UNPAID INTERNSHIP PRIMARY BENEFICIARY TEST

We want to be sure you are aware of how the Fair Labor Standards Act may affect you. To avoid legal action, a for-profit employer may “hire” an unpaid intern only when the intern is the “primary beneficiary” of the position. An easy test is to ask yourself “Who is benefitting the most from the internship – the intern or my organization?”

The “primary beneficiary” can be determined by seven non-exhaustive criteria:

1. Do the intern and the employer "clearly understand" that there is no expectation of compensation?

2. Does the internship provide "clinical and other hands-on training" like those provided by schools?

3. Is the internship "integrated" into the intern's coursework or the receipt of academic credit?

4. Does the employer accommodate the intern's academic commitments by corresponding to the academic calendar?

5. Is the internship limited in time to the period in which the internship provides the intern with beneficial learning?

6. Does the intern's work "complement, rather than displace" the work of paid employees?

7. Do the intern and the employer understand that the intern is not entitled to a paid job at the conclusion of the internship?

We recommend that you consult with your HR and/or legal department if posting an unpaid internship.