## **RECORDS AND REPORTING IN THE FWS PROGRAM**

For reporting and accounting purposes, FWS expenditures must be distinguishable from other institutional expenditures. FWS compensation should either be entered in a separate sub-ledger, or, if listed on the general payroll ledger, should be grouped separately from other expenditures. If payroll records are maintained electronically, a special *cost center, object class, or program identifier* must be used for FWS payments to students.

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### **Fiscal procedures and records**

34 CFR 675.19

## FWS EARNINGS FOR THE NEXT PERIOD OF ENROLLMENT

Many FWS students must pay the bulk of their education costs before they have had a chance to earn FWS wages. To provide students with the opportunity to earn wages in time to pay more of their education costs, the Department allows students to earn FWS wages to cover expenses associated with the next period of enrollment offered by the school. A student may start an FWS job and earn FWS funds for the next period of enrollment during any period of enrollment, including a period of enrollment that is comprised, in whole or in part, of mini-sessions. A student may also earn FWS wages towards the next period of enrollment during a period of nonattendance.

To start an FWS job for the next period of enrollment, the student must be planning to enroll (or to reenroll) and must demonstrate financial need for that next period of enrollment. (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.)

## FWS DURING PERIODS OF NONATTENDANCE

A student may be employed through the FWS programs 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. This may include a period during which the student has not yet begun his/her program, but he/she must be planning to enroll (or to reenroll) and must have demonstrated financial need for the next period of enrollment. The student's FWS earnings (net earnings minus taxes and job-related costs) during this period of nonattendance must be used to cover expenses associated with his or her financial need for the next period of enrollment.

A student whose eligibility for summer FWS employment during a period of nonattendance or prior to a period of attendance was based on his or her anticipated enrollment in the next period of enrollment may fail to attend the school. **When a student fails to attend for the next period of enrollment, the school that employed the student must be able to demonstrate that the student 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 the student had either registered for classes or 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 nonattendance preceding the study abroad if he or she will be continuously enrolled in his or her domestic school while abroad and if the student's courses abroad are part of the domestic school's program. In such a case, a student may be employed in a qualified position in the United States, at the home school's branch campus in a foreign country, at a U.S. government facility abroad, or in a U.S. company abroad.

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**Earnings for periods of nonattendance**

34 CFR 675.25(b)

## EARNINGS DURING 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 semester), an FWS student attending any of the mini-sessions may earn FWS wages at any time throughout that term. In this case, the school may apply those earnings toward the student's financial need for the mini-session(s) attended and/or the next period of enrollment. The school must base the student's financial need for attending the 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 given point in time in the term does not depend on whether or not the student is enrolled in a mini-session at that point in time. The school or student may choose how to distribute the hours worked throughout the term/mini-sessions. For more detail on combining mini-sessions and academic calendars, see Volume 3, *Calculating Awards and Packaging*.

## GARNISHMENT OF FSA FUNDS PROHIBITED

FWS earnings are not subject to garnishment or attachment except to satisfy a debt owed to the Department.

Schools must oppose any garnishment order they receive for any other type of debt. If your school is not the employer in an off-campus employment arrangement, it must notify off-campus employers that garnishment of FWS wages is not permissible.

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### Garnishment and attachment prohibited

HEA 488A(d)

## PAYMENT FOR FWS TRAINING AND/OR TRAVEL

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

Because every job requires some type of training, whether formal or informal, the Department allows FWS students to be paid wages during a training period that is conducted for a *reasonable* length of time. This applies regardless of the type of FWS job the student has. A reasonable training period is one that occurs immediately before the student begins the regular duties of the FWS employment and does not exceed approximately 20 hours. Students also may be compensated for a reasonable amount of time to perform ongoing activities (for example, preparation and evaluation time) needed to accomplish their FWS jobs.

