



DEAR HRK

We are thinking of offering summer internships. Do we have to pay interns?

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Summer is coming and it may seem simple to hire an intern to help your Company for a few months while offering them college credits, but it's not that easy. Internship programs can provide a great value to the student and the company, as long as your program is compliant with applicable employment laws.

The Fair Labor Standards Act (FLSA) requires "for-profit" companies to pay their employees for all work completed. These rules do not apply to internships in the public sector or nonprofit organizations. The FLSA provides a seven-point "[primary beneficiary](#)" test to help determine if the role is truly an internship or an employee. When utilizing the test, no one factor is determinative; you must review all the information for each internship position for the company to ascertain if it is classified correctly.

The seven-point primary beneficiary test reviews to the degree that:

1. The intern and the employer clearly understand that there is no expectation of compensation.
2. 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 internship is tied to the intern's formal education program by integrated coursework or the receipt of academic credit.
4. The internship accommodates the intern's academic commitments by corresponding to the academic calendar.
5. The internship's duration is limited to the period in which the internship provides the intern with beneficial learning.
6. The intern's work complements, rather than displaces, the work of paid employees while providing significant educational benefits to the intern.
7. The intern and the employer understand that the internship is conducted without entitlement to a paid job at the conclusion of the internship.

Federal law regulates the “primary beneficiary” test under the FLSA, but employers should be aware of the state or local laws that may apply to them and that additional measures may be in order to classify as an unpaid internship.

Employers should evaluate each internship on a case-by-case basis using the seven-point test. If determined they should be classified as employees, interns will need to be paid at least minimum wage and overtime in accordance with the FLSA. Are you confident your interns are paid correctly?

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