

# Unpaid internships are back for college students



## Your Turn

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Guest columnist

Summer presents the perfect opportunity for a win-win employment relationship. Many college students are scrambling to gain relevant work experience and enhance their resumes. Many employers are facing a labor shortage in a tight market. Couple the two together and you have “the summer internship.” Add the fact that the U.S. Department of Labor issued new 2018 Rules making it easier for companies to offer unpaid internship programs, and it may be a match made in heaven.

From the employer’s perspective, unpaid internships are ideal. They offer students valuable training and experience without bruising the company’s budget. However, unpaid internships have long been the source of conflict and controversy. A wave of lawsuits began in 2011 when two former interns at Fox Searchlight Pictures alleged they should have been paid for work they did on the movie “Black Swan.” The legal

standards adopted by many courts became rigid and often resulted in companies having to pay wages if the intern did any work at all.

The U.S. Department of Labor (DOL) seemingly recognized the “win-win” potential for unpaid internships had become a “lose-lose” scenario and, in January 2018, the DOL announced it has abandoned the old legal criteria. Now, the DOL will allow unpaid internships if they pass a seven-factor test that questions whether the student is the “primary beneficiary” of the relationship. The new standard allows employers to receive some benefits, provided that economic benefit to the employer is outweighed by the educational benefit to the student.

The new test does not mean that all unpaid internships are legally appropriate. It is still safest for employers to insure that interns are paid at least minimum wage. However, when there is no funding for a paid program, employers may now offer unpaid programs, provided that the programs focus primarily on offering students experience, education and training.

Some ways employers may help min-

imize legal risks associated with unpaid internships include:

- Have a written offer letter confirming that the internship is unpaid and a job is not guaranteed.

- Seek applicants who will receive college credit for completing the program. If no college credit is available, ask the student’s school to send a letter documenting that the program is approved as educationally relevant.

- Formalize the internship program with specific presentations where company leaders speak to the interns about their job duties and/or demonstrate company operations.

- Make sure the program has a specific start and stop date, and close the program by asking students to document the knowledge or education gained from the experience.

Compliance with these suggestions does not guarantee that the unpaid internship will be legally upheld, but the new DOL rule is certainly favorable for employers and opens the door to explore new summer opportunities with students.

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