

Internship Tools

Documents, Forms and Implementation Tools Packet

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Unpaid Internship Rules

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Created by [FindLaw's team](#) of legal writers and editors.

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 [labor laws require 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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Fact Sheet #71: Internship Programs Under The Fair Labor Standards Act

This fact sheet provides general information to help determine whether interns and students working for “for-profit” employers are entitled to minimum wages and overtime pay under the Fair Labor Standards Act (FLSA).¹

Background

The FLSA requires “for-profit” employers to pay employees for their work. Interns and students, however, may not be “employees” under the FLSA—in which case the FLSA does not require compensation for their work.

The Test for Unpaid Interns and Students

Courts have used the “primary beneficiary test” to determine whether an intern or student is, in fact, an employee under the FLSA.² In short, this test allows courts to examine the “economic reality” of the intern-employer relationship to determine which party is the “primary beneficiary” of the relationship. Courts have identified the following seven factors as part of the test:

1. The extent to which the intern and the employer clearly understand that there is no expectation of compensation. Any promise of compensation, express or implied, suggests that the intern is an employee—and vice versa.
2. The extent to which the internship provides training that would be similar to that which would be given in an educational environment, including the clinical and other hands-on training provided by educational institutions.
3. The extent to which the internship is tied to the intern’s formal education program by integrated coursework or the receipt of academic credit.
4. The extent to which the internship accommodates the intern’s academic commitments by corresponding to the academic calendar.
5. The extent to which the internship’s duration is limited to the period in which the internship provides the intern with beneficial learning.
6. The extent to which the intern’s work complements, rather than displaces, the work of paid employees while providing significant educational benefits to the intern.
7. The extent to which the intern and the employer understand that the internship is conducted without entitlement to a paid job at the conclusion of the internship.

¹ The FLSA exempts certain people who volunteer to perform services for a state or local government agency or who volunteer for humanitarian purposes for non-profit food banks. WHD also recognizes an exception for individuals who volunteer their time, freely and without anticipation of compensation, for religious, charitable, civic, or humanitarian purposes to non-profit organizations. Unpaid internships for public sector and non-profit charitable organizations, where the intern volunteers without expectation of compensation, are generally permissible.

² E.g., *Benjamin v. B & H Educ., Inc.*, --- F.3d ---, 2017 WL 6460087, at *4-5 (9th Cir. Dec. 19, 2017); *Glatt v. Fox Searchlight Pictures, Inc.*, 811 F.3d 528, 536-37 (2d Cir. 2016); *Schumann v. Collier Anesthesia, P.A.*, 803 F.3d 1199, 1211-12 (11th Cir. 2015); see also *Walling v. Portland Terminal Co.*, 330 U.S. 148, 152-53 (1947); *Solis v. Laurelbrook Sanitarium & Sch., Inc.*, 642 F.3d 518, 529 (6th Cir. 2011).

Courts have described the “primary beneficiary test” as a flexible test, and no single factor is determinative. Accordingly, whether an intern or student is an employee under the FLSA necessarily depends on the unique circumstances of each case.

If analysis of these circumstances reveals that an intern or student is actually an employee, then he or she is entitled to both minimum wage and overtime pay under the FLSA. On the other hand, if the analysis confirms that the intern or student is not an employee, then he or she is not entitled to either minimum wage or overtime pay under the FLSA.

Where to Obtain Additional Information

This publication is for general information and is not a regulation. For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

U.S. Department of Labor
Frances Perkins Building
200 Constitution Avenue, NW
Washington, DC 20210

1-866-4-USWAGE
TTY: 1-866-487-9243
[Contact Us](#)

The Work and Learning Process

What Every Worksite Supervisor Should Know

There are many ways to supervise people and get a job done. Whether a Work-Experience or an Internship, there are many ways to teach students or other learners new skills. Supervising a learning-rich task requires a supervisor who is more of a coach than a boss. Supervisor can ask themselves the following eight questions to improve the value of the experience for young workers:

What work needs doing that is of value to the organization?

Make sure that the project and its tasks have some real benefit to the company. People know when they are doing make-work. Real goals foster real effort. Real accomplishments foster and raise higher self-esteem.