Schools may pay students 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. **Schools should provide their students with a form on which students can record travel time separately from time spent working.**

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### Training and travel

34 CFR 675.18(h)

## INTERNAL CONTROLS IN THE FWS PROGRAM— RECONCILIATION, FISCAL, AND PROGRAM RE- CORDS

**Your school must reconcile, at least monthly, your FWS draw downs recorded in G5 to the funds received in the bank account your school has designated to receive electronic transfers. You must also reconcile monthly the amount drawn down and received to the amounts disbursed to students or returned to the Department, and resolve all discrepancies.**

In addition, you should examine your FWS program and fiscal records at the start of the award year and monthly thereafter:

- ◆ Do you have a method for verifying that the rate of pay recorded in the payroll system corresponds to the position and experience level in the school's policies and procedures?
- ◆ Do you have a system that records the maximum a student may earn in FWS wages and alerts you if a student approaches that amount?
- ◆ Do you periodically evaluate your rate of expenditures to determine, if that rate continues, whether you will expend less than, the same as, or more than the amount you have budgeted for FWS expenditures?
- ◆ Are your matching funds consistently deposited at the same time you received your federal share?
- ◆ Has your institution drawn just enough funds from G5 for FWS to cover payrolls made? In the FWS program, your requests for funds should always be for a payroll for which data has been entered. Do you often find yourself requesting additional funds or returning unused funds?
- ◆ Do you have a process in place to ensure that students are working the hours reported—that timesheets are accurate?
- ◆ Do you frequently audit payrolls to test whether hours recorded in the payroll system match the hours reported on student timesheets?

## USE OF FWS ALLOCATED FUNDS

### *Community service requirements*

**THE FIRST AND SECOND COMMUNITY SERVICE REQUIREMENTS DESCRIBED IN THIS SECTION ARE WAIVED FOR THE 2019-20 AND 2020-21 AWARD YEARS. FOR MORE DETAILS SEE THE APRIL 23, 2020 ELECTRONIC ANNOUNCEMENT.**

There are three community service expenditure requirements that a school must meet.

1. A school must use at least 7% of its FWS federal allocation(s), including any supplemental allocations (see *Supplemental FWS awards & minimum community service expenditures* section below), for an award year to pay the federal share of wages to students employed in community service jobs for that year. **THIS REQUIREMENT IS WAIVED FOR 2019-20 and 2020-21.**
2. One or more of the school's FWS students must be employed in a:
  - reading tutoring project that employs one or more FWS students as reading tutors for children who are preschool age or are in elementary school; or
  - family literacy project that employs one or more FWS students in family literacy activities.

**THIS REQUIREMENT IS WAIVED FOR 2019-20 and 2020-21.**

3. A school that requests and receives supplemental FWS funds must spend 100% of the supplemental amount in community service positions. **THIS REQUIREMENT WAS NOT WAIVED BY THE APRIL 23 E-ANNOUNCEMENT, AND REMAINS IN FORCE FOR 2019-20 AND 2020-21.**

**A school that fails to meet any of these FWS community service requirements will be required to return FWS federal funds in an amount that represents the difference between the amount a school should have spent for community service and the amount it actually spent.** Further, a school that is not compliant with the FWS community service requirements may be subject to a Limitation, Suspension, and Termination (LST) proceeding, through which the school could be denied future participation in the FWS Program and possibly other FSA programs and/or subject to a substantial fine.

A school may request a waiver of either of these requirements by the annual deadline. The school should include detailed information that demonstrates that the requirement would cause a hardship for students at the school. See the section later in this chapter for more information on waivers.

### ***Supplemental FWS awards & minimum community service expenditures***

When a school receives supplemental/reallocated FWS funds, the minimum amount of FWS federal funds the school must expend on community service jobs for an award year is one of the following two amounts, whichever is **greater**:

- ◆ 7% of the sum of:
  - your original FWS allocation, plus
  - your FWS supplemental allocation, minus any amount of FWS federal funds you returned through the reallocation process or earlier

**OR**

- ◆ 100% of your FWS supplemental allocation (unless you have received an approved waiver from the Department).

### ***Community Service vs. Reading Tutors***

In order to be considered community service, the job has to be in an area that is open, accessible, and used by the community at large. Community service includes a whole host of jobs and is not limited to reading tutors. Reading tutors may provide tutoring to some group that would not be considered part of the community. For example, a school population is not considered “open, accessible, and used by the community at large,” and therefore, in this context, is not considered a community.

