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# Types of Employment

*Federal Work-Study (FWS) jobs may be on or off campus. Off-campus FWS jobs with federal, state, or local public agencies, or private nonprofit organizations must be in the public interest. Off-campus FWS jobs with private, for-profit organizations must be academically relevant to the maximum extent possible. Also, your school **must** use at least 7% of its FWS allocation to employ students in community service jobs. (See chapter 1.)*

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## COMMUNITY SERVICE JOBS

Schools must make students aware of community service opportunities by encouraging them to get involved in community service activities. The program participation agreement also requires your school to work with local nonprofit, governmental, and community-based organizations to identify community service opportunities, including those that assist supportive services to students with disabilities, and inform Federal Work-Study (FWS) students of these opportunities (see chapter 1).

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

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

Employing an FWS student in these positions serves the needs of the community and gives the FWS student an enriching and rewarding experience. To further encourage schools to employ FWS students in these positions and as mathematics tutors, FWS regulations authorize a 100% federal share of FWS wages (see chapter 1).

### *How are community services defined?*

**Community services** are defined as services that are identified by an institution of higher education through formal or informal consultation with local nonprofit, governmental, 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:

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#### **Program Participation Agreement cite**

34 CFR 675.8

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#### **7% cite**

34 CFR 675.18(g)

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#### **Reading tutor/family literacy project cite**

34 CFR 675.18(g)

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#### **Definition of community services cite**

34 CFR 675.2(b)

### Community service cite

Dear Colleague Letter CB-97-12, dated July 1997

Dear Colleague Letter CB-94-4, dated March 1994

- such fields as health care, child care, literacy training, education (including tutorial services), welfare, social services, transportation, housing and neighborhood improvement, public safety, crime prevention and control, recreation, rural development, and community improvement;
- work in service opportunities or youth corps as defined in Section 101 of the National and Community Service Act of 1990, and service in the agencies, institutions, and activities designated in Section 124(a) of that act;<sup>1</sup>
- support services for students with disabilities (including students with disabilities who are enrolled at the school<sup>2</sup>); and
- activities in which an FWS student serves as a mentor for such purposes as tutoring. (See “Employing Reading and Mathematics Tutors,” in this chapter), supporting educational and recreational activities, and counseling, including career counseling.

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

In determining whether the service is a community service, the school must always consider whether the service provided by the FWS student primarily benefits the community as opposed to the agency or school. See Appendix B for a model need assessment form that can be used with community service agencies.

The Department does not intend to indicate that certain activities are more important than others or that only jobs that have direct contact with community members are acceptable. For example, an FWS student working for a “meals on wheels” program may prepare meals for the program without having any direct contact with the community residents, yet the service he or she is providing is very important in meeting community needs.

There is no restriction as to whether these jobs must be on or off campus. However, a university or college is not considered a community for the purposes of the FWS Program community service requirements. On-campus jobs can meet the definition of community services, provided that the services are open and accessible to the community and that they meet the regulatory and statutory provisions pertaining to the applicable FWS Program employment limitations

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1. At the end of this section are definitions of the terms “service opportunity” and “youth corps program” (as defined in Section 101 of the National and Community Service Act of 1990) and a list of agencies, institutions, and activities included in Section 124(a) of that act.

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

and conditions. A service is considered open to the community if the service is publicized to the community and members of the community use the service. For example, an on-campus day care service or tutor center that is used by members of the community (not just faculty and staff) can be considered a community service.

If a school provides community services through off-campus sites, these services are considered community services as long as the services are open to the community.

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

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

### ***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:

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

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#### **Family literacy project definition cite**

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

*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 reading and mathematics tutors**

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#### **Reading reform cite**

34 CFR 675.18(g)(3)

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#### **Reading and math tutors cites**

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

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

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

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

For more information, see Frequently Asked Questions (FAQs) at the end of this chapter.

## **WORK ON CAMPUS**

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#### **On-campus employment cite**

34 CFR 675.21

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

At any **private nonprofit or public school**, 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. However, in a **proprietary school**, a student may not assist an instructor, as instructional activities are not considered student services.

Normally, employment in a foreign country is not permissible under the law. However, a school with a branch campus 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.

## ON-CAMPUS OR OFF-CAMPUS WORK FOR PROPRIETARY SCHOOL

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

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

The regulations define student services as services that are offered to students and that are directly related to the student's training or education. For example, jobs that provide student services may include, but are not limited to, jobs in a financial aid office or library, peer guidance counseling, and jobs providing social and health services or tutorial services. However, work in the admissions or recruitment area of a school is not acceptable, as this employment could involve soliciting potential students. Maintenance (cleaning dorms) is not acceptable. In general, work that would primarily benefit the school rather than its students is not permissible. For example, a student may not work in the front reception area or in the business office of a school, as those jobs do not provide student services. As stated earlier, a student may not assist an instructor, as instructional activities are not considered student services.

