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# Know Your *RIGHTS* About Unpaid Internships

## With For-Profit Companies

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Did you know that many unpaid internships violate the law and that students in unpaid internships give up many of their rights without even knowing it?

### *What's the big Deal?*

You need the experience and in a still-sluggish economy, students often feel they NEED to take an unpaid internship to get a foot in the door. Within the past few years, there have been several lawsuits filed by unpaid interns against employers – both for violating Department of Labor regulations and for discrimination. Students must do their research before accepting an unpaid internship and know their rights in the event those rights are violated while interning.

### *Department of Labor Guidelines*

The U.S. Department of Labor has established a strict set of guidelines for employers hosting interns in the for-profit sector.

*When a for-profit employer hires an unpaid intern, all six of the following criteria must be met.*

- 1. The internship, even though it includes actual operation of the facilities of the employer, is similar to training that 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 that provides the training 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.*
- 6. The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship.*

Source: [U.S. Department of Labor Fact Sheet #71](#)

It is hard to imagine that an employer would not derive some sort of advantage from an intern's work, and that is the piece of the test that typically is not met. Therefore, most interns must be paid.

### *Worker's Compensation*

When an employee is injured on the job, the company's Worker's Compensation plan will pay for related healthcare bills, loss of pay, etc. However, if an unpaid intern were to get hurt on the job, the company would not be required to pay any damages to the unpaid intern since they do not meet the official definition of an employee. Legally, in order to be considered "an employee", the person must receive compensation.

## Discrimination and Harassment

In addition to not being covered under Worker's Compensation plans, unpaid interns are not covered under Title VII which protects against discrimination and harassment. Let's say an intern's supervisor makes unwanted sexual advances toward her. Can she sue for sexual harassment? Not unless she is an employee – which, by definition, requires that she receive compensation. The same holds true for racial discrimination and discrimination based on sexual orientation.

## Moral Issue - Class Disparity

From a moral perspective, many people find unpaid internships to cause disparity among students from different socio-economic groups. Consider Student A who is from a wealthy upper-class family and Student B who is from a rural middle income family. They both have a GPA over 3.0 and both are offered an internship with their dream company - the internship is unpaid. Student A can afford to take the unpaid internship because Student A's parents can assist with any expenses over the summer and during the academic year. Student B has to turn down the internship because Student B has to work to save money for living expenses for the upcoming year. This situation leads to Student A gaining more experience and, in theory, obtaining a better job upon graduation.

## Bottom Line

If you want to ensure you have rights at the internship workplace, be certain the internship is PAID. You are paying for the course through your tuition dollars. When a company offers credit as compensation, they are expecting you to *pay* to work for them.

## What should I do?

Be certain to have some sort of written agreement with your employer. The agreement will protect both YOU and the employer. The agreement should include, at a minimum, the following information:

- Start and end dates for the internship
- Pay rate
- Learning goals (remember, you should be involved in setting these learning goals too!)

Many organizations already have some sort of internship agreement in place. If they do not, the Office of Student Enrichment can assist them in developing one. If they decline to have such a contract with an intern, do you really want to work there?

If you ever experience any actions from a co-worker or supervisor that you think are inappropriate or questionable, consult with the Office of Student Enrichment. This person is well-versed in the legalities of internships and can help you determine your next steps.

If at all possible, only accept a PAID internship. A paid internship ensures that you are protected against discrimination and harassment and that you have all the rights of any other employee at the organization.

Don't always assume that everything will be fine because you know the supervisor/have a family member who works there, etc.

*(Important Note: the rules for internships in humanitarian, civic, charitable or religious non-profit entities are different. The 6 point test is only used to assess the legality of an unpaid internship at a for-profit entity.)*