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#### **FWS community service requirements**

- Community service DCL CB-07-08, 34 CFR 675.18(g)
- Family literacy project DCL CB-98-6
- Electronic Announcement April 23, 2020

### ***Civics, emergency response, and other teaching projects***

In meeting the 7% community service expenditure requirement, students may be employed to perform civic education and participation activities in projects that teach civics in schools, raise awareness of government functions or resources, or increase civic participation. To the extent practicable, a school must:

- give priority to the employment of students in projects that educate or train the public about evacuation, emergency response, and injury prevention strategies relating to natural disasters, acts of terrorism, and other emergency situations; and

- ensure that the students receive appropriate training to carry out the educational services required.

For more detail, see 34 CFR 675.18 (g)(4)(i).

### ***Waivers of the community service and/or math and reading tutor requirements***

A school may request a waiver of the community service and tutor requirements; the request must be submitted electronically before the annual deadline using the Common Origination and Disbursement (COD) website. The fact that it may be difficult for the school to comply with these requirements is not, in and of itself, an acceptable basis for granting a waiver.

The school's waiver request must specify whether the school is requesting a waiver of the 7% community service requirement, the reading tutors of children or family literacy project requirement, or both. The waiver must also include detailed information which demonstrates that complying with the requirement(s) would cause hardship for the school's students. If a school has any questions about the community service expenditure requirements or waiver procedures, the school can contact the COD School Relations Center at 1-800-848-0978. Schools will be reminded about the waiver process through communications posted to the IFAP website.

See the graphic *Community Service Waivers* in this chapter for more information.

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#### **FWS community service waiver request**

EA, FWS Community Service Requirements, March 16, 2020

### **COMMUNITY SERVICE JOBS**

Community service jobs can be either on-campus or off-campus. *Nonprofit agencies* can qualify as community service employers if the work performed meets the definition of community services in the regulations. See the list of programs and activities that are recognized as appropriate work in community services in the graphic the end of this section. (Note that *private, for-profit organizations* do not qualify as employers for community service under the FWS Program.)

Employing an FWS student in these positions serves the needs of the community and can give the FWS student an enriching and rewarding experience.



**Schools must inform students of FWS community service opportunities available in the local community.** The PPA also requires your school to work with local nonprofit, governmental, and community-based organizations to identify community service opportunities, including those that provide supportive services to students with disabilities. Schools should promote these opportunities to students by notifying each student individually or via general means such as campus websites or publications. For more ideas, see the *Establishing FWS community service jobs* graphic at the end of this section.

### **Community service jobs eligible for FWS**

*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:

- ◆ fields such 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, community improvement, and emergency preparedness and response;
- ◆ work in service opportunities or youth corps under AmeriCorps, and service in the agencies, institutions, and activities described later;
- ◆ support services for students with disabilities (including students with disabilities who are enrolled at the school<sup>1</sup>); and
- ◆ activities in which an FWS student serves as a mentor for such purposes as tutoring (see *Employing FWS students as tutors* later 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. However, 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, within the guidelines provided by the statute, regulations, and the Department. Note that there is a model need assessment at the end of this chapter that can be used with community service agencies.

A university or college is not considered a community for the purposes of the FWS community service requirements. On-campus jobs

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

can meet the definition of community services, provided 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 employment limitations and conditions.

### Indirect Services

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.

### *Employing FWS students as tutors*

In an effort to increase the reading and math proficiency of our nation's children, tutoring in these areas has become a federal priority. **The FWS regulations authorize a 100% federal share of FWS wages earned by a student who is employed to perform civic education and participation activities, such as:**

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

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: (1) is 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, as amended. **The school must further ensure that reading tutors receive training from the employing school in the instructional practices used by the school.**

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### Reading and math tutors

34 CFR 675.18(g)(3)

## Community Service Opportunities, Youth Corps Programs, Other Programs, and Activities

The definition of community services for FWS includes work in “service opportunities” or “youth corps,” as defined in Section 101 of the National and Community Service Act of 1990:

**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 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.

The definition of “community services” also includes service in agencies, institutions, and activities that are designated in Section 124(a) of the National and Community Service Act of 1990. These include the following conservation corps and human services corps programs, as well as programs that encompass the focus and services of both. Also see 34 CFR 675.2 Definitions; “Community Service.”

