

Student Waiver and Stipend Certification

Fair Labor Standards Act (FLSA) and Internal Revenue Code (IRC)

Application and Purpose:

The University grants tuition waivers and stipends to certain students of the University. These tuition waivers and stipends should be granted to help students accomplish their educational objectives and provide an opportunity for learning and growth. These experiences may also incidentally result in a benefit to the University, but the overriding purpose of the experience should be for the educational benefit of the student. If a tuition waiver and/or stipend is granted as compensation for labor or services performed for the benefit of the University, the student may be deemed an employee under the Fair Labor Standards Act ("FLSA") and/or under the Internal Revenue Code ("IRC"). In order to show that the student is not an employee for purposes of FLSA and the IRC, departments must certify that the experience meets the standards set forth below.

Note: NCAA Athletic teams and Club Sport teams will be reviewed separately for program compliance.

Documentation and Review

Each department/office must keep all written documentation required under these standards for a minimum of four years. In addition, WSU's Internal Audit department may review departments for compliance with FLSA and IRC.

Fair Labor Standards Act

Our courts require that a review of the totality of the circumstances show that a student is receiving an educational experience and are not being employed under FLSA. The Department of Labor recommends the factors listed below be met.

1. The experience is for the benefit of the student;
2. Even if the arrangement is not in a traditional classroom setting, but is instead in operational areas of the University, the training should have a correlation to what is being taught in the educational environment;
3. The student does not displace regular employees, but works under close supervision of existing staff;
4. The University derives no immediate advantage from the activities of the student; and on occasion its operations may actually be impeded;
5. The student is not necessarily entitled to a job at the conclusion of the arrangement; and
6. The University and the student understand that the student is not entitled to wages for the time spent during the arrangement.

Accordingly, there should be considerable effort made to ensure the student has a meaningful educational experience. Departments which grant tuition waivers and/or stipends must consider the above factors and should strive to meet the recommended guidelines listed below. It is strongly encouraged that where possible, students receive academic credit as part of their experience.

1. There should be written educational objectives associated with the student's experience and documented assessment of whether or not the student achieved the objectives. This could include having the student participate in some type of academic work as part of their experience such as keeping a journal, writing reflective papers, evaluating themselves, reading appropriate materials, etc.
2. Any additional duties/tasks performed by the student falling outside the educational experience must be few or isolated. (For example, the student should not be regularly expected to do menial tasks such as filing, cleaning, making coffee, etc., where the educational objective has nothing to do with the accomplishment of the menial tasks.)

3. The student should work under close supervision of a mentor or existing staff to accomplish their educational objectives.
4. Student's set hours should be few and/or irregular such that it would be less likely that the student could be displacing a regular employee. It is recommended that any student adhering to a regular weekly schedule only participate 12 hours or fewer per week. Special circumstance may dictate otherwise, but if hours exceed 12, the educational components must be made clear.
5. The department/office should review the student's educational experience each semester. If a student continues in the educational experience there should be additional or more significant learning that takes place in subsequent semesters.

Certification

I have considered the FLSA factors and certify that any student receiving an activity waiver and/or stipend within my area is receiving an educational experience and should not be considered an employee under FLSA.

Print Name

Signature

Department

Date

Internal Revenue Code

The Internal Revenue Code (IRC), section 117, requires that any payment of scholarship or fellowship money must be taxed if it is compensation for services. As such, the following requirements must be met:

1. After analyzing the factors above, it has been determined that the relationship is not an employment relationship for purposes of FLSA.
2. The student will not lose the tuition waiver and/or stipend if the student does not perform adequately under the arrangement and will not be required to perform other duties in lieu of participation in the arrangement.
3. The tuition or stipend is only intended to defray the cost of study, training, or research.
4. The tuition waiver and/or stipend is only for tuition and course related expenses such as fees, books, and supplies and does not include the cost of room and board, travel, research, clerical help, equipment or other expenses that are not required for enrollment or attendance at the University.
5. No part of the award is compensation for services, whether they be for past, present or future services.

Certification

I certify that any student receiving an activity waiver and/or stipend within my area is not being compensated for services performed for the University and that the program is in full compliance with the IRC guidelines listed above.

Print Name

Signature

Department

Date