



IS A PENNY SAVED A PENNY EARNED?

Managing Internship Risks

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Is a Penny Saved a Penny Earned? Managing Internship Risks

The weather is warming up, school is out, and nonprofits are hiring temporary employees and interns. Summer is a time where nonprofits can utilize the skills of temporary summer interns. However, when putting together your internship program, there are several important considerations that you should take into account.

Join the Center to learn more about designing a successful summer internship program. Some of the questions we will consider include: *Do summer interns need to be paid? What if we offer a stipend instead? Should we set specific hours and guidelines? What other risks are associated with temporary workers?*

What is an internship?

- An internship is an **exploratory period of work or training** offered by an employer to give students or recent graduates exposure to work in a particular field.

The Fair Labor Standards Act (FLSA)

- The **FLSA** is a federal law that outlines employment standards
- Administered by the **Department of Labor (DOL)**

What is “employment”?

- Under the FLSA, employment is broadly defined as **“to suffer or permit to work”**
- Under this definition, employees must be compensated compliant with **minimum wage** and **overtime** laws for work they perform



The FLSA: Nonprofits versus For-profits

- **Nonprofits** can engage volunteer workers
- **For-profits** are generally not able to utilize volunteers
- Most internships in the for-profit sector are considered employment relationships, unless a specific **six-part test** is met



What is a “volunteer”?

- Volunteers are individuals who volunteer or donate their services, usually on a **part-time basis, for public service, religious or humanitarian objectives**, and **without contemplation of pay, who are not considered employees** of the religious, charitable or similar non-profit organizations that receive their service.

The FLSA and Volunteers: Factors to Consider

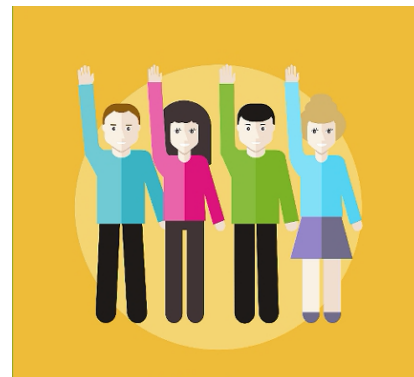
- To determine whether an activity is “**ordinary volunteerism**”, the DOL will consider several factors, including:
 - **Nature of the entity** receiving the services
 - **Compensation** of any type (money, room & board, discounts or other perks)
 - **Expectations of benefits** in the future

The FLSA and Volunteers: Factors to Consider

- Whether the activity is **less than full-time**
- Whether regular employees are **displaced**
 - Whether the services are **provided by choice**, without pressure or coercion
- Whether the services are of the **kind typically associated with volunteer work**

The FLSA and Unpaid Interns

- Because nonprofits can take on volunteers, generally, unpaid internships are allowable, so long as they meet state and federal standards
- For-profit unpaid interns must meet the following **six-part test** outlined by the Department of Labor



Factor #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**

Factor #2

- The internship experience is for the **benefit of the intern**



Factor #3

- The intern **does not displace regular employees**, but works under close supervision of existing staff

Factor #4

- The **employer** that provides the training **derives no immediate advantage** from the activities of the intern; and on occasion its operations may actually be impeded

Factor #5



- The intern is **not necessarily entitled to a job** at the conclusion of the internship

Factor #6



- The employer and the intern understand that the intern is **not entitled to wages** for the time spent in the internship

Risk Tips: Unpaid Interns

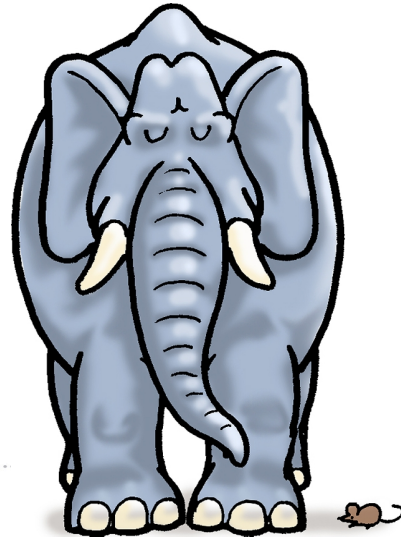
1. **Review the FLSA and any relevant state laws** prior to deciding whether your interns are properly classified as employees or volunteers (see your state's department of labor)
2. Although it may not be legally binding for your nonprofit organization, **keep in mind the six-factor test** outlined by the FLSA

