

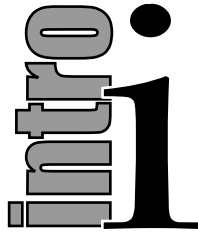
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Introduction

The Federal Work-Study (FWS) Program encourages the part-time employment of undergraduate and graduate students who need the income to help pay for their cost of education, and encourages FWS recipients to participate in community service activities. Since the beginning of the 1994-95 award year, schools have been required to utilize money from their FWS Program funds to compensate students employed in community service jobs. (See below.)

RECENT CHANGES TO THE FWS PROGRAM

Part 673 has been added to the regulations as “Part 673—General Provisions for the Federal Perkins Loan Program, Federal Work-Study Program, and Federal Supplemental Educational Opportunity Grant Program,” published in the **Federal Register** (Part IV) on November 27, 1996. Part 673 consolidates common provisions of the campus-based programs (formerly found in Parts 674, 675, and 676), and eliminates duplicate provisions for each program. The regulations, which are effective July 1, 1997, are discussed in the Introduction to Chapter 5 of this Handbook.

The regulations published November 27 also add a new provision, authorizing a 100% federal share of FWS wages earned by a student who is employed as a reading tutor for children who are in preschool through elementary school. The work performed by the student must be for the school itself, for a federal, state or local agency, or for a private nonprofit organization. (See Section 5 of this chapter.)

Requirements for maintaining and accounting for Student Financial Assistance (SFA) program funds are included in regulations published in the **Federal Register** November 29, 1996 and become effective July 1, 1997. The new cash management requirements that apply specifically to the campus-based programs are discussed in Chapter 5, Section 3. The new provisions that apply to all SFA programs are discussed in detail in Chapter 3, Section 3. Section 5 of this chapter also provides information on fiscal procedures and records.

34CFR 673.1



**34CFR
675.26(d)(2)**

**34CFR
668.163**

**Recordkeeping—
34CFR
668.24 and
34CFR
675.19**

New recordkeeping requirements for all SFA programs were published in the **Federal Register** November 27, 1996 and become effective July 1, 1997. These regulations specify the length of time records must be kept and the formats in which they must be kept. These new requirements as they apply in general to all SFA programs are discussed in Chapter 3, Section 7. For information on how these requirements apply specifically to the campus-based programs, see Chapter 5, Section 3.

WORK-COLLEGES PROGRAM

The Higher Education Amendments of 1992 authorized the Work-Colleges Program. Schools that satisfy the definition of “work-college” may apply with the U.S. Department of Education to participate in the program. A work-college may transfer funds from its allocation for the FWS Program and/or Federal Perkins Loan Program to fund the school’s Work-Colleges Program.

***Purpose of
Work-
Colleges
Program***

The Work-Colleges Program recognizes, encourages, and promotes the use of comprehensive work-learning programs as a valuable educational approach when used as an integral part of the school’s educational program and as a part of a financial plan that decreases reliance on grants and loans. The program also encourages students to participate in community service activities.

***Definition of
work-college***

The term “work-college” is defined as an eligible institution¹ that

- ◇ is a public or private nonprofit school with a commitment to community service;
- ◇ has operated a **comprehensive work-learning program** for at least two years;
- ◇ provides students participating in the comprehensive work-learning program with the opportunity to contribute to their education and to the welfare of the community as a whole;
- ◇ requires all students who reside on campus to participate in a comprehensive work-learning program; and
- ◇ requires providing services as an integral part of the school’s educational program and as part of the school’s educational philosophy.

A “comprehensive student work-learning program” is defined as a student work/service program that

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

Additional requirements for the Work-Colleges Program are found in 34CFR 675, Subpart C.

¹See Chapter 3, Section 1 for the definition of an eligible institution.

Section 1

Selecting Recipients and Assigning Jobs

GENERAL STUDENT ELIGIBILITY REQUIREMENTS

To be eligible for a Federal Work-Study (FWS) job, a student must meet all eligibility requirements listed in Chapter 2, Section 1. 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 Section 2 of this chapter.) 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 Chapter 5, Section 1.

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

Since the beginning of the 1993-94 award year, a school has been required to offer at least 5% of its federal FWS allocation to **less-than-full-time students** and **independent students** if 1) the allocation is partly based on the financial need of these students and 2) the financial need of these students exceeds 5% of the total financial need of all students at the school. (See Chapter 5, Section 1).

A school may award an FWS job to a student who is enrolled or accepted for enrollment on at least a half-time basis in an eligible teacher certification program. Criteria for an eligible teacher certification program are discussed in Chapter 5, Section 1.

ASSIGNING JOBS

A school must make FWS jobs reasonably available to all eligible students at the school. To the extent funds are available, the school must also make available "equivalent employment" (that is, similar non-FWS jobs offered

Financial need

Less-than-full-time & independent students

Teacher certification program

Complement academic/ career goals

or arranged by the school) to all students at the school who want to work. To the maximum extent practicable, a school must provide FWS jobs that will 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.

Jobs on or off campus

FWS jobs may be on campus or off campus. See Section 4 of this chapter for more information. Off-campus jobs must be in the public interest if the work is for a federal, state, or local public agency or for a private nonprofit organization. However, a school may use part of its FWS allocation to provide jobs in private for-profit organizations.

Community service jobs

FWS employment may be used for community service programs and for programs providing supportive services to students with disabilities. (Types of employment are discussed in Section 4 of this chapter.)

JOB DESCRIPTIONS

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

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

Job description purposes

The job description has several purposes:

- ◇ It clearly defines whether the job qualifies under the FWS Program.

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

If a student is employed with an agency or organization that provides community services, the school should, as with any other FWS position, have a job description that includes the duties and the responsibilities. For example, a community food bank appears to be the type of organization that has jobs that satisfy the definition of community services; however, the institution must review the individual job descriptions and determine if certain positions at the community food bank qualify. If the FWS recipient will work as a clerk in the food bank, the duties in the job description for the position of clerk would have to meet the definition of community services in the FWS regulations before the job could be considered an FWS community service job. (See the definition in Section 4 of this chapter.) The duties must include providing indirect or direct services designed to improve the quality of life for community residents, particularly low-income individuals, or designed to solve particular problems related to their needs. It is important to note that work performed off campus for a nonprofit agency must also be in the public interest. (See page 7-24.)

**Community
service job
description**

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 reasonable according to the type of work performed, the geographic region, the employee’s proficiency, and any applicable federal, state, or local law.