## WORK OFF CAMPUS FOR NONPROFIT OR GOVERNMENT AGENCY

If a student is employed off campus by a federal, state, or local public agency<sup>3</sup> or by a private nonprofit organization, providing jobs related to the student's academic or vocational goals is encouraged, but not required. However, the work performed **must be in the public interest**. Work in the public interest is defined as work performed for the welfare of the nation or community, rather than work performed for a particular interest or group.

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### Proprietary school employment cite

34 CFR 675.21(b)

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### Student services definition cite

34 CFR 675.2(b)

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### Off-campus/nonprofit/government jobs cite

34 CFR 675.22

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3. Local public agencies include city or county government offices, public schools, community-owned hospitals, public libraries, and community centers.

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

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

Work is not “in the public interest” if:

- it primarily benefits the members of an organization that has membership limits, such as a credit union, a fraternal or religious order, or a cooperative;
- it involves any partisan or nonpartisan political activity or is associated with a faction in an election for public or party office;
- it is for an elected official unless the official is responsible for the **regular** administration of federal, state, or local government;
- it is work as a political aide for any elected official;
- a student’s political support or party affiliation is taken into account in hiring him or her; or
- it involves lobbying on the federal, state, or local level.

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

Political activity, whether partisan or nonpartisan, does not qualify as work in the public interest. For example, a student is not considered to be working in the public interest if working at voting polls—even if he or she only checks off the names of those who came to vote and



does not pass out flyers supporting a particular candidate. Also, a student is not considered to be working in the public interest if working to support an independent candidate. Another example of nonpartisan political activity is work for a city political debate.

Working for an elected official as a political aide also does not qualify as work in the public interest. For example, a student could not represent a member of Congress on a committee. However, a student could be assigned to the staff of a standing committee of a legislative body or could work on a special committee, as long as the student would be selected on a nonpartisan basis and the work performed would be nonpartisan.

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

FWS students are prohibited from working for the Department due to the potential appearance of conflict of interest.

## WORK OFF CAMPUS FOR PRIVATE FOR-PROFIT COMPANIES

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

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

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

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### Off-campus/for-profit companies cite

34 CFR 675.23

## **ESTABLISHING FWS COMMUNITY SERVICE JOBS**

### **Step #1: Identify potential jobs and employers.**

#### **Identify jobs**

Brainstorm types of jobs that would meet the community service requirement.

Does your school currently place students in jobs, 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**

Does your school currently coordinate with local community service organizations? Which of these organizations might be interested in employing your FWS students?

Contact local nonprofit, governmental, and community-based organizations to assess their needs and determine what interest exists for employing FWS students.

#### **Talk to colleagues**

Talk to colleagues at institutions that participated in the expired Community Service Learning Program to get ideas on implementing, locating, and developing the community service jobs.

### **Step #2: Research your students' interest in community service.**

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

### **Step #3: Promote community service jobs.**

Devise a plan to market community services under the FWS Program to eligible student employers and the community:

- obtain a listing of potential community service agencies,
- ask to be a presenter at various organizations' meetings,
- engage in networking activities,
- hold and attend job fairs,
- host a financial aid office "open house," and
- visit local agencies.



## TERMS USED IN THE DEFINITION OF COMMUNITY SERVICES

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

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

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

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

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

1. Conservation corps programs that focus on:
  - conservation, rehabilitation, and the improvement of wildlife habitat, rangelands, parks, and recreation areas;
  - urban and rural revitalization, historical and site preservation, and reforestation of both urban and rural areas;
  - fish culture, wildlife habitat maintenance and improvement, and other fishery assistance;
  - road and trail maintenance and improvement;
  - erosion, flood, drought, and storm damage assistance and controls;
  - stream, lake, waterfront harbor, and port improvement;
  - wetlands protection and pollution control;
  - insect, disease, rodent, and fire prevention and control;
  - the improvement of abandoned railroad beds and rights-of-way;
  - energy conservation projects, renewable resource enhancement, and recovery of biomass;

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

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## EMPLOYING FWS STUDENT AS TUTORS: FAQs

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### What are the requirements to be 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 'pre-school age child'?

A preschool-age child is a child from infancy to the age at which his or her state provides elementary education. The definition of an elementary school varies from state to state. Because the Department does not wish to interfere with a state's determination of what constitutes children who are in elementary school, we will not provide guidance on the maximum grade level for elementary school for purposes of the institutional-share waiver for tutoring.

### What setting must the tutoring take place in?

Tutoring may be one-on-one or in a group.

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

### Can FWS students tutor children in parochial schools?

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

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

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

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### Should tutors be trained?

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

### Can students be paid while in training?

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

### Can students be paid during preparation and evaluation activities?

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

### Will a tutoring job always satisfy the community service requirement?

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

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

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### **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 (see chapter 6 of this volume). 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. (See chapter 6.)