Paying Your Interns

- Choosing **not to pay** your interns may raise concerns about whether the interns can properly be considered volunteers
- However, choosing **to pay** interns raises several additional concerns

Providing a Stipend

- Volunteers, NOT employees
- Volunteers should not receive compensation, but may be paid **“expenses, reasonable benefits, or a nominal fee”**

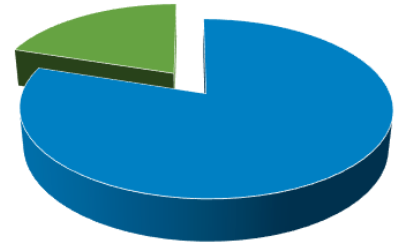


Providing a Stipend: Nominal Fees

- **“not a substitute for compensation and must not be tied to productivity”**
- Fee must be **incidental or insubstantial**
- The FLSA uses a **20-percent test** to determine whether something is insubstantial

Providing a Stipend: The 20-percent Test

- The stipend provided to the volunteer or unpaid intern should be no more than **20 percent** of what the organization would otherwise pay to hire an employee to provide the same services



Risk Tips: Paying Your Interns

- If interns are classified as **employees** under federal & state law, pay **minimum wage and overtime** as appropriate
- For interns who receive a **stipend**:
 - Do not vary pay** based on time worked or productivity
 - Limit the stipend to 20 percent** of what an employee undertaking the same work would receive

Risk Tips: Paying Your Interns

- 3. Remember** that if your volunteers or unpaid interns receive more than \$500 a year in compensation, they will no longer be covered by the **Volunteer Protection Act (VPA)**



Designing an Internship Program

Decisions to Make Before Hiring Interns

- How long will the internship last?
- Will interns be unpaid or paid?
- What type of training and orientation will we provide?
- Will we provide any special benefits to the interns?
- Will internal organizational policies apply to interns?

Designing an Internship Program: Providing Benefits



- **Affordable Care Act**

- Applies to organizations with 50+ employees
- Health insurance should be offered to interns who work **30 hours or more** and are paid
- *Seasonal workers*, or those working 6 months or less at approximately the same time every year, are exempt from this requirement

Designing an Internship Program: Providing Benefits

▪ Other Insurance

- If your interns are paid, they are considered *temporary employees* and may be covered under your existing insurance policies
- If your interns are volunteers, you may consider purchasing additional coverages

Internship Benefits for Interns

- **There are many reasons interns can benefit from summer internship programs, including:**
 - Earning academic credit for their internship
 - One-on-one formal mentoring from employees or volunteers at the nonprofit
 - The ability to get an insider's view of nonprofit work

Internship Benefits for Nonprofit Organizations

- Providing a positive experience for your interns can increase interest in the nonprofit sector and instill a life-long passion for mission-driven work by your interns
- In the short term, some of the benefits you might see include:
 - New and diverse perspectives
 - A renewed enthusiasm and excitement in the workplace



5 Risk Tips for Designing a Program

Risk Tips: Designing a Program

1. Have a plan in place before looking to fill an internship position

- What do you expect to gain from having an intern?
- What specific projects will you assign?
- Who will the intern report to/be mentored by?
- What should your intern expect to learn during the internship?

Risk Tips: Designing a Program

2. Have specific and clear guidelines and expectations

- State whether the internship is paid or unpaid
- Describe what you expect your intern to do during the program, and what they can expect to learn

Risk Tips: Designing a Program

3. Provide training and clarity on policies and procedures that apply to your interns

- share specific information with the interns about how their position differs from others within the organization

Risk Tips: Designing a Program

4. Provide your interns with expectations about communication procedures

- Phone procedure
- Email etiquette
- Common questions & inquiries

Risk Tips: Designing a Program



5. Involve interns in conversations about impact and outcomes

- take advantage of your interns' unique perspectives and diverse viewpoints on your nonprofit's activities and goals

Resources for Designing an Internship Program

- [DOL Wage & Hour Division FLSA Opinion Letter, FLSA2005-51](#), describing nominal fees and stipends
- [DOL Wage & Hour Division FLSA Opinion Letter, FLSA2008-15](#), describing specifically what types of stipends are acceptable
- DOL Wage & Hour Division, [Fact Sheet #71: Internship Programs Under the Fair Labor Standards Act](#)
- National Association of Colleges and Employers, [15 Best Practices for Internship Programs](#)