**Employment
conditions**

FWS employers must pay students at least the current federal minimum wage. The Small Business Job Protection Act of 1996 amended the Fair Labor Standards Act of 1938 by increasing the Federal minimum wage from \$4.25 an hour to \$4.75 an hour, effective October 1, 1996, and to \$5.15 an hour, effective September 1, 1997 (refer to “Dear Colleague” letter CB-96-23, dated November 1996). The Small Business Job Protection Act of

**Minimum
wage—
CB-96-23**

1996 also 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.

Displacing regular workers prohibited

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

Employment in building used for religious purposes

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

Fees or commissions prohibited

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.

Voluntary services prohibited

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.

Academic credit for work-study

The fact that a student may receive academic credit from the work performed does not disqualify the job under FWS. However, there are certain restrictions. For a student who must complete an internship or practicum as part of his or her degree requirement, the internship or practicum does not qualify under FWS unless the employer normally pays all other persons who hold the same position or has paid all other persons who have held the same position in the past. If the employer normally pays or has paid these persons, the internship or practicum qualifies as an FWS job. A student who receives academic credit for an FWS job should not be paid any less than he or she would be paid if no academic credit were received. A student may not be paid for receiving instruction in a classroom, laboratory, or other academic setting.

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

***Garnishment
of FWS
wages***

Section 2

Calculating FWS Awards

NEED ANALYSIS FORMULAS

As stated earlier, a student must have financial need to be eligible for a Federal Work-Study (FWS) job; that is, the student's cost of attendance (COA) must be more than the amount of his or her Expected Family Contribution (EFC) as calculated by the Federal Need Analysis Methodology. Procedures for determining a student's COA and eligibility for aid from Student Financial Assistance (SFA) Programs are discussed in Chapter 2, Section 2. 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. Resources, as defined in the campus-based regulations, are listed in Chapter 5, Section 2. Additional information about resources and overawards, as they apply to the FWS Program, is included below.

DETERMINING MAXIMUM FWS ELIGIBILITY

In determining the maximum FWS award a student is eligible to receive, the aid administrator must take into account the following resources:

- ◇ those resources the aid administrator can reasonably anticipate at the time aid is awarded to the student,
- ◇ those the school makes available to its students, or
- ◇ those the aid administrator knows about.

The sum of a student's FWS award plus other resources may not exceed his or her financial need.

Non-need-based earnings, such as earnings from a job a student locates on his or her own with a private employer, are not considered to be a resource for the current award year because they will be reported on the *Free Application for Federal Student Aid (FAFSA)* for the subsequent award year and will be used to determine the EFC for the subsequent award

$$\begin{aligned} & \text{COA} \\ & - \text{EFC} \\ & \hline & = \text{Financial} \\ & \quad \text{need} \end{aligned}$$

$$\begin{aligned} & \text{Financial} \\ & \text{need} \\ & - \text{Other} \\ & \quad \text{resources} \\ & \hline & = \text{Maximum} \\ & \quad \text{FWS award} \end{aligned}$$

Treatment of non-need-based earnings

year. Only net income from **need-based** employment is considered as a resource. Examples of need-based employment would be employment under the U.S. Department of Veterans Affairs' work-study program and employment with a state if that employment is based on the student's need for assistance to pay for educational expenses.

The school monitors each student's net income from need-based sources to determine whether the student's need has been met. The school does so by examining the school's payroll records of disbursements to the student under the FWS Program and any other need-based employment program. The school's FWS fiscal records must be reconciled at least monthly.

EARNINGS APPLIED TO COST OF ATTENDANCE

Treatment of taxes and job-related costs

Not all of a student's FWS earnings are available to the student for educational expenses. Some of the student's expenses may be job related. Therefore, to determine the net amount of a student's FWS earnings that will be available to help pay for his or her COA, the school must subtract estimated taxes and job-related costs from the student's gross FWS earnings. Examples of job-related costs include uniforms, the cost of meals at work, and transportation to and from work. During vacation periods, room and board may also be considered job-related costs if the student is paying them **only** because he or she has an FWS job.

For example, to earn a net FWS award of \$1,000, a student with a Social Security tax of 7.65% and \$100 in job-related expenses may earn up to \$1,176.50 in gross earnings (\$1,000 + \$76.50 + \$100). Only the net earnings of \$1,000 are available to count toward the student's need for federal student aid and to help pay for the student's COA. Federal and state income taxes paid may also be withheld from a student's wages. In some cases, these should also be deducted from the student's gross income to calculate the net amount available to the student; however, if the aid administrator is certain that the student's federal taxes paid will be refunded by the Internal Revenue Service (IRS), the school should not subtract these amounts from the gross wages when calculating the net wages available to the student for the FWS award. Similarly, if the aid administrator is certain that the student's state taxes withheld will be refunded by the state, the school should not subtract these amounts from the gross wages when calculating the net wages available to the student for the FWS award. Only taxes the student will actually pay (those that will be withheld and **not** refunded) should be subtracted.

Working during a period of nonattendance

If the student works during a vacation or other period when he or she is not attending classes, his or her net FWS earnings (earnings minus taxes and job-related expenses) from that period must be counted toward payment of the student's COA for the **next** enrollment period (refer to

“FWS Employment During Period of Non-enrollment” in Section 4 of this chapter).

A school is encouraged to tell each FWS recipient how much of his or her earnings it estimates to be counted toward payment of his or her COA. Of course, at the end of a student’s employment, the school will need to review the estimate to see if it was accurate and to make adjustments if it was not.

FWS OVERAWARDS AND RESOURCES

New CFR Part 673, published in the **Federal Register** November 27, 1996, eliminates duplicate provisions and consolidates common provisions of the campus-based programs. Regulatory provisions regarding overaward and resources, formerly in 34 CFR 674.14, 675.14, and 676.14, are now in CFR 673.5. A list of resources and a detailed discussion of the treatment of overawards in the campus-based programs, including FWS, is included in Chapter 5, Section 2, “Resources and Overawards.”

Section 3

Paying Students

For information about determining the federal share and institutional share of Federal Work-Study (FWS) payments to students, refer to Section 5 of this chapter .

ESTABLISHING WAGE RATES

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

A school should determine the number of hours a student is allowed to work based on the student's financial need and on how the combination of work and study hours will affect the student's health and academic progress. There are no statutory or regulatory limits on the number of hours per week or per payment period a student may work, provided no overaward occurs. (See Section 2 of this chapter.)

