



Mark Sanford
Governor

SOUTH CAROLINA
DEPARTMENT OF COMMERCE

Joe E. Taylor, Jr.
Secretary

STATE WIA INSTRUCTION NUMBER: 08-03

TO: Local Workforce Investment Areas (LWIAs)

SUBJECT: Payment of Stipends versus Wages for Work Experience

ISSUANCE DATE: April 15, 2009

EFFECTIVE DATE: Immediately

PURPOSE: To clarify when a paid work experience activity may be classified as a “training situation” for the purpose of paying stipends versus wages to participants.

BACKGROUND: The State received youth funds through the American Recovery and Reinvestment Act of 2009 to provide summer employment opportunities for youth. Guidance was requested from the United States Department of Labor (USDOL) regarding the payment of youth participants while in a work experience activity. Specifically, the State asked whether youth summer work experiences could pay stipends versus wages. According to the Wage and Hour Division of the USDOL, Employment Standards Administration, certain criteria are used in establishing whether a participant is an employee or a trainee of the employer site. If all criteria are met, the work experience can be considered a training situation, and therefore, stipends versus wages may be paid.

POLICY: Effective immediately, the following criteria must be used in establishing employee versus trainee status. If all six criteria are met, a work experience activity may be considered a training situation and stipends may be paid. If any of the six criteria are not met, then a participant must be considered an employee and be paid wages.

A participant is **not** an employee of the employer site if:

1. the training, even though it includes actual operation of the facilities of the employer, is essentially a training experience similar to a vocational school;
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 “employer” that hosts the experience derives no immediate or significant advantage (and may experience an actual downside);
5. the participant is not necessarily entitled to 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.

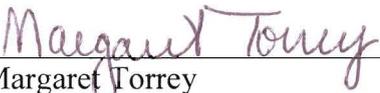
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ACTION: You are responsible for the appropriate distribution of this State Instruction within your local workforce area. In addition, local workforce areas are responsible for complying with and monitoring against the above policy.

INQUIRIES: Questions regarding this instruction may be directed to Ms. Pat Sherlock at 803-737-2601 or psherlock@SCcommerce.com.



Margaret Torrey

Deputy Secretary for Workforce