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# Selecting Recipients & Assigning Jobs

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## GENERAL STUDENT ELIGIBILITY REQUIREMENTS

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

## ASSIGNING JOBS

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

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.

See chapter 5 for more information on acceptable types of employment.

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### Academically relevant jobs cite

HEA Section 443(c)(4)

**Employment conditions and limitations prohibited cite**

34 CFR 675.20(c)

**EMPLOYMENT CONDITIONS AND LIMITATIONS**

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

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

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**Minimum wage cite**

Dear Colleague Letter CB-96-23, dated November 1996

FWS employers must pay students at least the federal minimum wage in effect at the time of employment (\$5.15 as of September 1997). The Small Business Job Protection Act of 1996 established a subminimum, or training, wage that is lower than the minimum wage. However, it is not permissible to pay the subminimum wage rate to students in FWS jobs.

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

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

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**Fees or commissions prohibited cite**

34 CFR 675.27(b)

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

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

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**Internships, practica, or assistantships cite**

34 CFR 675.20(d)

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 the person for the same job (see sidebar example).

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**Example of an internship that normally doesn't qualify as an FWS job**

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

## **FWS EMPLOYMENT DURING PERIOD OF NONATTENDANCE**

A student may be employed under FWS during a period of nonattendance, such as a summer or equivalent vacation period or the full-time work period of a cooperative education program. To be eligible for this employment, a student must be planning to enroll (or to reenroll) for the next regular session. The student's earnings during this period of nonattendance (earnings minus taxes and job-related costs) must be used to pay his or her cost of attendance for the next period of enrollment.

A student whose eligibility for summer FWS employment was based on anticipated enrollment in the subsequent term may fail to register or may decide to attend another school. When a student fails to register for the subsequent term, 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 term. At minimum, the school that employed the student must keep a written record in its files showing that the student had accepted the school's offer of admittance in the upcoming session.

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

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**Work during nonattendance cite**

34 CFR 675.25(b)