### Conservation corps programs

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.

### Human services corps programs

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) in the community where volunteer service is to be performed.

## Community Service Waivers (non-COVID-19)

In the past, the Department has approved a limited number of waivers of the community service requirements for schools that have demonstrated that enforcing these requirements would have caused a hardship for their students.

These examples are not the only circumstances that may result in approval of a waiver request; however, you must always submit a justification of your request.

The Department posts an annual announcement to the IFAP website describing the electronic waiver process and giving the deadline date for that year. A school must submit its waiver request to the Department electronically via the COD website at:

### **COD.ed.gov**

Examples of waiver requests include the following:

#### **Case Study #1—Small FWS allocation**

The school had a very small FWS allocation. The supporting information submitted by the school noted that 7% of the school's allocation only provided enough funds for a student to work for a short period of time. Therefore, the school was unable to find placement for a student in community service.

#### **Case Study #2—Rural area transportation issues**

The school was in a rural area that was located far away from the types of organizations that would normally provide community service jobs. The school provided information that showed its students lacked the means of transportation to get to the town where the community jobs were located. In a similar waiver request in which transportation did exist, a school provided documentation that showed that the transportation costs were extremely high for the students.

#### **Case Study #3—Specialized / Advanced program**

The school offered only a single program of specialized study that required its students to participate in extensive curriculum and classroom workloads. The school provided information that demonstrated this specialized educational program prevented the students from performing community service jobs at the time those work opportunities were available.

E-Announcements of March 16, 2020 and April 23, 2020.  
HEA Sec 443(b)(2)(A)  
34 CFR 675.18(g)

## Establishing FWS Community Service Jobs

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.\*

### 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' degree 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."
- Visit local agencies.

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\* There is no formal definition of "low-income individuals" for this purpose, and 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.

## 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.

## Employing FWS Students as Tutors

### 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.

### In what setting must tutoring take place?

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.
- The FWS tutor may not use religious material to tutor the child.

### 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 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.)

## Employing FWS Students as Tutors, continued

### Can students be paid while in training?

Under limited circumstances, an FWS tutor can receive FWS wages while 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)).

### 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 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.

### 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.



## WORK ON CAMPUS (SCHOOL IS EMPLOYER)

A student may be employed on campus at any type of postsecondary institution, including at a proprietary school. The FWS regulations define institution of higher education as a public or private nonprofit institution, a proprietary institution or a postsecondary vocational institution.

A school which is not 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 under "Work for a 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 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.

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### **On-campus employment**

34 CFR 675.21

## WORK FOR A PROPRIETARY SCHOOL

A proprietary school may employ a student to work for the school itself, but only in jobs that meet certain criteria. 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 provide student services that are directly related to their education.**

**If FWS 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.** To the maximum extent possible, the job must complement and reinforce the FWS student's educational program or vocational goals. The FWS job *may not* involve soliciting potential students to enroll at the proprietary school.

**In general, FWS jobs that primarily benefit the proprietary school are not student services.** For example, jobs in facility maintenance or cleaning are never student services. 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 noncommunity 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 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 currently enrolled 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 and 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 currently enrolled 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. 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.

### Proprietary school employment

34 CFR 675.21(b)

#### Allowable/Prohibited FWS 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, and
- tutoring.

##### Student services never include:

- facility maintenance,
- cleaning,
- purchasing, and
- public relations.

34 CFR 675.2(b)

## WORK OFF CAMPUS

A postsecondary school (including a proprietary school) may use FWS funds to pay a portion of the wages of a student who is employed off campus by certain nonprofit agencies or private employers.

### *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.

For FWS purposes, a private nonprofit organization is one in which no part of the net earnings of the agency benefits any private shareholder or individual. Such 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 also meets this requirement. Examples of private nonprofit organizations generally include hospitals, day care centers, halfway houses, crisis centers, and summer camps.

