

Unpaid Internships 101



What is an internship?

An internship is work-related learning for individuals who want hands-on experience in an occupation.

Determining whether an intern is an employee under the state Minimum Wage Act

The definition of “employ” is similar under state and federal laws. So, the Washington State Department of Labor & Industries (L&I) looks to the application of the federal Fair Labor Standards Act for guidance when determining whether interns are employees under the Minimum Wage Act. Employees who are covered under the Minimum Wage Act must be provided all its protections, including minimum wage, overtime, and paid sick leave.

Under certain conditions, individuals without an expressed or implied agreement for pay or other compensation may work for their own advantage at a business and not necessarily be an employee. Whether an intern is an employee depends on all the circumstances surrounding the person’s activities on the employer’s premises.

Courts have identified seven factors to determine whether an intern is an employee for wage and hour laws. These factors must be weighed and balanced together in making their determination. The factors are laid out in L&I’s policy addressing hours worked. See L&I’s Administrative Policy ES.C.2 – Hours Worked (No. 7) at www.Lni.wa.gov/workers-rights/_docs/esc2.pdf.

If an employer wishes to offer an internship that is not subject to the Minimum Wage Act, the employer should analyze to what extent:

1. The intern and employer understand that there is no expectation of compensation because any promise of compensation, stated expressly or implied, suggests that the intern is an employee.
2. The internship provides trainings that would be similar to an educational environment.
3. The internship is connected to the intern’s formal education program, such as integrating the job experience with coursework or academic credits.
4. The internship accommodates the intern’s academic commitments by corresponding to the academic calendar.
5. The intern receives beneficial learning throughout the duration of their internship.
6. The intern’s work complements, instead of displaces, the work of paid employees while providing significant educational benefits to the intern.
7. The intern and employer understand the intern is not entitled to a paid job at end of the internship.



No single factor answers the question of whether an intern is an employee. Rather, the test examines whether the intern or the employer is the “primary beneficiary” of the relationship. An employer must look at all relevant factors presented by the internship to make that determination. This means that the fewer of the above factors that an employer satisfies the more likely the intern is to be an employee subject to the Minimum Wage Act protections. If a worker is an employee under the Minimum Wage Act than all the protections apply.

Clarifying certain factors and addressing compensation

Determining if an internship provides training that is similar to an “educational environment”

In general, the more an internship is connected with a classroom or academic experience, the more likely the internship will be viewed as an extension of the individual’s educational experience.

For example, this often occurs when a college or university oversees the internship program and provides academic credit. This could include clinical and other hands-on training provided by educational institutions.

An intern may be viewed more as an employee receiving training if the program is:

- Connected solely with the employer’s actual operations.
- Provides skills particular to only one employer’s operation.

Under these circumstances, the intern does not perform the routine work of the business on a regular and recurring basis, and the business is not dependent upon the work of the intern.

For example, if the interns are engaged in the operations of the employer or are performing productive work that benefits the employer (such as filing, performing other clerical work, or assisting customers), then the interns may be employees entitled to wage and hour law protections, even if they also derive other benefits from this type of placement.

Determining if an intern’s work complement other employees — rather than displacing them — while also providing the intern significant educational benefits

The following examples provide guidance about when an intern’s duties might displace other employees:

- If an employer uses interns as substitutes for regular workers or to support its existing workforce during specific time periods; or
- If the employer would have hired additional employees or required existing staff to work additional hours had the interns not performed the work, then it would be more likely that the interns are considered employees and entitled to compensation.

An intern’s work must still provide significant educational benefits to the intern, such as teaching the intern tasks or skills that would be useful in other work settings in the future.

Does compensation transform an internship into employment?

Not necessarily. An intern may receive compensation, such as a stipend or reimbursement, for expenses during their internship.

If an employer uses an unpaid internship as a trial period for an individual to obtain a paid job at the end of the internship, it is more likely that the intern will be considered an employee.

Please note: Internships are not the same as on-the-job training, which is generally considered hours worked, and must be paid. See L&I’s Administrative Policy ES.C.2 — Hours Worked for more details at www.Lni.wa.gov/workers-rights/_docs/esc2.pdf. Internships are also not the same as working in a registered apprenticeship, see www.Lni.wa.gov/Apprenticeship.

Interns can participate in job shadowing opportunities, if:

- A regular employee provides close and constant supervision; and,
- No work, or a minimal amount of work, takes place.

In such cases, job shadowing would likely be viewed as a true educational experience for the intern.

High school students in work-based learning programs

Students in a school-to-work program

Students may be placed in a school-to-work program on a paid or unpaid basis. See L&I's Administrative Policy ES.C.2—Hours Worked (No. 8) for more details at www.Lni.wa.gov/workers-rights/_docs/esc2.pdf. A business must meet all five of the following criteria to relieve it from providing the Minimum Wage Act protections:

1. The training program is certified and monitored by the school district or the Office of the Superintendent of Public Instruction.
2. A training plan exists that establishes a link to the academic work; for example, the training plan could be a detailed outline of the competencies to be demonstrated to achieve specific outcomes and gain specific skills. The worksite effectively becomes an extension of the classroom activity and credit is given to the student as part of the course.
3. The school has a designated district person as an agent/instructor for the worksite activity and monitors the program.
4. The worksite activity involves students observing, work shadowing, or watching demonstrations, with students doing no substantive production or benefit to the business. The business has an investment in the program and actually incurs a burden for the training and supervision of the student offsets any productive work performed by the student. Students may not displace regular workers or cause regular workers to work fewer hours as a result of any functions performed by the student.
5. The student is not entitled to a job at the completion of the learning experience. The parent, student, and business all understand the student is not entitled to wages for the time spent in the learning experience.

If a student under age 18 is placed in a paid position, all requirements of the Minimum Wage Act, the Industrial Welfare Act, and child labor regulations must be met.

Workers' compensation coverage

On the use of volunteers

Volunteers are permitted for non-profit, governmental, charitable or educational organizations.

For-profit businesses don't have volunteers. Instead, they may have:

- Qualified student volunteers in a school-sponsored program (grades K–12 or institutions of higher education)
- Unpaid students participating in a work-based learning program in an institution of higher education, for which the student receives credit (not wages) toward completing a program, certification, or degree in return for services.

For more details about criteria for a qualified student volunteer or unpaid student, go to www.Lni.wa.gov/insurance/insurance-requirements/volunteers/#student-volunteers-and-unpaid-students.

Available workers' compensation coverage for student volunteers or unpaid students

Medical-aid benefits only are available to businesses and organizations using qualifying student volunteers and unpaid students. The elective coverage does not include the other usual benefits of workers' compensation, such as wage replacement, vocational and retraining costs, permanent partial disability payments, or death benefits. The business or organization electing the coverage is not protected from civil liability.

For more information, see Student Volunteers and Workers' Compensation Coverage (www.Lni.wa.gov/go/F213-023-000).

To obtain this coverage for student volunteers and unpaid students, complete the Application for Elective Coverage of Excluded Employments at www.Lni.wa.gov/go/F213-112-000.