

Interns – Paid or Unpaid?

A common question for many business owners is with regard to the use of interns and whether or not they have to be compensated? With business looking for ways to control labor cost and individuals sometimes offering to work in positions for free to build professional experience and perhaps earn the chance of the internship turning into an offer of regular employment, unpaid internships have become a focus of the U.S. Department of Labor (DOL).

In many cases, unpaid internships are illegal. This past year, the U.S. Labor Department issued a very specific ruling regarding unpaid employees resulting in a six-point checklist on the use of interns and for an internship can go before requiring a business to pay up by at least offering minimum wage.

The six criteria a business *must meet* in order to allow unpaid internships are:

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 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.

Internships which do not meet the above criteria should be considered compensable and must meet all wage & hour law considerations including, but not limited to minimum wage and overtime as applicable. It is also important to note an individual is not allowed to forfeit their rights under wage & hours laws – even if the intern offers not to be paid, observe all employment labor laws!

If a business is determined to be not paying its interns, penalties may include back pay, unpaid taxes not withheld, social security, unemployment benefits, interest, attorneys' fees and liquidated damages (double the unpaid wages).

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