### *Work must be “in the public interest”*

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

**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 previously, any *political* activity would not be acceptable—raising funds for the official’s re-election, for example. An FWS position that involves lobbying at the federal, state, or local level is not work in the public interest.

### Work in the Public Interest: Examples

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.

### FWS employment prohibited at the Department

Students are prohibited from receiving FWS wages for working at the U.S. Department of Education due to the potential appearance of a conflict of interest. 34 CFR §675.20(c)(2)(v)

### 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.

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### Employment by a federal, state, or local public agency, or a private nonprofit organization

34 CFR 675.23

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### Work for private for-profit organization

34 CFR 675.23

### *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.

### *Employment in apprenticeships through the FWS Program*

A school may use its FWS Program funds to pay the training wages for otherwise eligible FWS students employed as apprentices, even when the apprenticeship is not part of the student's eligible academic program.

The Department allocates FWS federal funds to institutions under a statutory formula that requires an institutional match. While the federal share of an FWS student's wages generally may not exceed 75% for a student employed by the school or by a public or nonprofit agency, the federal share may not exceed 50% for a student employed by a private for-profit entity. Moreover, a school may only use a maximum of 25% of its total FWS federal allocation to pay the wages of FWS students employed by private for-profit organizations. Any student enrolled at a postsecondary institution participating in the FWS program is eligible for FWS employment if the student meets all federal student aid eligibility requirements, including having financial need.

Under certain conditions, and at the school's discretion, employment under the FWS Program may include employment in apprenticeships. If a school chooses to include one or more apprenticeships as part of its FWS Program, selected FWS eligible students may receive FWS wages for employment in the apprenticeship regardless of whether or not the apprenticeship comprises part of the student's educational program. Finally, FWS wages earned as part of apprenticeships are not used in determining the student's eligibility for federal student aid in the following year.

A job under the FWS Program must be suitable to the scheduling and other needs of the student and must, to the maximum extent practicable, complement and reinforce the educational programs or vocational goals of the student. The wage rate and other conditions of FWS employment, including in an apprenticeship program, are determined by, among other things, minimum wage rules, the type of work performed, the geographic region, the student's proficiency, and any applicable federal, state, or local law.

Financial aid administrators at postsecondary institutions are responsible for ensuring compliance with Federal laws and regulations regarding FWS employment, including employment in apprenticeship programs. Apprenticeship providers must coordinate with postsecondary institutions to ensure compliance with all relevant requirements. **Please review DCL GEN-14-22, December 18, 2014, for a complete discussion of Apprenticeships and the Federal Student Aid Programs.**

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#### **Employment in apprenticeships and Federal Work Study**

DCL ID: GEN-14-22

## 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. Note that there is a model off-campus agreement at the end of this chapter. The model 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:

- ◆ 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).

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.

A school must take additional steps if it receives more money under an employment agreement with an off-campus agency than the sum of:

- ◆ required employer costs; plus
- ◆ the school's nonfederal share; plus
- ◆ any share of administrative costs the employer agreed to pay,

In that situation, the school must handle the excess in one of three ways:

1. Use it to reduce the federal share on a dollar-for-dollar basis.
2. Hold it in trust for off-campus employment during the next award year.
3. Refund it to the off-campus employer.

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### **Off-campus agreements**

34 CFR 675.20(b)

#### ***Providing the federal share and billing for the employer's share***

If an off-campus agreement specifies that the off-campus organization will assume payroll responsibility and bill the school for the federal share of the students' wages, the school will be sending federal funds to the off-campus organization. **The agreement with the school should include the procedures the off-campus organization must follow and the documents it must provide in order to be reimbursed for the federal portion of a student's salary.**

Your school should have written policies that describe the aforementioned procedures, the documentation the off-campus organization



must provide, and how the reimbursement process will be handled. **Your accounting entries must completely track the payment of the federal share to the off-campus organization and must be backed by the original documents specified in your policies. Your school is liable for federal funds expended for which it does not have proper records or documentation.**

If your agreement with the off-campus organization specifies that the school will pay the students and bill the off-campus organization for its share, the agreement should include the steps the school will take, the documentation the school will provide, and the time frame within which the off-campus employer will pay the school its share of the FWS compensation.

