



Unpaid Internships: What Employers Need to Know About the Fair Labor Standards Act

With summer just around the corner, many employers are preparing to hire seasonal interns. If your company sponsors an internship program, you may be wondering if you are obligated to pay these individuals for work performed for your business during the course of the internship. The following guidelines [provided by the U.S. Department of Labor](#) (DOL) can help you determine whether interns must be paid the federal minimum wage and overtime under the Fair Labor Standards Act for the services that they provide to "for-profit" private sector employers.



BackgroundThe [Fair Labor Standards Act](#) (FLSA), which sets standards for the basic minimum wage and overtime pay, affects most private and public employment. Unless specifically exempted, workers covered by the FLSA are entitled to a minimum wage of not less than \$7.25 per hour and overtime pay at a rate of not less than one and one-half times their regular rate of pay after 40 hours of work in a workweek.

Covered and non-exempt individuals who are "suffered or permitted" to work must be compensated under the law for the services they perform for an employer. Internships in the "for-profit" private sector will most often be viewed as employment, unless the test described below relating to trainees is met. Interns in the "for-profit" private sector who qualify as employees rather than trainees typically must be paid at least the minimum wage as well as overtime compensation for over 40 hours worked in a workweek.

The Test for Unpaid InternsThere are some circumstances under which individuals who participate in "for-profit" private sector internships or training programs may do so without compensation. This may apply to interns who receive training for their own educational benefit if the training meets certain criteria.

The determination of whether an internship or training program meets this exclusion depends upon all of the facts and circumstances of each such program. The following six criteria must be applied when making this determination:

1. The internship, even though it includes actual operation of the facilities of the employer, is similar to training which would be given in an educational environment;
2. The internship experience is for the benefit of the intern;
3. The intern does not displace regular employees, but works under close supervision of existing staff;
4. The employer that provides the training derives no immediate advantage from the activities of the intern, and on occasion its operations may actually be impeded;
5. The intern is not necessarily entitled to a job at the conclusion of the internship; and
6. The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship.

If all of the factors listed above are met, an employment relationship likely does not exist under the FLSA, and the Act's minimum wage and overtime provisions do not apply to the intern. This exclusion from the

definition of employment is necessarily quite narrow because the FLSA's definition of "employ" is very broad.

For a more detailed explanation of the factors used in the test for unpaid interns, please review the DOL [Internship Programs Fact Sheet](#). You may also contact the DOL's [Wage and Hour Division](#), at 1-866-487-9243, for help in determining the employment status of your workers.

Sincerely,

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