

Additional Internship FAQ for Employers

Q: Should I be concerned about the Risk and Liability while hosting an intern/volunteer student?

A: Our students sign a UHMC Waiver and Release Form. You may be required to have your student intern/volunteer sign a company Confidentiality Statement, or Risk and Liability Waiver and Release of Liability Form before their start date.

Q: When should I notify UH Maui College Cooperative Education Faculty about my availability to host an intern?

A: All year long, however, if you are recruiting during specific times of the year. Semesters range during the following time periods: Fall semester (August-December), Spring semester (December – May) Summer semester (April-July).

Q: How many hours can a student intern/volunteer work in a day? in a week?

A: Students intern/volunteers may intern 8 hours a day or less, or over-time rules may apply. Since a college semester (typically lasts 15-16 weeks), students may intern less than 19 hours per week or employer benefits may need to be offered.

- 1 credit course = 75 hours (4-8 hours per week)
- 2 credit course = 150 hours (10-12 hours per week)
- 3 credit course = 225 hours (14-16 hours per week)

A student's availability may depend on many outside factors such as: class schedule, family obligations, a job they are currently holding, etc. Talk with your intern/volunteer regarding your expectations and their availability. It depends on a student's availability of balancing class schedule with other personal commitments.

Q: What is the expectation of the Student Intern?

A:

- Comply with regulations and policies of the internship site and the College
- Participate as a fully contributing member of the work team
- Make the best use of learning opportunities provided by the employer

Q: What should I expect from my student intern/volunteer during Midterm and Finals week?

A: Midterm and Finals week are important and stressful events for students. Some students may need time off to complete examinations during this period. Discuss with your student

volunteer/intern regarding their schedule commitment and if any changes should be expected during those times.

Q: What is the expectation of the Cooperative Education Faculty?

A:

- Provide relevant classroom instruction related to workplace professionalism
- Monitor learning and performance of the intern through student feedback and assignments
- Maintain contact with the mentor/supervisor to resolve any concerns
- Provide coaching and counseling as needed

Q: What is a mentor?

A: An experienced and trusted advisor who trains and counsels new employees or student interns.

Q: How can I determine if I need to pay my student intern/volunteer?

A: The Fair Labor Standards Act (FLSA) defines the term “employ” very broadly as including to “suffer or permit to work.” 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 and overtime compensation for hours worked over forty in a workweek. (see pdf from this website Fact Sheet 71)

<https://www.dol.gov/whd/regs/compliance/whdfs71.htm>*

The Test for Unpaid Interns:

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.

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.

Q: What type of questions should I be asking myself to see if my organization is ready to host a student intern/volunteer?

A:

- How serious is my organization about hosting an internship program?
 - Will my organization culture be supportive of an internship program?
- What can interns do for us? What are our goals?
 - Does my organization have meaningful work for interns to complete that are aligned with their academic goals?
- What human resources do we have to support intern?
 - Can my organization provide an individual with efficient supervisory skills to work with interns?
 - Can my organization provide an individual with sufficient time to organize the program?
 - In which department might interns work?

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).

Footnotes

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).