A student must be paid at least the current Federal minimum wage, but there is no maximum wage rate. From October 1, 1996 to August 31, 1997, schools are required to pay students employed under the FWS Program at least the Federal minimum wage of \$4.75 per hour. Beginning September 1, 1997, schools must pay at least the Federal minimum wage of \$5.15 per hour (refer to "Dear Colleague" letter CB-96-23, dated November 1996). As noted in Section 1, it is not permissible to pay a lower "subminimum" or "training" wage to students in FWS jobs. A school may not count fringe benefits as part of the wage rate and may not pay a student commissions or fees. In determining an appropriate rate, the school must consider the following:

- ◇ the skills needed to perform the job,
- ◇ how much persons with those skills are paid in the local area for doing the same type of job,

***Determining
work
schedule***

***New
minimum
wage—
CB-96-23***

***Pay related
to skills***

- ◇ 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.

DISBURSEMENT

Pay student at least monthly

A school must pay a student at least once a month. The federal share of FWS compensation must be paid by check or similar method¹ that the student can cash on his or her own endorsement. The school may not directly transfer the federal share to a student's account at the school, nor may it obtain a student's power of attorney to authorize any disbursement of funds unless the U.S. Department of Education has granted prior approval. The Department would not grant such a power of attorney (to allow a school to act on behalf of a student) unless the school could demonstrate that there is no one else (such as a relative, landlord, or member of the clergy, for example) who could act on behalf of the student.

If the school pays its share of FWS wages by **check**, it must pay the non-federal share to the student at the same time it pays the federal share. (See Section 5 of this chapter for a discussion of federal and institutional shares of FWS compensation.) FWS wages are earned when the student performs the work. A school may pay the student after the last day of attendance for FWS wages earned while he or she was still in school. However, when a student has withdrawn from school, FWS funds may not be used to pay for work performed after the student withdrew. A correspondence student must submit the first completed lesson before receiving payment.

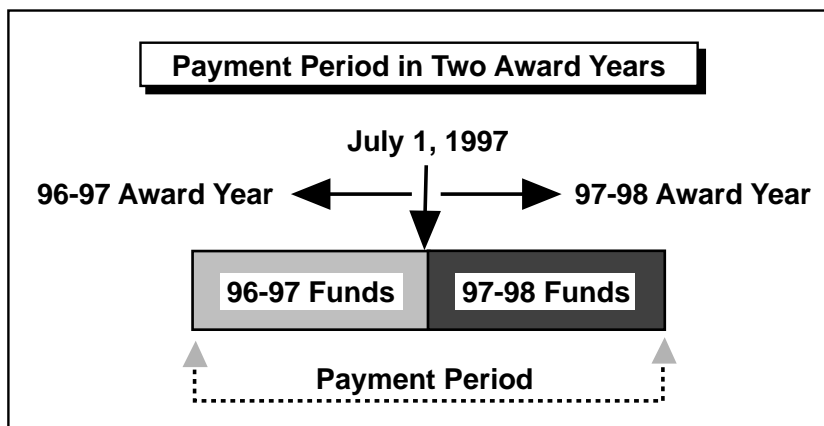
Noncash contribution

If the school pays its share of FWS wages for an award year in the form of a **noncash contribution** (tuition, fees, services, or equipment), it must do so before the final payroll period of the award year. If the school pays this share in the form of **prepaid** tuition, fees, services, or equipment, it must

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

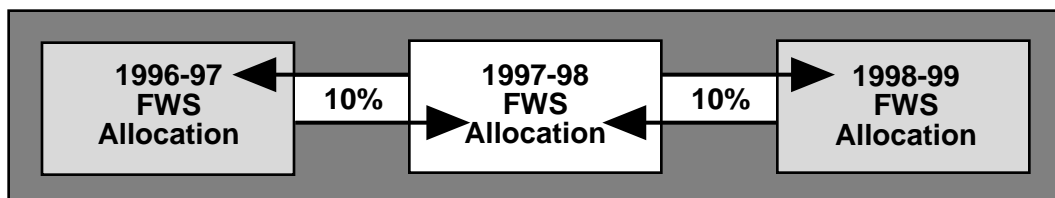
give the recipient—again, before the end of the final payroll period—a statement of the amount of the noncash contribution earned. (For more information on using noncash contributions as part of the school’s share of FWS wages, see Section 5 of this chapter.)

When a payment period is in two award years (that is, when it begins before and ends after July 1), the student is ordinarily paid for compensation earned through June 30 with funds allocated for the first award year and for compensation earned beginning July 1 with funds allocated for the following award year. For example, for a payment period extending from June 15, 1997 to July 15, 1997, a student would ordinarily be paid with the school’s 1996-97 allocation through June 30 (the end of the 1996-97 award year) and with the school’s 1997-98 allocation beginning July 1, 1997 (the beginning of the 1997-98 award year).



A school may “carry back” funds for summer employment; that is, it may use any portion of its initial and supplemental FWS allocations for the current award year to pay student wages earned on or after May 15 of the previous award year but prior to the beginning of the current award year (July 1). For example, a school is authorized to carry back any portion of its funds allocated for the 1997-98 award year to pay FWS wages for summer employment between May 15, 1997 and June 30, 1997 (including both those dates).

A school may carry back funds for reasons other than to pay summer wages. A school is also allowed to use up to 10% of the next year’s FWS initial and supplemental allocation at any time during the current award year. “Carrying forward” is also permitted. A school may carry forward up to 10% of its FWS initial and supplemental allocation for the current award year to the next award year.



Payment period crosses award years

May carry back funds for summer

10% carry back/carry forward funds to award year

If the school carries forward funds from the current award year to the following award year, the expenditures are charged to the allocation for the current award year. If the school carries back funds from the next year to the current year, the expenditures are charged to the next award year.

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

The school may use any type of payroll period it chooses, provided students are paid at least monthly. It is a good idea to have the FWS payroll correspond to other, similar payrolls at the school.

PAYROLL RECORDS

New recordkeeping requirements for all Student Financial Assistance (SFA) programs were published in the **Federal Register** (Part IX) November 27, 1996, revising 34CFR 668.24 of the Student Assistance General Provisions, and amending 34CFR 675.19 of the FWS regulations. These new requirements become effective July 1, 1997. Schools must follow the new recordkeeping requirements in 34CFR 668.24 (discussed in Chapter 3, Section 7) and those in 34CFR 675.19 (discussed below).

Separate FWS payroll

For reporting and control purposes, FWS expenditures must be distinguishable from other institutional expenditures. FWS compensation should either be entered on a separate voucher or, if listed on the general payroll voucher, should be grouped separately from other expenditures. If payrolls are handled on automatic data processing equipment, a special code for FWS payments should be used.

