

# Internships:

to pay or not to pay



The decision regarding whether or not to pay a student intern can be a difficult one for employers to make. It is very important for employers to be aware of and ensure compliance with the Fair Labor Standards Act (FLSA) before deciding to classify an intern as an unpaid “trainee” or a paid “employee”.

If an intern is considered an “employee” for purposes of FLSA, then the employer must pay the intern at least the minimum wage. The Department of Labor’s Wage and Hour Division developed a six-factor test for determining if a worker is to be considered an “employee” or a “trainee”.

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 trainee.
3. The trainees do not displace regular employees, but work under close observation.
4. The employer that provides the training derives no immediate advantage from the activities of the trainees and on occasion the employer’s operations may actually be impeded.
5. The trainees are not necessarily entitled to a job at the completion of the training period.
6. The employer and the trainee understand that the trainees are not entitled to wages for the time spent training.

For more information regarding legal issues please visit the National Association of Colleges and Employers (NACE) website at: [www.nacweb.org/info\\_public/legal.htm](http://www.nacweb.org/info_public/legal.htm)

*NOTE: Legal information is provided as a resource and should not be construed as legal advice for any particular situation. For specific legal advice, please contact your organization’s legal counsel.*