Your school should have a system for ensuring that off-campus employers are billed for their share of FWS wages in a timely manner. In addition, you should have a system for following up if bills remain unpaid after a reasonable period of time. Your accounting entries must completely track the billing and receipt of the employer's share and must be backed by any original documents required (e.g., detail of the wages paid to students and calculation of the employer's share).

## **JOB LOCATION AND DEVELOPMENT (JLD) PROGRAM**

The JLD Program is a part of the FWS Program. 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.

### ***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 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 participation.

### ***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.

### ***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:

- ◆ 10% of its FWS allocation and reallocation, or
- ◆ \$75,000.

### ***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.

### ***JLD federal share limitation***

You may use federal FWS funds to pay up to 80% of the allowable costs in the JLD program (listed in the *JLD Allowable program costs* section 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.**

Your school'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.

### *JLD 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;
- ◆ 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 that the JLD program 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.

### ***Counting an Employee's Salary Toward a School's Institutional Match***

The portion of an employee's salary earned while performing activities in the JLD program may be considered part of the school's required institutional match. The amount of the employee's salary a school can apply toward its institutional match depends on the salary of the employee and how much time he or she spends in developing qualifying jobs.

For example, if the employee's salary were \$50,000 and he or she spent one out of five days a week—or 20% of his or her time—in JLD activities, the maximum amount of the employee's salary that your school could apply toward your institutional match would be  $\$50,000 \times 20\% = \$10,000$ .

Note that in a program review, a school could be required to document:

- the time the employee worked developing new off-campus jobs; and
- in any year in which the school spent a portion of its federal funds toward developing new off-campus (including community service) jobs for students, some new qualifying jobs were actually created.

### ***Students as staff in the JLD Program office***

The prohibition against using JLD funds to locate and develop jobs at your school or other eligible schools *does not* mean that your school is also prohibited from employing FWS and non-FWS students 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.

### *Multi-institutional JLD Programs*

Your school may enter a written agreement with other eligible schools for those schools to establish and 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 arrangement.

### *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 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.

### *Use of JLD program funds to develop apprenticeship programs*

A school is permitted to use a portion of the FWS funds it allocates for locating and developing off-campus job opportunities to identify apprenticeship opportunities and help employers develop jobs that are part of apprenticeship programs—regardless of whether the students are recipients of federal student aid.

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#### **JLD Program purpose & description**

34 CFR 675 Subpart B, 34 CFR 675.31 & 34 CFR 675.32,,33

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#### **JLD Allowable costs, use of JLD costs**

34 CFR 675.33(a), 34 CFR 675.35(b)(3)

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#### **Prohibition on using JLD funds on campus**

34 CFR 675.35(a)(3)(i)

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#### **Maximum federal funds for JLD Programs**

34 CFR 675.32

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#### **JLD limits**

The amount of FWS funds institutions of higher education may use for the JLD Program increases to not more than 10% or \$75,000 of their FWS allocations.

HEOA section 445, HEA section 445(a)(1), Effective date: August 14, 2008

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**Multi-institutional JLD programs**

34 CFR 675.34

**WORK-COLLEGES PROGRAM**

The Work-Colleges Program is separate from the FWS Program and schools qualifying to participate in the Work-Colleges Program receive a separate Campus-Based funding allocation in addition to their FWS allocation.

The term “work college” is defined as an eligible school that:

- ◆ has been a public or private nonprofit, four-year, degree-granting institution with a commitment to community service;
- ◆ has operated a *comprehensive work-learning-service program* as described below for at least two years;
- ◆ requires resident students, including at least one-half of all students who are enrolled on a full-time basis, to participate in a comprehensive work-learning-service program for at least five hours each week, or at least 80 hours during each period of enrollment (except summer school), unless the student is engaged in a school-organized or approved study abroad or externship program; and
- ◆ provides students participating in the comprehensive work-learning-service program with the opportunity to contribute to their education and to the welfare of the community as a whole.

