



Summer Interns Present New Challenges

Publication

5.31.13

As summer begins, many employers are now welcoming interns to their workplace. Typically, the summer internship is a mutually beneficial relationship for students and employers. The intern gains valuable experience that he or she may not gain in a tight job market. Employers get the benefit of new perspectives and fresh ideas from eager minds. However, this relationship is not without risk to employers, particularly if the internships are unpaid.

Employers have seen an increase in lawsuits filed by unpaid interns under the Fair Labor Standards Act (“FLSA”), in which the interns claim entitlement to minimum wage or overtime compensation. Employers also may risk exposure to lawsuits alleging harassment or discrimination under federal law. Employers should therefore analyze these risks carefully as they begin any internship program.

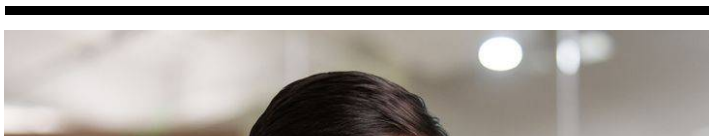
Unpaid internships have been a hot topic under the FLSA in recent years. In 2010, the Department of Labor (“DOL”) issued “Fact Sheet #71,” which was designed to help determine whether interns must be paid the minimum wage or overtime. The Fact Sheet set forth a six factor test which employers must satisfy in order to lawfully maintain an unpaid internship program.

However, in conjunction with the release of the Fact Sheet, the U.S. Wage and Hour Division’s deputy administrator announced what appears to be the DOL’s “rule of thumb” that unpaid internships violate the FLSA: “If you’re a for-profit employer or you want to pursue an internship with a for-profit employer, there aren’t going to be many circumstances where you can have an internship and not be paid and still be in compliance with the law.”

Since then, there have been several high-profile lawsuits filed by former interns. Employers are wise to reassess their unpaid internships in view of such lawsuits and the DOL’s dim view of the legality of unpaid internships.

This article appeared on May 31, 2013 on AJC.com.

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