

**LOCAL INSTRUCTION NUMBER:** 08-07


**TO:** Upstate WIA Staff  
**SUBJECT:** Payment of Stipends versus Wages for Work Experience  
**ISSUANCE DATE:** May 19, 2009  
**EFFECTIVE DATE:** May 19, 2009

**PURPOSE:** To issue the state policy as attached 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.

**POLICY:** Effective May 19, 2009, please begin using this policy for all youth in the WIA programs.

**ACTION:** You are responsible for the distribution and implementation of this policy within your all WIA staff in your program.

**INQUIRIES:** Questions regarding this instruction may be directed to Ms. Ann Fesperman at 864-596-2028 or [fesperman@upstatewib.org](mailto:fesperman@upstatewib.org).

  
Ann Fesperman  
Executive Director  
Upstate Workforce Investment Board

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State Instruction Letter 08-03 dated April 15, 2009



Mark Sanford  
Governor

**SOUTH CAROLINA**  
DEPARTMENT OF COMMERCE

**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.

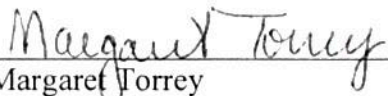
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**ACTION:** You are responsible for the appropriate distribution of this State Instruction within your local workforce area. In addition, local workforce areas are responsible for complying with and monitoring against the above policy.

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

  
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Margaret Torrey  
Deputy Secretary for Workforce