Payment records— 34CFR 675.19

A school must establish and maintain program and fiscal records that are reconciled at least monthly. The records must include

- ◇ a certification that each student has worked and earned the amount being paid; the certification must be signed by the student's supervisor—an official of the school or off-campus agency; if the students are paid on an hourly basis, the certification must include or be supported by a time record showing the hours each student worked in clock time sequence, or the total hours worked per day;
- ◇ a payroll voucher containing sufficient information to support all payroll disbursements;

- ◇ a noncash contribution record to document any payment of the school's share of the student's earnings in the form of services and equipment.

Payroll vouchers must support all payroll disbursements and should provide space for the following information:

- ◇ the school's name and address;
- ◇ the starting and ending dates of the payroll period;
- ◇ the student's name;
- ◇ an identification of the student's job;
- ◇ the number of hours worked during the pay period;
- ◇ the hourly rate of pay for an undergraduate student;
- ◇ the hourly rate of pay or salary for a graduate student;
- ◇ the student's gross earnings;
- ◇ any compensation withheld for federal, state, county, or city taxes, and other deductions;
- ◇ any noncash payments;
- ◇ the student's net earnings;
- ◇ a check number, duplicate receipt, or other payment identification; and
- ◇ any overtime earnings (a student may be paid overtime with FWS funds).

New recordkeeping requirements for all SFA programs were published in the **Federal Register** November 27, 1996 and become effective July 1, 1997. These regulations specify the length of time records must be kept and the formats in which they must be kept. These new requirements as they apply in general to all SFA programs are discussed in Chapter 3, Section 7. For information on how these requirements apply specifically to the campus-based programs, see Chapter 5, Section 3.

***Voucher
contents***

Section 4

Types of Employment

Federal Work-Study (FWS) jobs may be on or off campus. Off-campus jobs must be in the public interest if the work is for a federal, state, or local public agency, or for a private nonprofit organization. However, a school may use part of its FWS allocation to provide jobs in private, for-profit organizations. All FWS jobs must, to the maximum extent practicable, complement and reinforce the student recipient's educational program or vocational goals.

COMMUNITY SERVICE JOBS

Schools are required to make students aware of community service opportunities by encouraging them to get involved in community service activities. Schools are also required to utilize money from their FWS Program for that purpose. There is no restriction as to whether these jobs must be on or off campus. A university or college is not considered a community for the purposes of the FWS Program community service requirements. Also, private, for-profit organizations do not qualify as employers for community service under the FWS Program.

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. Additional information on the community service component of the FWS Program is available in "Dear Colleague" letter CB-94-4, dated March 1994.

Schools are encouraged to place FWS students as reading tutors for children in preschool through elementary school as part of the school's effort to support the "America Reads Challenge" (refer to Dear Colleague letter CB-96-22, dated November 1996). This is an important way for schools to meet the community service expenditure requirement under the FWS Program, serve the needs of the community, and give the FWS students a rewarding and enriching experience. The programs that provide this reading tutoring for children may take place during the children's school hours or after school, on weekends, or in the summer.

***Employing
FWS
students as
reading
tutors—
CB-96-22***

The school may construct its own reading tutor program or become involved with existing community programs. The Department will authorize a 100% federal share of the student's FWS wages if he or she is employed as a reading tutor for children in preschool through elementary school and if the work performed by the student is for the school itself, for a federal, state, or local public agency, or for a private nonprofit organization. (The federal share of FWS wages is discussed in Section 5 of this chapter.) A school is not required to ask the Department for a waiver of the FWS nonfederal share requirement to receive the 100% federal share authorization for FWS students employed as reading tutors. Instead, the school should use 100% federal dollars to pay such a student and then show on its *Fiscal Operations Report and Application to Participate* (FISAP) that it did so.

**Community
service
requirement—
34CFR
675.18(g)**

A school must use at least 5% of its FWS allocation to employ students in community service jobs unless the U.S. Department of Education grants the school a waiver. The Department will approve a waiver only if the school requests one in writing and if the Department determines that the school has demonstrated that enforcing the requirement would cause hardship for students at the school.

According to the participation agreement (discussed in the introduction to Chapter 5) between a school and the Department, a school must

- ◇ allow employment under FWS to be used to assist programs providing supportive services to students with disabilities;
- ◇ inform all eligible students of the opportunity to perform community services; and
- ◇ consult with local nonprofit, governmental, and community-based organizations to identify community service opportunities.

**Definition of
community
services—
34CFR
675.2(b)**

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

- ◇ 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;¹
- ◇ support for students (other than for an institution’s own students) with disabilities; and
- ◇ activities in which an FWS student serves as a mentor for such purposes as
 - tutoring (discussed on page 7-19),
 - supporting educational and recreational activities, and
 - counseling, including career counseling.

Serving as a mentor

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.

Direct vs. 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 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.

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.

Jobs that should take priority

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.

***On-campus
community
service jobs***

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 and conditions. For example, it would be acceptable for an institution to set up services on the campus (e.g., tutoring centers or child-care centers) that are open to the community. If the institution sets up sites in the community and opens the services for the community, jobs at these sites would be acceptable. A service is considered open to the community if the service is publicized to the community and members of the community use the service.

ESTABLISHING FWS COMMUNITY SERVICE JOBS

In developing FWS community service jobs, a school might begin by

- ◇ determining which types of jobs meet the community services definition,
- ◇ determining if any of its current on-campus jobs meet the community services definition,
- ◇ determining if any of its current jobs with off-campus agencies meet the community services definition, and
- ◇ locating other potential employers.

***Placing FWS
recipients***

To place FWS recipients in community service jobs, a school might begin by

- ◇ determining which FWS recipients would be interested in community service jobs (evaluating the FWS recipients by looking at their degree or certificate programs, interests, and skills) and
- ◇ determining the number of community service jobs it needs to locate.

***Promoting
community
service jobs
through
public
relations***

To promote FWS community service jobs through public relations activities, a school might begin by

- ◇ devising a plan to market community services under the FWS Program to eligible student employers and the community,
- ◇ obtaining a listing of potential community service agencies,
- ◇ asking to be a presenter at various organizations' meetings,

- ◇ engaging in networking activities,
- ◇ holding and attending job fairs,
- ◇ hosting a financial aid office “open house,” and
- ◇ visiting local agencies.

A school may also get help in developing FWS community service jobs through communication with colleagues at their own school, at other schools, or with other organizations. For example the school may

- ◇ communicate to the student placement office the community-service requirements under the FWS Program;
- ◇ 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; and
- ◇ contact local nonprofit, governmental, and community-based organizations to assess their needs and determine what interest exists for employing FWS students.

WORK ON CAMPUS

A student may be employed on campus at any type of postsecondary institution, including at a proprietary school. An FWS job at any school must, to the maximum extent practical, be related to the student’s educational program or vocational goals.

