



## JTED Wage/Stipend Policy and Procedure

**The Job Training & Economic Development (JTED) Program** follows the Workforce Innovation and Opportunity Act (WIOA) Program policies and procedures for **wage** and **stipends**.

The primary difference between a **stipend** and a **salary** is that the former has the role of supporting learning or training experiences. Stipends do not represent compensation for the work performed and are not considered wages or taxed as such. Salaries, on the other hand, compensate individuals for the services rendered and are subject to payroll taxes, as well as federal and state income taxes.

State Policy –

### 7.2.5.3 Wages and Stipends for Work Experience

1. The determination of whether to pay a stipend or wage for a paid work experience is left to the discretion of the Local Workforce Innovation Board (LWIB), and the methodology must be documented in local policy.
2. The local area or workforce service provider may be the employer of record for a paid work experience and pay the participant wages through their payroll.
  - a. Individuals paid wages for work experience must be paid the prevailing wage of employees with similar training, experience, and skills for a similar occupation, as set by the worksite employer.
  - b. If an individual's skill sets do not meet the standard occupational classification qualifications for the position, the wages can be set below the prevailing wage standards but may not be lower than the minimum wage. The employer of record is responsible for workers' compensation insurance.
3. A stipend is an allowable payment for participation in work-based learning activities such as work experience and can be offered in lieu of wages.
4. A stipend is usually a set amount given for participation/completion of an activity. This compensation can be given out in equal payments over a defined period. The case file must contain documentation of the activity or goal that must be achieved to result in a stipend.
  - a. Stipends may be allowable if provided when classroom activities and work-based learning are provided concurrently with each other. In this instance, stipends are only allowed for the work-based learning portion and must be documented in the Individual Employment Plan (IEP)/Individual Service Strategy (ISS).

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- b. Stipends are not allowed to pay for “seat time” for participation in classroom activities or occupational skills training.
- c. Stipends must not exceed Illinois minimum wage and count as taxable income for income tax purposes.
- d. Payment of partial stipends may be made to participants that fail to complete a portion of their work experience activity. However, the participant’s case file must contain documentation (at least a case note) regarding the reason for failure to complete and the period or activities that were completed.

#### **7.2.5.4 Incentive Payments for Youth in Work Experience**

1. Incentive payments to youth participants are allowed for recognition and achievement directly tied to work experiences, education, or training and, therefore, can only be provided during program participation.
2. Incentive payments:
  - a. Are not allowed for activities such as recruitment, submitting eligibility documentation, and participation in the program.
  - b. May not be provided with Workforce Innovation and Opportunity Act (WIOA) Adult or Dislocated Worker program funding;
  - c. May be leveraged non-WIOA funds for incentives that WIOA cannot fund;
  - d. Made with non-WIOA leveraged funds may not be used towards the twenty (20) percent youth work experience requirement;
  - e. May be provided to both in-school youth (ISY) and out-of-school youth (OSY) if they comply with WIOA;
  - f. Are not considered to be supportive services and therefore do not trigger or extend participation in the youth program; and
  - g. Are allowed only during participation and not during follow-up, per guidance from the USDOL.
3. The local program must have written policies and procedures in place governing the award of incentives and must ensure that such incentive payments are:



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- a. Tied to the goals of the specific program (see Resources tab for examples of incentive milestones).
- a. Outlined in writing before the commencement of the program that may provide incentive payments;
- b. Align with the local program's organizational policies; and
- c. Are in accordance with the requirements contained in the Uniform Guidance.
  - 1) For example, Federal funds may not be spent on entertainment costs. 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.
  - 2) Additionally, there are requirements related to internal controls to safeguard cash, which also applies to the safeguarding of gift cards, which are essentially cash.
4. Local programs must document when youth incentive payments are being used by:
  - a. Outlining in the Individual Service Strategy (ISS) how the incentive payments may result from the achievement of specific work experience, education, or training goals and that are dated prior to the commencement of these activities;
  - b. Entering the service in the appropriate case management system when the incentive is earned, not when the payment is made, which includes a note referencing the ISS goal that has been achieved; and
  - c. Documenting the outcome if the incentive payment is related to an outcome with its own documentation requirement (such as a credential).
  - d. Career planners are required to place a copy of the incentive payment issuance document in the case file.
5. Local Workforce Innovation Boards (LWIBs) are responsible for modifying or developing an incentive payments policy that includes, but is not limited to:
  - a. Eligibility for payments (which milestones or performance goals in the individual service strategy or individual employment plan must be achieved);
  - b. Establishment of limits regarding the amount of funding for incentive payments and/or length of time payments will be provided;