A comprehensive student work-learning-service program is a student work-service program that:

- ◆ is an integral and explicitly stated part of the institution’s educational philosophy and program;
- ◆ requires participation of all resident students for enrollment 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-service supervisors; and
- ◆ includes consequences for nonperformance or failure in the work-learning-service program similar to the consequences for failure in the regular academic program.

### *Allowable work-colleges program costs*

Allocated and reallocated program funds may be used to:

- ◆ support the educational costs of students through self-help provided under the work-learning-service 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-service programs;
- ◆ coordinate and carry out joint projects and activities to promote learning through work-service; and
- ◆ conduct a comprehensive longitudinal study of academic progress and academic and career outcomes.

### *Unallowable work-college program costs*

Allocated and reallocated program funds, as well as funds transferred from the FWS program may **not** be used to pay costs related to the purchase, construction, or alteration of physical facilities or indirect administrative costs.

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#### **Work-Colleges Program**

34 CFR 675

The Higher Education Opportunity Act of 2008 introduced the term “work-learning-service” and revised the definition of “Work-Colleges.”

HEOA section 447

HEA section 448

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#### **Application to participate in the Work-Colleges Program**

E-Announcement January 27, 2020

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#### **Comprehensive student work-learning-service program**

42 U.S.C. 2756b [HEA Section 448]

34 CFR 675.41(b)

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#### **Allowable & unallowable costs**

34 CFR 675.45, .46



### Additional Rules and Requirements for Work Colleges

- Work Colleges must provide a minimum dollar-for-dollar institutional match for all jobs in the Work-Colleges Program. Unlike the FWS Program, there are no exceptions to this matching requirement. This includes (but is not limited to) those exceptions for the FWS Federal share discussed in Chapter 1. For example, a student performing reading tutor or family literacy activities under the Work-Colleges Program must still be paid with funds that are matched by the school on a dollar-for-dollar basis.
- Work Colleges may transfer up to 100% of their FWS (initial plus supplemental) to their Work-College allocation. All FWS funds transferred to the Work-College Program must be matched dollar for dollar.
- If a school transfers a portion or all of its FWS allocation into the Work-Colleges Program, the funds must be used for the purpose of carrying out the Work-Colleges Program to provide flexibility in strengthening the self-help-through-work element.
- A school may not transfer any of its Work-College allocation to the FSEOG Program.
- A school may carry forward and carry back up to 10% of its allocated Work-College funds.
- Work Colleges receive an allocation under the FWS Program and another allocation under the Work-Colleges Program. The school must set up two accounting records, one for each of these programs. (This is true even though the allocation for the FWS Program and the Work-Colleges allocation are in one G5 account.) If a school transfers a portion or all of its FWS allocation into the Work-Colleges Program, the accounting records for each program must clearly show that transfer.
- A school may only award and pay funds under the Work-Colleges Program to students who have a financial need. Students without financial need and students whose need has been met through other financial assistance must be paid with institutional funds only.
- Under the Work-Colleges Program, there are no limits on JLD activities. However, when performing JLD activities under the Work-Colleges Program the match is always on a dollar-for-dollar basis.
- Under both the FWS Program and the Work-Colleges Program, a school may receive the regular administrative cost allowance based on total compensation paid to eligible students (5% for the first \$2,750,000 spent under campus-based, etc). In this case you may not claim funds twice by also using the separate Work-Colleges allowable administrative allowance to pay for the same costs.

In their administration of a Work-College Program, schools must adhere to all of the applicable FWS regulations in 34 CFR 675.

# Model Off-Campus Agreement

*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 [FWS] Program.

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 include the following:

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
4. the average number of hours per week each student will work

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 that 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.

### Sample language to specify employer

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 two paragraphs below may be included.

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 that 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 the student was injured.

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, in fact, perform their work. 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.

### Sample language to specify 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).

#### If 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;
  - 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;<sup>1</sup> and
  - c) Documentary evidence that students received payment for their work, such as photographic copies of canceled checks.

