



BEST PRACTICES IN MEDIA INTERNSHIPS

INTRODUCTION

Internships in the media industry have been making headlines across the country as cases against major media companies are winding their way through the legal system. Because of our unique, longstanding role as a resource to the media community, Women in Film & Video (WIFV) has been working with experts and a cross-section of our constituency, including interns and business owners, former interns, and academic internship supervisors to develop a position on the issues raised by unpaid internships.

The result is the creation and vetting of the following **Best Practices in Media Internships**, which we believe will answer questions to help make unpaid internships more rewarding for everyone involved. WIFV is pleased to inaugurate its **35th Year Anniversary Thought Leadership Initiative** with a statement and best practices on this important issue affecting our industry.

DISCLAIMER

These defined best practices are designed to inform industry professionals about legal requirements when hiring interns. It is not intended in any way to serve as legal advice. Anyone with questions about whether particular internship practices comply with existing laws should seek counsel from an attorney knowledgeable in these matters. WIFV makes no representations, warranties or guarantees that an unpaid internship consistent with these practices complies with the Fair Labor Standards Act or any other federal, state or local laws regulating employment.

A WORD ABOUT DEFINITIONS

Various dictionary definitions of the word 'internship' do not necessarily conform to the legal definition of 'intern'. The word used in everyday language has different meanings and implications in different industries. WIFV's statement relies on the definition of the term provided by the Department of Labor, which states that an internship is a situation that meets a number of criteria.



BEST PRACTICES IN MEDIA INTERNSHIPS STATEMENT

If yours is a FOR-PROFIT entity, internships are OK if you PAY.

If you offer a paid internship, congratulations! Your intern is an employee or contractor, and this is the fairest, most equitable relationship you can have with the person you are engaging to provide labor and services for your business.

You must pay at least minimum wage, time and a half for overtime, and meet all other federal and local requirements for having a paid employee. For questions about federal wage and hour requirements, please see <https://www.dol.gov/whd/flsa/>; states and municipalities will have similar online resources.

If yours is a FOR-PROFIT entity and you wish to offer an UNPAID internship, it must meet the Department of Labor's six-part requirement.

The full version of the Department of Labor's interpretation of the Fair Standards Act on the topic of unpaid internships by for-profit entities can be found here

<http://www.dol.gov/whd/regs/compliance/whdfs71.htm> To summarize:

- The internship, even though it includes actual operation of the facilities of the employer, is similar to training which would be given in an educational environment;
- The internship experience is for the benefit of the intern;
- The intern does not displace regular employees, but works under close supervision of existing staff;
- The employer who provides the training derives no immediate advantage from the activities of the intern; and on occasion its operations may actually be impeded;
- The intern is not necessarily entitled to a job at the conclusion of the internship;
- The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship.

If you are can't pay for labor and can't meet the Department of Labor's six-part requirement for unpaid internships, what you are offering does not qualify as an internship.

If you have decided to engage an unpaid intern, rely on your own preparation of a learning environment to ensure the intern's experience meets the education requirement. Getting academic credit on its own may not be sufficient to show that the internship is educational.

- Establish a curriculum and reference materials to be provided to the intern, and conduct periodic evaluations of how well the intern has learned the material.
- Create a contract or letter of agreement that states that the internship is not a job, does not entitle the intern to a job or to wages, and establishes the hours to be worked and the duration of the internship.



- Support the intern's own creative endeavors and give them public credit on projects they work on.
- Provide immediate and close supervision, such as shadowing and mentoring, when interns are working on your projects, more supervision than you would a regular employee. You should expect your project to take longer than it would without the intern.
- If an intern is enrolled in school and receiving academic credit for his/her internship, ask the academic supervisor to engage in the internship through check-ins and feedback.

Since getting academic credit no longer guarantees a position meets the education requirement, an internship candidate can include those who can't afford school, people making career changes, people reentering the workforce and other terrific candidates.

Periodically evaluating your unpaid internship can prevent problems .

Possible red flags that an unpaid internship does not meet requirements include:

- depending on interns for the routine work of the business
- needing to hire someone if an intern is not available
- operations are impeded if the intern is absent
- a preponderance of offsite work
- suggesting that being in the same physical space as where the work is happening is in and of itself an educational experience
- using the term "trial period"
- having no measurable learning outcomes
- suggesting that if college credit is granted, the work experience is necessarily an internship

If your internship raises red flags, it is time to consider changing the program, offering it as a paid position, or making the position a volunteer job. (Paid positions and volunteer jobs also have to meet the requirements of the Fair Labor Standards Act.)

If yours is a NON-PROFIT entity:

- Certain kinds of non-profit entities are exempt from parts of the Fair Labor Standards Act. The standard for offering unpaid positions is less restrictive for certain kinds of non-profit entities than for for-profits.
- Whether or not your non-profit is exempt, following the same practices that for-profits do creates a rewarding internship experience for all parties.
- If your non-profit qualifies as exempt, and you don't establish an educational internship program, enlist the support of volunteers.

For more information about non-profits and the Fair Labor Standards Act, see

<https://www.dol.gov/whd/regs/compliance/whdfs14a.pdf>



QUESTIONS?

When does the Fair Labor Standards Act apply? Are there special rules for state and government employees? What does it require of paid internships? Find answers to these and other questions using the Department of Labor's Fair Labor Standards Act (FLSA) Advisor tool at <http://www.dol.gov/elaws/flsa.htm>.

Wage and Hour Division's toll-free help line: 1-866-4USWAGE (1-866-487-9243) TTY: 1-877-889-5627

Online contact form: <http://webapps.dol.gov/contactus/contactus.asp>

ABOUT WOMEN IN FILM & VIDEO

Women in Film & Video of Washington, DC (WIFV) was founded in 1979 to advance women in the media industry, help media makers flourish in the DC region, and ensure that media reflects fresh perspectives and creative artistry. As reports continue to document the under-representation of women in the media workforce, WIFV is finding new ways to turn disappointing statistics around and ensure diverse voices have an opportunity to be heard. The release of WIFV's Best Practices in Media Internships statement is the first in a series of 35th Anniversary Thought Leadership activities the organization is undertaking. WIFV's General Counsel, Laura Possessky, Esq., of Gura & Possessky, provided legal advice.

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