



"Volunteers" And Non-Profits: Round Two

Insights

4.12.12

A few readers were surprised by our [April 3 post's](#) caution that, in some scenarios, a volunteer performing work for a federal Fair Labor Standards Act-covered non-profit organization might be an "employee" subject to that law's compensation requirements.

One observed that many non-profits are staffed in whole or in part by volunteers and described a longstanding sector-wide impression that non-profits may use volunteers for work with what the commenter described as "near-complete liberty."

FLSA principles do not as a general proposition prevent non-profits from using non-employee volunteers under the right circumstances. But, whatever the conventional wisdom or prevailing practice might be, one should not simply *assume* that non-profits may do so with near-complete liberty.

As the U.S. Labor Department says, "There is no special provision in the FLSA which precludes an employer-employee relationship between a religious, charitable or nonprofit organization and persons who perform work for such an organization." Section 10b03(a), *Field Operations Handbook* (U.S. Labor Department, October 10, 1993).

There are far too many different factual settings in which the FLSA's principles might be in play to articulate a one-size-fits-all rule about non-profit volunteerism. Our point is that at least some such situations might well involve FLSA-covered employment, so it is wise to keep this possibility in mind.

And remember that, until relatively recent times, the conventional wisdom also was that unpaid internships presented no potential FLSA problems.