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 “Work for Proprietary School, On or Off Campus”).

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 or for its contractors

Work for a professor

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.

Work in a branch campus overseas

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.

WORK FOR PROPRIETARY SCHOOL ON OR OFF CAMPUS

**Criteria to work for a proprietary school—
34CFR 675.21(b)**

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.

**Definition of student services—
34CFR 675.2(b)
Local public agencies**

The regulations define student services as services that are offered to students and that are directly related to the work-study 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 agency² 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.

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, day-care 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.

² Local public agencies include city or county government offices, public schools, community-owned hospitals, public libraries, and community centers.

**Private
nonprofit
organizations**

**Work in the
public
interest**

**Work not in
the public
interest**

**Political
activity—
partisan or
nonpartisan**

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 student may be employed by a private nonprofit civic club 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 that is sponsoring political debates.

Political aide

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.

Work for the Department

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 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.

A school may use up to 25% of its FWS allocation and reallocation for an award year to pay the wages of FWS students employed by private for-profit organizations, but the organizations may not hire FWS employees to replace regular employees.

The federal share of FWS wages for students employed by private for-profit organizations is limited to 50%. The for-profit organization must contribute the remaining 50%, plus employer taxes (such as FICA, unemployment, and Workers' Compensation).

OFF-CAMPUS AGREEMENTS

When a school enters into a written agreement—a contract—with any off-campus agency or company that employs FWS students, the school must make sure the organization is a reliable agency with professional direction and staff and that the work to be performed is adequately supervised and consistent with the purpose of the FWS Program. (See the Appendix at the end of this chapter for a model off-campus agreement. The sample need not be followed exactly but serves as a guide.)

The agreement sets forth the FWS work conditions and establishes whether the school or the agency/company will be the employer for such purposes as hiring and firing, or paying the nonfederal share of the student's wages or the student's Social Security or Workers' Compensation benefits. The employer is generally considered to be the organization that will control 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 must also state which organization—the school or off-campus employer—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.

Job must be academically relevant

For-profit organization pays 50% of wages

Liability for on-the-job injuries

**Payroll
responsibility**

The agreement should also define whether the agency / company 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 agency / company for its contribution. The school must make up any payments the agency / company does not make. It is the school's responsibility to ensure that FWS payments are properly documented, even if the agency / company 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).

**Supervising
and
evaluating
off-campus
employment**

The school is also responsible for ensuring that each student's work is properly supervised. School officials should periodically visit each 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.

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 is responsible for supplying this information.

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.

**Documenting
student's
intent to
reenroll**

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.

TERMS USED IN THE DEFINITION OF COMMUNITY SERVICES

The definition of community services (see page 7-20) 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 day-care 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).

Section 5

Program Funds

Funding for the Federal Work-Study (FWS) Program for the 1997-98 award year was increased to \$830 million by the Omnibus Consolidated Appropriations Act (P.L. 104-208). This amount represents an increase of \$213.5 million over the 1996-97 FWS funding level of \$616.5 million. To encourage schools to use the increased funds for community service, with emphasis on employment of FWS recipients as reading tutors, the Department amended the FWS regulations by adding 34 CFR 675.26(d)(2), which authorizes payment of a 100% federal share of the wages of a student employed as a reading tutor for children who are in preschool through elementary school (refer to the **Federal Register** printed November 27, 1996—Part IV); the work performed by the student must be for the school itself, for a federal, state, or local public agency, or for a private nonprofit organization. (Community service jobs are discussed in Section 4 of this chapter, and federal share requirements are discussed on pages 7-37 and 7-38.) This regulatory change will provide schools with the flexibility needed to respond to the “America Reads Challenge,” which will mobilize resources to ensure that all children can read independently by the end of the third grade.

Schools were notified of the increase in funding for the FWS Program in Dear Colleague Letter CB-96-22, dated November 1996. The letter, in advance of the tentative 1997-98 funding level notice, provided each school with an estimate of its increased funding level for the 1997-98 award year, based on the increased FWS appropriation and on the allocation formula in the law; however, the school could receive increased FWS funding only if it requested it. As schools were not aware of the increased funding level when they submitted their 1997-98 *Fiscal Operations Reports and Applications to Participate* (FISAPs), the letter to each school provided instructions for increasing the amount of FWS funds requested for 1997-98. The Department provided schools with as much time as possible to do the planning and development necessary to match and spend any increased FWS allocation for the 1997-98 award year.

Increased funding for the FWS Program

100% Federal share authorized for FWS job as reading tutor—34CFR 675.26(d)(2)

Notification of increased funding—CB-96-22, November 1996.

ALLOCATION AND REALLOCATION

The Higher Education Act of 1965, as amended, describes the allocation process in detail; the procedures are not repeated in the regulations for the FWS Program. FWS funds are allocated directly to schools according to the statutory formulas in section 442 of the Act. (See Chapter 5, Introduction.)

All federal funds a school receives as part of its FWS allocation must be held in trust for the students who are the intended beneficiaries under the FWS Program with the exception of funds the school receives for the administrative cost allowance (ACA) and for certain activities under the Job Location and Development (JLD) Program. (See Section 6.) The funds may not be used for, or serve as collateral for, any other purpose.

**Transfer of funds to FSEOG—
34CFR
676.18**

A school may transfer up to 25% of its FWS allocation, as well as 25% of its Federal Perkins Loan federal capital contribution (FCC) allocation, to the Federal Supplemental Educational Opportunity Grant (FSEOG) Program. The FSEOG regulations prohibit the transfer of funds **from** the FSEOG Program to any other program. However, a school that transfers funds from the FWS Program **to** the FSEOG Program during an award year must transfer any unexpended FWS funds **back** to the FWS Program at the end of the award year. (For more information, see page 7-XX.)

**Reduction of allocation due to returned funds—
34CFR
673.4(d)(3)**

If a school returns more than 10% of its FWS allocation for an award year, the school's allocation for the second succeeding award year will be reduced by the dollar amount returned, unless the Department waives this provision. The Department may do so for a specific school if the Department finds that enforcement would be contrary to the interests of the program. The Department considers enforcement to be contrary to the interest of the program only if the school returned more than 10% of its allocation due to circumstances that are beyond the school's control and are not expected to recur. (See Chapter 5, Introduction.)

Under the provisions of the Higher Education Amendments of 1992, unexpended funds returned to the Department will be reallocated to eligible schools that used at least 10% of their total FWS allocation to pay students employed in community service activities. A school must request the reallocated FWS funds, and the school must have a fair-share shortfall to receive these funds. Refer to "Dear Colleague" Letter CB-96-11, dated June 1996.) A school must use all the reallocated funds and must use them only to pay students in community service jobs.

