

FORMS OF PAYMENTS FOR WIOA YOUTH PROGRAM PARTICIPANTS

The Workforce Innovation and Opportunity Act (WIOA) youth program allows for several types of payments for participants engaged in activities such as work experience, occupational skills training, classroom activities and more. The two main types of compensation are wages and stipends. A third, but distinct, type of payment is an incentive, which may be given to youth to reward positive behavior towards achieving goals.

The purpose of this technical assistance resource is to help local youth workforce staff understand:

- (1) **WHAT** is the distinction between a wage and a stipend;
- (2) **HOW** to identify the employer-employee relationship;
- (3) **WHEN** to award an incentive; and
- (4) **WHY** the need for policies governing payments.

Wage

A wage is a form of compensation that an employer provides to an employee for personal services rendered under Federal award as defined by the Internal Revenue Service (IRS)ⁱ. If an employer-employee relationship exists, then wages **must** be paid and labor standards outlined in the [Fair Labor Standards Act \(FLSA\)](#) applyⁱⁱ. Provisions for wages under the FLSA apply to all youth participants employed under WIOA. Additionally, the FLSA requires that all covered nonexempt employees receive not less than the federal minimum wage of \$7.25 per hour for all hours worked and overtime pay of at least one and one-half times their regular rate of pay for all hours worked over 40 in a work weekⁱⁱⁱ.

Stipend

When an employer-employee relationship (see below) does not exist, a stipend **may** be used as an allowable payment for participation in activities such as occupational skills training or classroom activities, including high school equivalency preparation, work readiness, or employability skills training. States and local areas have flexibility in determining when and how to pay stipends, however they must have a policy in place that guides the payment of those stipends. Having clear written policies and procedures in alignment with Federal regulations allows frontline staff to understand when and how they might offer stipends in order to help youth achieve their goals.

Critical Factors in Defining the Employee-Employer Relationship

To figure out whether to pay a wage versus a stipend, you must understand whether an employee-employer relationship exists. There are many factors at play, so review the resources provided by the FLSA to help determine this. [Fact Sheet 13: Employment Relationship under the FLSA](#) issued by the [WHD](#) can provide some guidance.

Critical Factors in Determining Internship Status

Further, to determine whether a youth participant is considered an intern instead of an employee under the FLSA, local workforce areas should apply the “primary beneficiary” test provided in [Field Assistance Bulletin No. 2018-2](#) also issued by the WHD. The test includes the following seven determination factors:

DETERMINE THE EXTENT TO WHICH ANY OR ALL APPLY

the intern and the employer clearly understand that there is no expectation of compensation. Any promise of compensation, express or implied, suggests that the intern is an employee—and vice versa.

the internship provides training that would be similar to that which would be given in an educational environment, including the clinical and other hands-on training provided by educational institutions.

the internship is tied to the intern’s formal education program by integrated coursework or the receipt of academic credit.

the internship accommodates the intern’s academic commitments by corresponding to the academic calendar.

the internship’s duration is limited to the period in which the internship provides the intern with beneficial learning.

the intern’s work complements, rather than displaces, the work of paid employees while providing significant educational benefits to the intern.

the intern and the employer understand that the internship is conducted without entitlement to a paid job at the conclusion of the internship.

Applying these considerations requires weighing and balancing all of the circumstances and whether an intern or trainee is an employee under the FLSA depends on the unique circumstances of each case.

After reviewing the Field Assistance Bulletin, if you have questions regarding whether an individual is an employee or whether an employee’s time is compensable, contact the [Wage and Hour Division \(WHD\)](#). Other information on student versus intern can be found in [The Field Operations Handbook – Chapter 10](#) which provides scenarios to clarify situations when a student or intern would be considered an employee or not.

Critical Factors in Determining Whether a Trainee or Student is an Employee

Whether trainees or students are employees of an employer under the FLSA will depend upon all of the circumstances surrounding their activities on the premises of the employer, as outlined by the [Fair Labor Standards Act Advisor](#). **If all of the following criteria apply**, the trainees or students are **not employees** within the meaning of the Act:

**If all criteria apply
= not an employee**

The training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school;

The training is for the benefit of the trainees or students;

The trainees or students do not displace regular employees, but work under close supervision;

The employer that provides the training receives no immediate advantage from the activities of the trainees or students and, on occasion, his operations may even be impeded;

The trainees or students are not necessarily entitled to a job at the conclusion of the training period;

AND.....

The employer and the trainees or students understand that the trainees or students are not entitled to wages for the time spent in training.

Incentives

An incentive is a type of compensation for youth participants permitted for recognition and achievement directly tied to training activities and work experience. WIOA Youth funds can be used for incentives for completion of a training course (such as completing a high school equivalency course) and/or of an achievement (such as perfect attendance at the course). The purpose of offering an incentive is to induce behavior toward achievement of a specific goal. In order for an incentive to be effective, participants must be aware of the existence of such incentive and understand the terms and standards of its award to improve the likelihood of success and lead to a successful outcome or achievement of grant performance measures.

The purpose of offering an incentive is to induce behavior toward achievement of a specific goal.

As outlined in [20 CFR 681.640](#), the local program must have written policies and procedures in place governing the award of incentives and must ensure that such incentives payments are: (a) tied to the goals of the specific program; (b) outlined in writing before the commencement of the programs that may provide incentive payments; (c) align with the local program's organizational policies; and (d) are in accordance with the requirements contained in [2 CFR part 200](#).