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1. These forms, when accepted, must be countersigned by the institution as to hours worked and the accuracy of the total federal share to be reimbursed to the organization or agency.

# Model Need Assessment for FWS Community Service Program

Agency Name: \_\_\_\_\_

Date: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Address: \_\_\_\_\_

1. \_\_\_\_\_ Nonprofit \_\_\_\_\_ For-profit

2. Agency Mission Statement and Description of Clients Served:

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

\_\_\_\_\_ Federal

\_\_\_\_\_ State

\_\_\_\_\_ County/City

\_\_\_\_\_ United Way

\_\_\_\_\_ Other (explain)

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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 20xx \_\_\_\_\_  
20xx–20xx Academic Year \_\_\_\_\_  
Summer 20xx \_\_\_\_\_

**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 \_\_\_\_\_ to \_\_\_\_\_  
Work Schedule—Days and Hours \_\_\_\_\_  
Maximum Total Hours per 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:**

## Crediting FWS Funds to Students' Accounts and Paying Credit Balances

### 34 CFR 675.16(b) Crediting a student's account at the institution.

(1) If the institution obtains the student's authorization described in paragraph (d) of this section, the institution may use the FWS funds to credit a student's account at the institution to satisfy

- (i) Current year charges for
  - (A) Tuition and fees;
  - (B) Board, if the student contracts with the institution for board;
  - (C) Room, if the student contracts with the institution for room; and
  - (D) Other educationally related charges incurred by the student at the institution; and
- (ii) Prior award year charges with the restriction provided in paragraph (b)(2) of this section for a total of not more than \$200 for
  - (A) Tuition and fees, room, or board; and
  - (B) Other institutionally related charges incurred by the student at the institution.

(2) If the institution is using FWS funds in combination with other Title IV, HEA program funds to credit a student's account at the institution to satisfy prior award year charges, a single \$200 total prior award year charge limit applies to the use of all the Title IV, HEA program funds for that purpose.

### (c) Credit balances.

Whenever an institution disburses FWS funds by crediting a student's account and the result is a credit balance, the institution must pay the credit balance directly to the student as soon as possible, but no later than 14 days after the credit balance occurred on the account.

### (d) Student authorizations.

(1) Except for the noncash contributions allowed under paragraph (e)(2) and (3) of this section, if an institution obtains written authorization from a student, the institution may

- (i) Use the student's FWS compensation to pay for charges described in paragraph (b) of this section that are included in that authorization; and
- (ii) Except if prohibited by the Secretary under the reimbursement or cash monitoring payment method, hold on behalf of the student any FWS compensation that would otherwise be paid directly to the student under paragraph (c) of this section.

(2) In obtaining the student's authorization to perform an activity described in paragraph (d)(1) of this section, an institution

- (i) May not require or coerce the student to provide that authorization;
- (ii) Must allow the student to cancel or modify that authorization at any time; and
- (iii) Must clearly explain how it will carry out that activity.

(3) A student may authorize an institution to carry out the activities described in paragraph (d)(1) of this section for the period during which the student is enrolled at the institution.

(4) (i) If a student modifies an authorization, the modification takes effect on the date the institution receives the modification notice.

- (ii) If a student cancels an authorization to use his or her FWS compensation to pay for authorized charges under paragraph (b) of this section, the institution may use those funds to pay only those authorized charges incurred by the student before the institution received the notice.
- (iii) If a student cancels an authorization to hold his or her FWS compensation under paragraph (d)(1)(ii) of this section, the institution must pay those funds directly to the student as soon as possible, but no later than 14 days after the institution receives that notice.

(5) If an institution holds excess FWS compensation under paragraph (d)(1)(ii) of this section, the institution must

- (i) Identify the amount of funds the institution holds for each student in a subsidiary ledger account designed for that purpose;
- (ii) Maintain, at all times, cash in its bank account in an amount at least equal to the amount of FWS compensation the institution holds for the student; and
- (iii) Notwithstanding any authorization obtained by the institution under this paragraph, pay any remaining balances by the end of the institution's final FWS payroll period for an award year.