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- c. Procedures defining when exceptions will be allowed and how these will be approved;
- d. WIOA restriction on incentive payments using youth program funds only;
- e. Identification of other sources of funding and which programs will utilize these funds (as appropriate);
- f. LWIB case file documentation requirements; and
- g. Allowability, safeguarding, documentation, allocability, and internal controls per the Uniform Guidance.

DOL –

## **Determining "Trainee" versus "Employee"**

Work experience may be paid or unpaid. It is expected that work experience will be paid in most cases and the federal Fair Labor Standards Act (FLSA) will apply in any situation where an employer/employee relationship exists. WIOA participants are subject to the requirements of the FLSA to the extent that the activities performed in the work experience constitute employment.

A local area shall ensure that the youth provider decides regarding whether work experience is a "training" situation or an "employment" situation. The local WDB should establish a process for making these determinations.

### Trainee

Because the FLSA's definition of "employee" is broad, the excluded category of "trainee" is necessarily quite narrow. In general, the more a training program is centered around a classroom or academy as opposed to the work experience provider's actual operations, the more likely the activity is training. The more the training is providing the participants with skills that can be used in multiple employment settings, as opposed to skills particular to one work experience provider's operations, the more likely the participant is a trainee.

According to the Wage and Hour Division of the U.S. Department of Labor, Employment Standards Administration, if all the following six (6) items exist, the work experience can be considered a "training" situation, and an employment relationship does not exist under the FLSA:

1. The training, even though it includes actual operation of the facilities of the work experience provider is essentially a training experience similar to a vocational school;

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2. The participant is primarily the beneficiary of the experience;
3. Regular employees are not displaced, and the experience is closely supervised/observed;
4. The work experience provider that hosts the experience derives no immediate or significant advantage (and may even be adversely impacted);
5. The participant is not guaranteed a job at the conclusion of the experience; and
6. There is mutual understanding between the participant and the host agency that the participant is not entitled to wages for this time because the activity is essentially a training experience.

As the participant is a "trainee" and an employment relationship does not exist under the FLSA, the FLSA's minimum wage and overtime provisions do not apply to the participant.

## Employee

On the other hand, if the youth participants are engaged in the primary operations of the work experience provider and are performing productive work (for example, filing, performing other clerical work, or assisting customers), then receiving some benefits in the form of a new skill or improved work habits is unlikely to make the participant a trainee, given the benefits received by the work experience provider.

If the worksite uses the youth participants as substitutes for regular full time or part time employees, it is more likely that the participants are employees as opposed to trainees. Also, if the work experience provider would have needed to hire additional employees or require overtime had the participants not performed the work, then the participants are likely employees.

## Employer of Record

1. Employer - If the work experience provider is relying on the participant to perform real work, i.e., to be productive, then the situation should be recognized as an employer-employee relationship. In this situation, the site employer is the employer of record. Participants must receive no less than the applicable state or federal minimum wages, related benefits are required and payroll taxes should be deducted. The employer of record will be responsible for paying all taxes and providing similar benefits as are available to other employees.
2. Youth Provider - The youth provider has the option of being the employer of record for the youth participant. The employer of record is responsible for paying the participant and negotiating with the host site the activities that will be performed by the participant. The work experience may occur at the youth service provider location, or the participant may be



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referred to a host site to receive the work experience. The host site is the location where work experience tasks will occur.

## "Trainee" versus "Employee" when Job Shadowing

If the employer is providing job shadowing opportunities whereby the participant learns certain functions under the close and constant supervision of regular employees, but performs no or minimal work, this type of activity is more likely to be a bona fide training program. However, if the participant receives the same level of supervision as employees, this suggests an employment, rather than training, relationship.

Resources –

1. [Wages Vs Stipends](#)