



Internships - New Rules

regulatory human resources

Summary: The Department of Labor recently scrapped a more rigid 7-prong test that guided whether interns could work for free. We provide you with the specifics for the new test.

Summer is a time of sunshine, fun and travel for nearly everyone. This summer, CompareCards research finds: 98% of people are considering taking a summer vacation, 75% say credit card rewards affect summer vacation plans and 20% say rewards points will pay for at least 50% of their summer travel bills. Have fun out there.

When it comes to summer, community banks often look to hire interns for summer positions. In so doing, be mindful that the US Department of Labor (DOL) recently changed the criteria to determine if an internship must be paid. Generally, for-profit companies must pay employees for their work, but there are certain exceptions for interns and students.

Last year, the DOL scrapped a more rigid 7-prong test that guided whether interns could work for free. [The new 7-prong test](#) is more flexible, allowing the final decision to be case-specific. The analysis now turns on whether the intern or the hosting business is the "primary beneficiary" of the relationship and is based on these factors:

1. Extent to which the intern and employer clearly understand that there is no expectation of compensation. Any promise of compensation, express or implied, suggests the intern is an employee - and vice versa.
2. Extent to which the internship provides training similar to what would be given in an educational environment.
3. Extent to which the internship is tied to the intern's formal education program by integrated coursework or the receipt of academic credit.
4. Extent to which the internship accommodates the intern's academic commitments by corresponding to the academic calendar.
5. Extent to which the internship's duration is limited to the period in which the internship provides the intern with beneficial learning.
6. Extent to which the intern's work complements, rather than displaces, the work of paid employees while providing significant educational benefits to the intern.
7. Extent to which the intern and the employer understand that the internship is conducted without entitlement to a paid job at the conclusion of the internship.

Importantly, interns who are deemed employees are eligible for minimum wage and overtime pay under the Fair Labor Standards Act. What's more, banks should investigate state and local laws to see what, if any, impact they may have on internship programs. Some state and local laws may impose additional requirements on internship programs outside the DOL guidance.

Internships are beneficial for both employer and intern. Community banks can offer internships to provide valuable experience to students and young community members interested in the industry. Expectations should be set at the beginning however and communication on the goals of the internship should be clear. Knowing the labor rules is key for your bank, of course. If you have legal questions about all this, contact your

legal counsel. In the meantime, we hope we have helped to provide you with an abbreviated update on this, as you start your day.

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