**5% of funds for community service jobs—
34CFR
675.18(h)**

A school must use at least 5% of its FWS initial and supplemental allocations for an award year to pay the federal share of wages to students employed in community service jobs unless the Department approves a waiver. The school may request a waiver of the 5% community service

requirement in writing. However, the Department will approve a waiver only if it determines that the school has demonstrated that enforcing the requirement would cause hardship for the students at the school.

To request a waiver for the 1997-98 award year, schools are required to send a waiver request and any supporting information or documents to the Department on or before June 20, 1997. The waiver request must be signed by an appropriate school official and above the signature, the official must include this statement: "I certify that the information the institution provided in this waiver request is true and accurate to the best of my knowledge. I understand that the information is subject to audit and program review by representatives of the Secretary of Education." If a financial aid administrator has any questions regarding the FWS community service expenditure requirements or waiver procedures, he or she may contact the school's campus-based programs Financial Management Specialist in the Institutional Financial Management Division of the Department; a list of state specialists is included in Chapter 1, Section 2 of this Handbook.

FWS community service expenditures for the 1996-97 award year will be reported on the *Fiscal Operations Report and Application to Participate* (FISAP) a school receives in July 1997, as that FISAP is the one the school will use to report its 1996-97 program expenditures.

When a school receives reallocated FWS funds, the minimum amount of FWS federal funds the school must expend on community service jobs is the greater of

- ◇ 5% of the total FWS allocation and
- ◇ the amount of the reallocated FWS funds

If a school's FWS allocation is based in part on the financial need of less-than-full-time or independent students and if the need of all of these students exceeds 5% of the total need of all students at the school, the school must **offer** those students at least 5% of its FWS allocation. (This provision is discussed in Chapter 5, Section 1.)

An approved school may use part of its FWS allocation for the purpose of meeting the costs of the new Work-Colleges Program discussed in the introduction to this chapter.

**Request for
waiver—
Dear
Colleague
letter
CB-96-17(LD)**

**FWS funds
for less-than-
full-time or
independent
students—
34CFR
675.10**

FEDERAL SHARE LIMITATION

Exceptions to the 75% limitation— 34CFR 675.26(a)

The federal share of FWS wages paid to students may not exceed 75%, with the following exceptions:

- ◇ The federal share of FWS wages to students employed by a **private for-profit** organization may not exceed 50%.
- ◇ The Department authorizes a 100% federal share of FWS wages earned by a student who is employed as a reading tutor for children who are in preschool through elementary school; the work performed by the student must be for the school itself, for a federal, state or local agency, or for a private nonprofit organization. A school is not required to ask the Department for a waiver of the FWS nonfederal share requirement to receive the 100% federal share authorization for FWS students employed as reading tutors. Instead, the school should use 100% federal dollars to pay such a student and then show on its FISAP that it did so. All schools are encouraged to place FWS students as reading tutors for children as an important way to meet the FWS community service expenditure requirement. A discussion of employing FWS students as reading tutors is in Section 4 of this Chapter.
- ◇ The Department may authorize a federal share of 100% of FWS wages at schools designated as eligible schools under the Strengthening Institutions Program, the Strengthening Historically Black Colleges and Universities Program, or the Strengthening Historically Black Graduate Institutions Program. The school must request the increased federal share for an award year on the FISAP for that year, and the work performed by the student must be for the school itself, for a federal state or local public agency, or for a private nonprofit organization.

100% Federal share for reading tutors in FWS—34CFR 675.26(d)(2)

100% Federal share for eligible schools

The federal share may be lower than 75% if the school 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.

Restrictions on the use of the federal share

The federal share may **not** be used to provide fringe benefits such as sick leave, vacation pay, or holiday pay or employer's contributions to Social Security, Workers' Compensation, retirement, or any other welfare or insurance program. These restrictions on the federal share apply even when the Department authorizes a federal share of 100% of FWS wages.

The federal share limitation does not affect federal agencies that want to enter an off-campus FWS job agreement. They may provide the required share of student compensation normally paid by off-campus agencies plus any other employer costs that they agree to pay.

The federal share of allowable costs in carrying out the JLD Program may not exceed 80% of such costs. (See Section 6 of this chapter.)

NON-FEDERAL SHARE

The nonfederal share of FWS wages must be at least 25% for 1993-94 and subsequent award years, with the following exceptions:

- ◇ The nonfederal share of FWS wages must be at least 50% in the case of work for **private for-profit** organizations; the 50% nonfederal share is not subject to waiver.
- ◇ The Department provides a waiver of the FWS institutional-share requirement for FWS wages earned by a student who is employed as a reading tutor for children who are in preschool through elementary school. As stated previously, a school is not required to ask the Department for a waiver of the FWS nonfederal share requirement to receive the 100% federal share authorization for FWS students employed as reading tutors. (For more information on employing FWS students as reading tutors, see Section 4 of this chapter).
- ◇ The Department may grant a waiver of the FWS institutional-share requirement to a school that is designated as an eligible institution under the Strengthening Institutions Program, the Strengthening Historically Black Colleges and Universities Program, or the Historically Black Graduate Institutions Program if the designated institution requests a waiver.

If the Department grants a waiver, the school to which the waiver is granted has the **option** of providing an institutional share and determining the amount of the share. The school, however, must provide the proper federal and institutional shares for any portion of its FWS allocation that it expends under the provisions governing student employment provided by a private for-profit organization (50% federal-share limitation) or for the administration of the JLD Program (80% federal-share limitation). The institutional-share requirement for these two categories of FWS expenditures may not be waived.

***Exceptions
to 25%
minimum***

***Waiver of
institutional
share***

A school may use any resource available to pay its share of FWS compensation except federal funds allocated under the FWS Program. The school's share may come from its own funds, from outside funds (such as from an off-campus agency), or from both.

The school also has the option of paying its share of a student's FWS wages in the form of a noncash contribution of services or equipment—for example, tuition and fees, room and board, and books and supplies. If the school's share for the award period is paid by noncash contributions, the share must be paid before the end of the student's final payroll period.

Using a noncash contribution to pay institutional share

The school must document all amounts claimed as noncash contributions. If a school has assessed a charge against a student who is employed under FWS (such as a parking fine or library fine), the school may not include forgiveness of such a charge as part of the school's noncash contribution for the student.