NOTES ON INCENTIVES: Payments for incentives should not be confused with compensation of wages or stipends. When considering types of incentive payments, keep in mind that Federal funds may not be spent on entertainment costs as outlined in [2 CFR 200.438](#). Therefore, incentives may not include entertainment, such as movie or sporting event tickets or gift cards to movie theaters or other venues whose sole purpose is entertainment.

When reasonable and prudent, and when clear policies, internal controls and safeguards are in place, non-entertainment related gift cards *may* be an option. These are considered a cash equivalent and should be treated as if they were cash. Just like cash management, the expectation is that grant recipients will have internal controls over the management of the gift cards (by keeping an inventory log, identifying and training appropriate personnel when it's appropriate to distribute gift cards, etc.) Gift cards should be used as an incentive (with an established incentive policy in place) and not as a substitute to wages and stipends. Finally, there must be measures in place if there is excessive purchasing of gift cards as these funds (not the gift cards) must be returned to ETA during the closeout of the grant. We encourage local programs to exercise restraints in purchasing gift cards as incentives to avoid Closeout issues.

Importance of Developing Policies for Wages, Stipends, and Incentives

Understanding the difference between wages and stipends and correctly classifying payments is critical since the misidentification of the payment could result in disallowed costs. Important for local workforce practitioners is: (1) understanding the distinctions between wages and stipends; and application for awarding incentives; and (2) adhering to the requirement to establish a policy for the award of stipends, wages, and incentives. Policies must be in accordance with the state and/or local area policies of the grant recipient organization. The determination whether to pay a stipend or wage is left to the discretion of the local area based on guidelines provided by WHD. Please review [2 CFR 200.430](#) and [2 CFR 200.431](#) on the development on policy and procedures in regards to wages and 2 CFR 200.402-200.411 for basic considerations for allowable costs.

Local workforce areas should be aware of the implications of such payments under both the FLSA administered by WHD and the Internal Revenue Service's laws and regulations. When considering compensations addressed in this brief, local grant recipients should review FLSA's labor standards for work experiences and training activities.

Again, if an employer-employee relationship exists based on the FLSA's criteria, then wages must be paid and where no employer-employee relationship exists, stipends may be used. Your decision should consider: the proposed payment; the type of activity whether focused on employment or training; and the local area policy related to participant payments.

Considerations for Written Policies and Procedures

Written Policies 2 CFR 200.403 (C)

Grant recipients must have existing written policies and procedures on work experiences, stipends and incentives that are consistently applied with any other federal grant program and other activities of recipients. Those policies and procedures must have internal controls in place to limit such purchases to reasonable costs that only benefit eligible program participants. It is also important to have a written policy on how grant recipients will provide stipends/incentives under different conditions and situations. The organization must incorporate in their written policies the determining factors or criteria to consider before incurring an incentive or stipend related expense. Such policy must be applicable or consistent with similar policies for non-federally funded grants and programs. The policies and procedures should also define the parameters or limitations to establish reasonableness. These policies and procedures may establish dollar thresholds on how much, in total or per participant, to spend on stipends and incentives.

Internal Controls And Safeguards

When a grant recipient consider charging incentives/stipends to a Federal grant, the organization should determine that there are sufficient safeguards in place to avoid or limit misuse or mismanagement. The grantee should perform an initial assessment on how much total dollars in the grant budget are to be allocated for such items and consideration should be given to cohort/program goals and performance measures. For cash or gift cards, an inventory log, periodic reconciliation process and safeguards for the receipt, disbursement and maintenance should be maintained.

Reasonableness And The Prudent Person Theory 2 CFR 200.403 (a)

When using grant funds, the standards of reasonableness using the prudent person standards prevail. What would a prudent person do if he/she were using their own funds to incur such costs? If the costs incurred are more than what a prudent person would incur, then those costs should not be paid for using Federal grant funds.

Supporting Documentation 2 CFR 200.403 (g)

The organization should specify in their written policy any documents that must be retained or provided in order to justify or support such expenses to the grant. Supporting documentation may be but is not limited to, proof of training completion, credential achievement, case management notes, sign in attendance sheets, and invoices.

Seven guiding factors of allowability 2 CFR 200.403

The seven guiding factors determining the allowability of a cost are the following:
(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.

- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the organization.
- (d) Be accorded consistent treatment.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP).
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period.
- (g) Be adequately documented.

ⁱ The IRS defines wages in [26 CFR § 3121\(a\)](#) as all remuneration for employment unless specifically exempted under section 3121(a). Wages are described at [3401\(a\)](#) for Federal income withholdings purposes as all remunerations for services performed by an employee for his employer, with certain exceptions. Further information related to wages are found in [Uniform Guidance at 2 CFR 200.430\(a\)](#).

ⁱⁱ The regulations at [20 CFR 681.600](#) state that labor standards apply in any work experience where an employee/employer relationship, as defined by the Fair Labor Standards Act or applicable State law.

ⁱⁱⁱ The FLSA requirements governing the payment of the federal minimum wage and overtime are contained in [29 USC § 203, §206](#), and [§207](#) and the statutory provisions are applicable when an employer-employee relationship exists.