How will students or other learners be directed to do the task?

The key here is to offer advice rather than answers. That advice usually comes in the form of a question, which encourages the student/learner to arrive at his/her own conclusions. As an expert, it's natural to want share all of our knowledge in our particular discipline. However, the best way for young people to learn is through exploration. This does not mean that answers are never given. However, in most cases, there are multiple options, multiple solutions, and multiple answers. The responsibility is to coach the student/learner to find solutions...not to simply provide the solution.

What should the students or other learners learn about?

In addition to learning the skills they need to accomplish the project at hand, students and other learners are acquiring skills that are applicable to a broad range of jobs. Encourage them to think about what other ways they might use the skills they are practicing at the moment. Ask them to talk with each other and their supervisors what skills they are learning in the workplace.

How will they best learn it?

We know from research that people learn best in an authentic context, that is, they learn skills by using those skills, and by reflecting on what they have done. As students or other learners progress through their work, have them reflect on their work and learning in a journal, in group discussions, and on their own.

What is the supervisor's role in this process?

There are at least two roles: the "boss" and the coach. The boss makes sure that the work gets done, and the students or other learners understand the consequences if it does not. It is important that both the supervisor and the student/learner agree on clearly articulated expectations. The second role is much more complex, and one that we suggest is a critical element to the success of both the supervisor's and young person's experience. In the role of coach, adults encourage students/learners through the process of what they are doing and learning. The coach encourages them to learn from and improve their performance. The coach asks questions to encourage thought about possible solutions rather than giving answers. If you provide all the answers, they will not learn how to find them on their own. If you give them thoughtful questions, they will learn to seek and find the information they need to produce solutions.

What will supervisors get out of the experience?

One learns a subject best by teaching or demonstrating it. Moreover, for many it provides an opportunity to acquire or improve their own supervisory skills. Last but not least, real work is accomplished by the student/learner that is valued by the organization or company.

What will the student/learner get out of the experience?

This approach yields multiple benefits for the student/learner. They develop a sense of self-worth and confidence in their ability to learn. They also get real work experience and they expand their horizons by seeing "what work looks like". In turn, they begin to see themselves as working successfully within an organization or company. Students and learners also experience the value of learning and understand that it does not stop when one enters the workplace.

What will the community get out of the experience?

The community benefits through providing opportunities for young people to become productive citizens.

Key Ingredients to Quality Work-Based Learning

- Ensure that the learning contributes to building skills and knowledge rather than simply being exposed to work. It is the nature of the work experience or internship that makes it work-based learning, not simply the "being" at a worksite.
- Ensure employer participation. This learning strategy requires that employer partners engage in at least two ways: they identify the real work that needs to get done, and they provide supervision to the students or other learners. The intensity of their involvement at work can vary – from providing the technical expertise of the content of the work with program staff being on site daily to provide the intensive coaching, to providing all supervision as a supervisor and coach.
- Ensure careful planning of what students and others will learn about and how they will learn new things. The learning opportunities involved in the work at hand must be explicitly planned for and continually recognized as "moments of learning."
- Ensure competent supervision, coaching, and mentoring by adults. Training of program staff and worksite supervisors on facilitation and coaching skills is a must. These skills are not innate and must be learned and practiced.
- Ensure assessment and documentation of learning through the actual demonstration of skills and knowledge, and the creation of authentic work products and assessments by the worksite supervisor.
- Ensure opportunities for students/learners to reflect both on the knowledge and skills they are gaining, and how to improve upon them.
- Ensure that connections are made between what is being learned in classroom settings and at work.
- Ensure school credit for work-based learning at the secondary and post-secondary levels.