Costs off-campus agency pays

Any FWS employment agreement a school may have with an off-campus agency should specify what share of student compensation and what other costs the agency will pay. The agreement between the school and a for-profit organization **must** require the employer to pay the nonfederal share of student earnings. The agreement between the school and an employing agency or nonprofit organization **may** require the employer to 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 ACA.

Excess funds from off-campus agency

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.

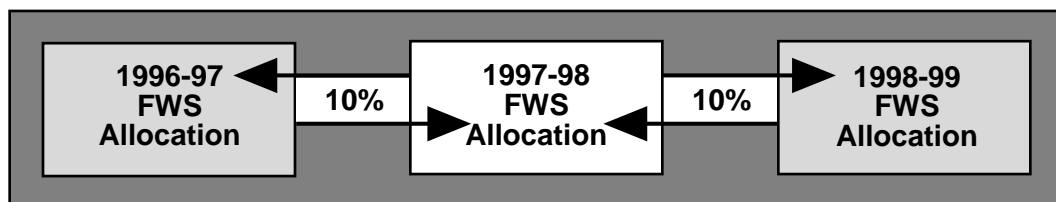
Funds from programs sponsored by federal agencies (such as the National Science Foundation or the National Institutes of Health) may be used to

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.

As discussed at the beginning of this section, with three exceptions, the federal share of FWS wages cannot exceed 75%. If the school's noncash contribution is less than the remaining 25%, the school must make up the difference in cash.

CARRY FORWARD/CARRY BACK

A school may spend up to 10% of its current year's FWS allocation (initial and supplemental) in the **following** award year (carry forward). If the school carried forward funds to be spent in the following award year, the school must report that amount on the FISAP. For example, if a school carried forward 10% of its FWS 1996-97 allocation to be spent in 1997-98, the school must report this amount on the October 1997 FISAP, in Part V of the Fiscal Operations Report for 1996-97. Before a school may spend its current year's allocation, it must spend any funds carried forward from the previous year.



A school is also permitted to spend up to 10% of its current year's FWS allocation (initial and supplemental) for expenses incurred in the **previous** award year. The official allocation letter for a specific award period is the school's authority to exercise this option.

As stated in Section 3 of this chapter, a school is authorized to make payments to students for services performed on or after May 15 of the previous award year but prior to the beginning of the current award year (that is, for summer employment) from the current award year's allocation. This "carry-back" authority is in addition to the previous authority to carry back 10% of the current year's allocation for use at any time during the previous award year.

***Reporting
carried
forward
funds***

***Spending
current year
funds on
previous
year's costs***

LIMITATIONS ON USE OF FUNDS CARRIED FORWARD OR BACK

Schools are not permitted to add funds that are carried forward or back to the total FWS allocation for an award year when determining the maximum percentage of available funds that may be used in that award year for any of the purposes listed below:

- ◇ the transferring of FWS funds to FSEOG,
- ◇ providing the federal share of wages in private for-profit sector jobs, or
- ◇ the JLD Program.

For example, for the 1997-98 award year, schools may not add to the 1997-98 total FWS allocation any FWS funds carried forward into 1997-98 from 1996-97 or carried back into 1997-98 from 1998-99 when determining the maximum percentage of available funds that may be used in 1997-98 for the purposes listed above. The maximum amount usable for each of the three purposes listed in the previous paragraph is the appropriate percentage of a school's total 1997-98 original FWS allocation plus any supplemental 1997-98 FWS allocation.

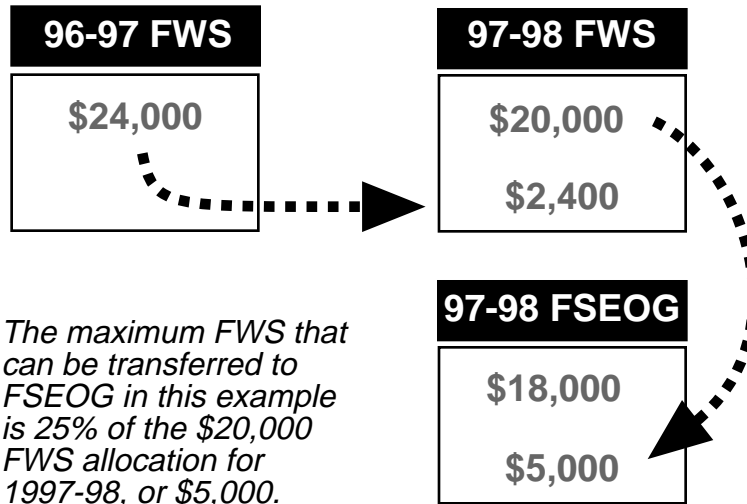
TRANSFER OF FUNDS TO THE FSEOG PROGRAM

**25%
maximum to
FSEOG—
34CFR
676.18(c)**

A school may transfer up to 25% of its total FWS allocation (initial and supplemental) to the FSEOG Program. The Department's permission is not required. Note that this total FWS allocation for an award year does not include FWS funds carried forward or carried back into the award year from other award years (see the example that follows). The school must report any transfer of FWS funds to FSEOG as an expenditure on its FWS *Fiscal Operations Report*. However, a school that transfers funds to the FSEOG Program from the FWS Program during an award year must transfer any unexpended FWS funds **back** to the FWS Program at the end of the award year.

EXAMPLE

Oasis Junior College has received a total (initial and supplemental) FWS allocation of \$24,000 for the 1996-97 award year, and \$20,000 for the 1997-98 award year. The financial aid administrator has carried forward \$2,400 of the 1996-97 FWS allocation into the 1997-98 award year, and now would like to transfer 25% of her 1997-98 FWS allocation into the 1997-98 FSEOG account. What is the maximum amount that can be transferred?



ADMINISTRATIVE COST ALLOWANCE (ACA)

As discussed in Chapter 5, Section 3, a school participating in the FWS Program is entitled to an ACA if it provides FWS employment to its student in that award year. The allowance may be used to help offset administrative costs such as salaries, furniture, travel, supplies, and equipment. The formula a school uses to calculate its total ACA for the campus-based programs is on page 5-24.

A school may use up to 10% of the ACA attributable to the school's FWS Program expenditures to pay administrative costs of conducting its community service program. These costs may include the costs of

- ◇ developing mechanisms to ensure the academic quality of a student's experience;
- ◇ ensuring student access to educational resources, expertise, and supervision necessary to achieve community service objectives; and
- ◇ collaborating with public and private nonprofit agencies and programs assisted under the National and Community Service Act of 1990, in the planning, development, and administration of these programs.

