

Unpaid Internship Rules

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Internships provide recent college graduates and those transitioning to new careers with the opportunity for real-life job training and can even lead to full-time jobs. College students, meanwhile, often receive class credit for internships. Employers can use internship programs to scout out new talent and get temporary help without committing to permanent new hires.

But business owners who view interns as free labor or potential hires need to know that federal **payment** in most circumstances. That's not to say employers can never have unpaid interns; they're just not very common, at least legally. State laws may also apply, but the [Fair Labor Standards Act \(FLSA\)](#) governs how interns must be compensated under federal law.

See FindLaw's [Higher Education](#) section for more articles related to college and life after graduation.

Primary Beneficiary Test for Unpaid Internships

The vast majority of interns working at for-profit organizations must be paid at least the minimum wage and any applicable overtime. Technically, paid interns are temporary employees and treated virtually the same as regular employees with respect to labor law. But you may legally hire an unpaid intern if you can show the intern is the "primary beneficiary" of the relationship. To determine who is the primary beneficiary, courts take into consideration the extent to which:

1. The intern understands they will not receive compensation and does not expect compensation.
2. The internship is similar to training they would receive in an educational environment.
3. The internship is part of the intern's coursework, or the intern will receive academic credit for the internship.
4. The intern does not displace regular employees but works under close supervision of existing staff while receiving educational benefits.
5. The internship aligns with the intern's academic calendar, allowing them to meet their other academic commitments.
6. The length of the internship aligns with the period of beneficial learning for the intern.
7. Both parties understand there is no guarantee of a job at the conclusion of the internship.

Common Factors to Consider for Internship Programs

Similar to an Educational Environment -

An internship is more likely to be viewed as a training program as opposed to actual employment if it is structured around a classroom experience and if the intern is provided with skills that can be applied to other employment settings. A rule of thumb is that an unpaid intern does not regularly perform the company's routine work, nor is the business dependent upon that individual's work product.

Displacement and Supervision -

Interns used as substitutes for regular workers or to provide a needed boost in personnel must be paid at least minimum wage and any overtime. But if the intern is receiving job shadowing opportunities without performing more than a minimum of work, the relationship is more likely to be viewed as an unpaid internship.

Job Entitlement -

Employers should establish the duration of the internship from the beginning and avoid making any promises of a permanent position or calling it a "trial period."

Make Sure Your Internships Are Properly Implemented: Talk to a Lawyer

If your company is planning to take on interns, make sure you fully understand the legal requirements. Internships are a great way to help college students and recent graduates get started on their careers, while also providing employers with a chance to cultivate talent. But employers who violate the law can face stiff penalties. Contact a local [employment law attorney](#) to ensure that you handle this and other small business employment issues with confidence.

Next Steps

Contact a qualified business attorney to help you prevent and address human resources problems.

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