

# HOW **2** guide: *Student Internship Guide*

Students should be aware that there are standards set forth by various state and federal laws to specify how interns are classified and whether they are entitled to pay. The information below is provided as a resource and should not be construed as legal advice for any particular situation.

## **Can an internship be unpaid?**

The Fair Labor Standards Act requires employers to pay employees at least minimum wage for all hours of work performed. One exception is if the worker is considered a “learner/trainee.” (The term “intern” is not used in the law.) The U.S.

Department of Labor developed six criteria for determining whether a worker falls into this category:

1. The training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school;
2. The training is for the benefit of the student;
3. The student does not displace regular employees and works under the close observation of a regular employee or supervisor;
4. The employer provides the training and derives no immediate advantage from the activities of the student. Occasionally, employer operations may actually be impeded by the training;
5. The student is not necessarily entitled to a job at the conclusion of the training period; and
6. The employer and the student understand that the student is not entitled to wages for the time spent training.

Sometimes it is difficult to interpret the fourth criterion. Interns are typically expected to participate actively in the work of the organization to make the experience educationally valid. If the employer derives some benefit from the students service, that may not necessarily make the student an employee for purposes of wage and hour law. Ultimately, the experience should look more like a training/learning experience than a job.

## **How much, if anything, does an intern get paid?**

- If the criteria stated above are not upheld, the intern must be paid the minimum wage or a higher hourly rate if qualified; the intern will then technically be considered an employee, according to the U.S. Department of Labor.

## **What is the pay period (if applicable)?**

- The amount and terms of pay should be clearly understood by both parties and stated in a written agreement.

## **Does the company have to provide workers' compensation?**

- Some of the state workers' compensation statutes specifically exclude interns from coverage, while others do not specify whether an intern is entitled to coverage.

## **Does the company have to provide unemployment compensation?**

- No. Typically, interns are not eligible to receive unemployment compensation because they are hired for an end-date position.

## **Does a company's sexual harassment policy cover interns, and how do interns report an incident?**

- The sexual harassment policy of the employer applies to its student interns. The policy and steps for reporting an incident should be shared with the intern during the orientation and explained in the company's manual. If student interns are getting course credit for the experience, or have been placed by the University into the internship, the University's Non-Discrimination and Anti-Harassment Regulation and Policy would also apply, and the student intern could file a complaint of discrimination/harassment with the FGCU Office of Institutional Equity and Compliance.

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