***Paying administrative costs of conducting a community service program—
34CFR 673.7(f)***

FISCAL PROCEDURES AND RECORDS

Requirements for maintaining and accounting for Student Financial Assistance (SFA) program funds are included in 34 CFR 668.163 of the cash management regulations published in the **Federal Register** November 29, 1996, effective July 1, 1997. The cash management requirements that apply in general to SFA programs (those in the General Provisions) are discussed in Chapter 3, Section 3. The cash management requirements specific to the campus-based programs (those in the FWS, FSEOG, and Perkins Loan regulations) are discussed in Chapter 5, Section 3.

Recordkeeping Requirements— 34CFR 668.24 and 34CFR 675.19

New recordkeeping requirements for all SFA programs were published in the **Federal Register** (Part IX) November 27, 1996 and become effective July 1, 1997. Revised was 34 CFR 668.24, and amended was 34 CFR 675.19, which now states that a school must follow the recordkeeping requirements in the General Provisions and those in the FWS regulations. The recordkeeping requirements that apply in general to SFA programs (those in the General Provisions) are discussed in Chapter 3, Section 7. The recordkeeping requirements specific to the campus-based programs (those in the FWS, FSEOG, and Perkins Loan regulations) are discussed in Chapter 5, Section 3. Information on FWS payroll records is provided in Section 3 of this chapter.

In addition to following the fiscal procedures and records requirements mentioned in Chapter 3, Sections 3 and 7, in Chapter 5, Section 3, and in Section 3 of this chapter, a school must meet the following requirements, which are included in the FWS regulations

- ◇ The school must establish and maintain an internal control system of checks and balances that insures that no office can both authorize FWS payments and disburse FWS funds to students.
- ◇ If the school uses a fiscal agent for FWS funds, that agent may perform only ministerial acts.
- ◇ Each year the school must submit a Fiscal Operations Report and other information the Department requires. The information must be accurate and must be provided on the form and at the time the Department specifies.

Section 6

Job Location and Development

The Job Location and Development (JLD) Program expands off-campus job opportunities for students who are 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. The JLD Program encourages students to participate in community service activities.

JLD community service jobs are designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to the needs of community residents. Community services are those the school has identified by working with local nonprofit, governmental, and community-based organizations. Appropriate jobs are those in fields such as health care; child care; literacy training; education (including tutorial services); housing and neighborhood improvement; rural development; and community improvement and jobs that provide supportive services to students with disabilities. A school must inform all eligible students of the opportunity to perform community services and must develop and make available information about community service opportunities.

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 Program Participation Agreement (PPA) for the FWS Program is able to participate in the JLD Program without any prior contact with the U.S. Department of Education and without any revision to its PPA. The school under the PPA 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. Additional information about termination and suspension is included in 34 CFR 675.37.

Jobs are for FWS and non-FWS students—34CFR 675.31

Purpose of JLD community service jobs

Termination and suspension

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 that 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

Jobs located or developed under the JLD Program may be for either a profit or nonprofit employer. 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 the following two amounts:

- ◇ 10% of its FWS allocation and reallocation
- ◇ \$50,000

USE OF JLD PROGRAM FUNDS

Paying the student

Federal JLD funds are used to pay a school's costs of establishing and administering the JLD Program. The JLD funds are not to be used to pay students whose jobs were located or developed through the JLD Program. A job located and developed under the program must be 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.

Restrictions on using JLD funds

A school is expected to generate total student wages exceeding the total amount of the federal funds spent under JLD. The school cannot locate or develop jobs at the school or other eligible schools. JLD jobs may be full time or part time. Jobs located or developed under the program must not displace employees or impair existing service contracts. The purpose of the JLD Program is to locate and develop off-campus jobs for students during and between periods of attendance, not to develop jobs for placement upon graduation.

FEDERAL SHARE LIMITATION

Federal share

The federal funds that a school sets aside from its FWS allocation to be used for JLD activities may be used to pay up to 80% of the allowable costs (listed below). The 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. The school must maintain records that indicate the amount and sources of its matching share. Procedures and records requirements for JLD are the same as those for all campus-based programs. (See Chapter 5, Section 3.)

Institutional share

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 JLD 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—the JLD director’s supervisor, for example.

Costs not allowed

FWS STUDENTS AS STAFF IN THE JLD PROGRAM

A school may assign an FWS or a non-FWS student to work as a staff member in the JLD Program, as long as the student is not employed under the JLD Program. The prohibition against using JLD funds to locate and develop jobs at any school prevents a school from employing a JLD student (whether he or she is also an FWS student or not) to work as staff in the JLD Program. This prohibition does not, however, mean that the school is also prohibited from employing any student (FWS or non-FWS) to work as staff in the JLD Program. Student jobs as staff in the JLD Program are not located and developed with JLD funds, and the student wages earned working for the JLD Program are not reportable in the JLD section of the *Fiscal Operations Report and Application to Participate (FISAP)*.

If a school places an FWS student as staff in the JLD Program, 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 nonfederal share of FWS compensation to its students. Hence, the federal JLD funds may not be used to pay the nonfederal share of FWS wages earned by a student working as staff in the JLD Program. However, because JLD allowable costs include staff salaries, the school would use its own funds to pay the nonfederal share of the wages earned by an FWS student working as staff in the JLD Program and would count those funds in meeting the minimum 20% institutional share requirement.

JLD REPORTING ON THE FISAP

A school participating in the JLD Program must provide information on the FISAP concerning the uses of the JLD funds and an evaluation of the effectiveness of the JLD Program. The school reports in Part V, Section D of the FISAP the federal expenditures for JLD. In Part V, Section G, the school reports the total JLD expenditures, institutional expenditures for JLD, number of students for whom jobs were located or developed, and total earnings for the students.

MULTI-INSTITUTIONAL JLD PROGRAMS

A school that is participating in FWS may enter a written agreement with other eligible schools for those schools to establish and to 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 *Fiscal Operations Report and Application to Participate* (FISAP).

If a 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. A school 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 particular arrangement.

**Agreement
with other
eligible
schools—
34CFR
675.34**

Appendix:

***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 organization 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 Program [FWS].

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 set forth—

- (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, and
- (4) the average number of hours per week each student will be used.

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 which implement those Acts.

(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.

(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 following two paragraphs may be included.)¹

- (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 perform their work in fact. 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 in fact.

(Wording of the following nature may be included, as appropriate, to locate 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).

(Where appropriate any of the following paragraphs may be included.)

¹ 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 which 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 he or she was injured.

- (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;² and
 - (c) Documentary evidence that students received payment for their work, such as photographic copies of canceled checks.

²These forms, when accepted, must be countersigned by the institution as to hours worked as well as to the accuracy of the total federal share which is to be reimbursed to the organization or agency.