Adapted from: Work-Based Learning: Learning to Work; Working to Learn; Learning to Learn, Strumpf, Center for Strategic Change

Work-Based Learning Plan and Evaluation

The Earn & Learn partners developed this Work-Based Learning planning and assessment tool for use in Earn & Learn Work Experiences, Internships and other appropriate Work-Based Learning activities. The tool has four components:

1. **Data Sheet**
The who, what, where and when of the experience—student/learner information, employer sponsor information, experience description and details, school, college or organization information, Earn & Learn connector contact information, and other details.
2. **Academic Enrichment and Career Development Learning Objectives**
A set of key learning objectives centered on academics and personal growth and development. Developed with the Earn & Learn connector and/or teacher/faculty and shared with the worksite supervisor. Assessed by the connector or teacher/faculty with the student/learner.
3. **Assessment of the Earn & Learn Work-Readiness Competencies**
An assessment of the work-readiness and job-specific skills demonstrated through the experience. Assessed by the worksite supervisor at the midpoint and at completion of the experience.

Work Readiness Competencies

- | | |
|-----------------------------------|---|
| 1. Attendance | 8. Collaboration and Teamwork |
| 2. Timeliness | 9. Comfort with Diversity |
| 3. Workplace Appearance | 10. Critical Thinking/ Problem Solving |
| 4. Initiative and Self-Management | 11. Workplace Culture, Policy and Safety |
| 5. Quality of Work | 12. Career and Occupational Learning Objectives |
| 6. Communication Skills | |
| 7. Response to Supervision | |

A set of key additional skill-development learning objectives centered on expanding career knowledge and occupational skills development specific to the experience are developed with the student/learner, worksite supervisor and connector and included on the assessment tool. Assessed by the worksite supervisor.

Data Sheet

This Work-Based Learning plan and evaluation combines skill development learning objectives, academic enhancements and personal development goals with an assessment of the student/learner's work readiness skills demonstrated through the experience. The assessment gauges a youth's progress towards readiness for a successful transition into the world of work. It reflects important skills, attitudes, and values that are essential for success in the workplace. Enter information about the participating student/learner, the referring Earn & Learn connector, the worksite supervisor, and details about the Work-Based Learning experience.

Student/Learner

Name _____ Age _____
 Phone _____ Email _____
 School/Organization _____ Grade Level _____ Pathway _____
 School/Org Contact _____ Phone _____ Email _____

Work-Based Learning Connector/Referring Teacher or Faculty member

Name _____ Title _____
 Organization/School _____
 Address _____ City, State ZIP _____
 Phone _____ Email _____

Worksite Supervisor

Name _____ Title _____
 Organization/Company _____ Industry Sector _____
 Address _____ City, State ZIP _____
 Phone _____ Email _____ Preferred Form of Contact _____

Job/Internship _____ Type _____
 Title _____ Schedule _____
 Start Date _____ End Date _____ Compensation _____

Duties:

Comments/Notes:

Learning Objectives

Student/Learner _____ Date(s) Established _____ Date(s) Evaluated _____
 Develop learning objectives that are specific to the particular job or Internship. Work together to identify reasonable and measurable learning objectives based on academic enrichment or career development potential through the job or Internship, as well as personal development objectives tied to youth development principles.

Academic Enrichment and Career Development Learning Objectives		
These objectives are related to workplace opportunities that enhance academic learning as well as the student/learner's career interests. The student/learner, teachers and connector determine what learning opportunities are available and appropriate and set learning objectives together.		
Technical/Academic Skills Learning Objectives	Related Job Tasks	Evidence or Outcomes
Comments:		

Personal/Youth Development Learning Objectives		
These objectives are related to workplace or program opportunities to address personal and youth development learning objectives. The student/learner, worksite supervisor, and connector determine what learning opportunities are available and appropriate and set learning objectives together.		
Personal or Developmental Skills Objectives	Related Job Tasks	Evidence or Outcomes
Comments		

Worksite Supervisor Evaluation

Midpoint Evaluation

Final Evaluation

Establish specific skills that may be developed and demonstrated during the experience and enter below. The worksite supervisor completes the evaluation at the midpoint and completion of the experience.

