



Unpaid Intern Fact Sheet

Fact: There is no legal classification of “unpaid intern.”

No section of the Fair Labor Standards Act exempts “interns” at not-for-profit organizations from the minimum wage requirements. An individual who performs tasks at an organization is an employee, volunteer or trainee. A volunteer or trainee can be unpaid if the volunteer or training program meets the legal requirements.

Fact: State and Federal law have always required that interns that function as employees be paid; however, the law hasn’t always been enforced.

Since the *Black Swan* intern case there has been increased interest from plaintiff’s lawyers on this topic:

<http://www.nytimes.com/2013/06/12/business/judge-rules-for-interns-who-sued-fox-searchlight.html>

There’s also a website that collects information from unpaid interns for litigation purposes; the intake questionnaire makes no distinction between for-profit and non-profit.

<http://unpaidinternslawsuit.com/>

Fact: According to the Department of Labor, interns will be viewed as employees unless all six factors are met:

- 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;
- The internship experience is for the benefit of the intern;
- The intern does not displace regular employees, but works under close supervision of existing staff;
- 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;
- The intern is not necessarily entitled to a job at the conclusion of the internship; and
- The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship.

Practical Tips (ASAE University – Annual Association Law Symposium April 4, 2014)

- If an employer uses interns as substitutes for regular workers or to augment its existing workforce during specific time periods, interns should be paid.
- If an employer would have hired additional employees or required existing staff to work additional hours had interns not performed the work, interns should be paid.



- If interns receive the same level of supervision as employer's regular workforce, interns should be paid.
- If employer is providing job-shadowing* opportunities and the intern performs no or minimal work, more likely that interns can be unpaid.
 - *Job-shadowing must occur under close and constant supervision
- CAHIIM states "It is expected that HIM students will not be substituted for paid staff. The PPE does not prohibit a paid internship."

Other Sources:

<http://www.wtplaw.com/documents/2012/07/interns-in-the-nonprofit-world>

<http://www.councilofnonprofits.org/interns>

<http://www.generocity.org/paid-and-unpaid-internships-in-the-nonprofit-world/>

<http://form1023.org/what-are-employees-interns-volunteers>