Student/Learner _____ Supervisor _____

WORK-READY SKILL	PERFORMANCE EXPECTATIONS	Not Exposed	Training Level	Improving Towards Entry Level	At Entry Level	Exceeds Entry Level
ATTENDANCE	Understands work expectations for attendance and adheres to them. Notifies the supervisor in advance in case of absence.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TIMELINESS	Understands work expectations for punctuality. Arrives on time, takes and returns from breaks on time. Informs supervisor prior to being late.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WORKPLACE APPEARANCE	Dresses appropriately for position and duties. Wears safety gear when necessary. Practices personal hygiene appropriate for position and duties.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
INITIATIVE AND SELF-MANAGEMENT	Takes initiative and participates fully. Asks supervisor for next task upon completion of previous one. Identifies problems and proposes improvement strategies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
QUALITY OF WORK	Gives best effort, evaluates own work, and utilizes feedback to improve work performance. Pays attention to detail and meets accepted quality standards.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COMMUNICATION SKILLS	Communicates effectively, verbally and in writing. Listens attentively and responds appropriately. Uses language appropriate to the work environment. Asks questions.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RESPONSE TO SUPERVISION	Accepts direction, feedback and constructive criticism with positive attitude and uses information to improve work performance. Completes tasks as asked.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COLLABORATION AND TEAMWORK	Relates positively with co-workers. Works productively with individuals and with teams. Asks for and offers assistance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COMFORT WITH DIVERSITY	Is comfortable with different types of people. Respects diversity in race, gender and culture. Avoids the use of language that stereotypes or demeans others.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CRITICAL THINKING AND PROBLEM-SOLVING	Exercises sound reasoning and analytical thinking. Uses knowledge and information from job to solve workplace problems.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WORKPLACE CULTURE, POLICY AND SAFETY	Demonstrates understanding of workplace culture and policy. Complies with health and safety rules and reports emergencies. Shows integrity, honesty, dedication to work.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SPECIFIC SKILLS	PERFORMANCE EXPECTATIONS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Number of Work-Ready Skills Assessed at or Above Entry Level _____

Comments on Student/Learner's Talents and Abilities

Time Frame: From _____ To _____ Total Hours _____

Worksite Supervisor Signature _____ Date _____

Student/Learner Signature _____ Date _____

WBL Connector/Teacher/Faculty/Signature _____ Date _____

Next Step Recommendations:

Evaluation Legend

Not Exposed: Intern was not provided the opportunity to achieve this objective or demonstrate the skill.

Training Level: Preparing to become work ready, but has difficulty completing tasks without prompting and repeated help. Does not readily request help. Does not attempt task before asking for or receiving assistance.

Improving Towards Entry Level: More work ready. Has difficulty completing some tasks. May attempt task before asking for help. Needs prompting or assistance.

Entry Level: Meets and demonstrates the skills at a level equal to what is expected of any employee in a similar position. Completes tasks and work projects with and without help. Improves work using team or supervisor feedback. Meets quality standards.

Exceeds Entry Level: Demonstrates mastery of skills at a level above what is expected of any employee in a similar position. Uses information generated personally and by others to improve work quality. Identifies problems before they arise and makes adjustments accordingly. Exceeds work expectations for quality and attends to detail in the development of projects and assignments.

Sample Learning Objective Topics

Academic, Career and Personal Development
Learning objective sample topics

Academic/Technical Topics

- ✓ Written communications
- ✓ Reading for knowledge
- ✓ Applying math and analyzing data
- ✓ Specific computer skills
- ✓ Specific occupational skills
- ✓ Technical knowledge

Career Development Topics

- ✓ Knowledge and awareness of potential careers
- ✓ Industry sector history and projections
- ✓ Education requirements

Personal Development Learning Objective Topics

- ✓ Leadership/Self-awareness
- ✓ Creative thinking/innovation
- ✓ Comfort with others/diversity
- ✓ Self-management/Time management

Specific Skills (on the Worksite Supervisor Evaluation)

Specific skills that may be learned and demonstrated through the experience can be included in the evaluation. These may include some of the following skills:

Occupation/Technical Skills

- ✓ Occupation-specific skills
- ✓ Industry-sector skills
- ✓ Industry-wide skills
- ✓ Tools and systems operation
- ✓ Safety

General Business Skills

- ✓ Customer service skills
- ✓ Telephone skills
- ✓ Planning and organizing
- ✓ Scheduling and coordinating
- ✓ Selecting and using computer applications