The Complete Intern Compensation Guide

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InternMatch
Find your focus
<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paid vs Unpaid</td>
<td>1</td>
</tr>
<tr>
<td>Six Criteria for a Legal Unpaid Internship</td>
<td>3</td>
</tr>
<tr>
<td>Compensation Breakdown</td>
<td>5</td>
</tr>
<tr>
<td>Applying for Federal Work Study</td>
<td>7</td>
</tr>
<tr>
<td>Frequently Asked Internship HR Questions</td>
<td>9</td>
</tr>
<tr>
<td>Writing an Internship Contract</td>
<td>10</td>
</tr>
</tbody>
</table>
The debate over the legality of unpaid internships has reignited as the number of unpaid internships has risen in recent years and the job market for new graduates continues to worsen.

Employers who treat unpaid interns as free labor may be opening themselves up to a costly lawsuit. The U.S. Department of Labor has a set of six criteria regarding what constitutes a legal unpaid internship. While the criteria can be seen as vague, not meeting one of them may open you up to a lawsuit.

At InternMatch, we have found that pay helps employers attract the best talent, not only because money is a big motivator, but also because it helps attract a larger group of highly qualified individuals, including those who may not be able to work for free due to financial need. In addition, pay is an integral part of treating interns as professionals making them more likely to play the part and more likely to join your company full-time at the end of the internship.
Paid intern vs. full-time hire

Hiring a full-time employee, even at entry level, is a big investment of time and resources. If the new employee does not work out, the process of letting them go is also laborious. Internships are understood to be short term engagements and eliminating a bad hire simply becomes a short waiting game. Hence more and more companies are using internships as a trial period for full-time hires, reducing the risk of a costly firing process if the candidate does not work out. In addition, due to the fact that interns do not usually qualify for benefits, processing through HR is a quick affair.

Career Counselor Karen Obringer outlines some further benefits to hiring interns:

- Internships enable companies to train potential future employees
- Interns provide new energy to the office
- Interns provide new ideas and technology into the office
- Interns can do the work that the full-time staff haven’t had time to accomplish or even start
- Interns can help evaluate current company practices and offer suggestions of alternate options
Breaking Down the Six Criteria for a Legal Unpaid Internship

In April of 2010 the Wage and Hour Division of the U.S Department of Labor released a new set of guidelines for unpaid internships after widespread abuse by private companies was brought to light. Many have criticized the new guidelines for being too vague, leading to employer confusion over whether their internship programs are compliant with the law. At InternMatch we err on the side of caution and this has guided our interpretation of the six criteria.

1. 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;

Many employers have mistakenly interpreted this statement to mean that offering college credit automatically means they do not have to pay their interns. While the phrase “educational environment” is open to interpretation, the Department of Labor defines training as providing interns with skills that can be used in multiple employment settings. Providing interns with weekly workshops, software training, etc, are ways to increase your compliance with this rule.

2. The internship experience is for the benefit of the intern;

The Department of Labor states that an unpaid intern should not be performing routine work of the business on a regular and reoccurring basis. Furthermore, the business cannot depend on the unpaid intern’s work.

3. The intern does not displace regular employees, but works under close supervision of existing staff;

If you are using an intern to complete work that would otherwise fall under the responsibility of a full-time employee, then you must pay the intern. In addition, if the unpaid intern is supervised like a regular employee it will be seen as an employment relationship rather than a training one, mandating pay.
Conclusion:
Meeting all of the unpaid internship criteria will be very challenging for a for-profit company. Employers may argue that the educational value, stipend, perks and training of the internship fairly balances the value added by the intern, but assuming this argument will hold up under legal scrutiny is risky. The safer and more fair choice is to offer interns at least minimum wage. The DOL seems to take a much more lenient stance towards non-profits, however, there is still a strong rationale to pay interns across sectors.

The intern is not necessarily entitled to a job at the conclusion of the internship;
Utilizing an unpaid internship as a trial period for a prospective full-time hire is illegal. It should be clearly communicated that completion of the unpaid internship will not necessarily lead to a full-time position.

The employer that provides the training derives no immediate advantage from the activities of the intern; and on occasion its operations may actually be impeded;
This point is commonly cited as the primary legal reason that all interns working at for-profit companies must be paid. It is extremely unlikely that you will not receive any advantage from your intern and doubtful that you’d want to hire one if you do not. Some employers attempt to argue that by investing so much time and resources into their internship program that the value is null – do so at your own risk..

The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship.
The unpaid nature of the internship must be clearly and contractually stated.

2012 HIGH PROFILE UNPAID INTERNSHIP LAWSUITS
• Former intern Xueden "Diana" Wang sues Hearst Corporation
• Former intern Lucy Bickerton sues PBS
• 4 Former interns sue Fox Entertainment Group
**Compensation Breakdown**

**How much should I pay my intern?**

The most important benefit you can offer an intern is a highly educational experience that provides access to top-level employees, and industry experience. That being said payment is important to set your position apart from the status quo and attract the best candidates. Minimum wage or even a simple stipend can radically improve the quality of applicants to your internship. In addition, pay improves intern morale as well as provides a great incentive for interns to take more responsibility and do better work.

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<thead>
<tr>
<th>Internship Type</th>
<th>To Attract Top 25% of Students</th>
<th>To Attract Top 5% of Students</th>
</tr>
</thead>
<tbody>
<tr>
<td>Communications/PR</td>
<td>Minimum Wage</td>
<td>$12-$15/hour</td>
</tr>
<tr>
<td>Marketing</td>
<td>Minimum Wage</td>
<td>$12-$15/hour</td>
</tr>
<tr>
<td>Computer Science/Engineering</td>
<td>$12/hour</td>
<td>$15-$22/hour</td>
</tr>
<tr>
<td>Graduate Business Student</td>
<td>$12/hour</td>
<td>$15-$20/hour</td>
</tr>
<tr>
<td>Non-Profit</td>
<td>Unpaid/Stipend</td>
<td>$12/hour</td>
</tr>
</tbody>
</table>
Alternative forms of compensation

Whether you can or cannot pay your interns, look toward these other forms of compensation to set your internship apart.

- **Events and Workshops** — Surveys have found that explicit professional experience is the most important reason for students to do an internship. Help your interns gain new skills and experiences by organizing or sending them to professional events and workshops. Many of these professional engagements are priced out of a typical college student’s budget, making this a very attractive perk.

- **Hard Skills Training** — Students do not have access to professional software while in school. Teaching them how to use software like Salesforce, Hootsuite, InDesign and more is a powerful perk and will help them be more productive throughout their internship.

- **Meals** — College students are very attracted to the prospect of free food. In addition, breaking bread with the interns is a good way to build loyalty as well as keep up to date on the internship progress and experience.

- **Transportation** — Compensating gas or public transportation costs, will make the unpaid internship more budget neutral.
Federal and State Work Study Programs

Work Study Programs that Can Subsidize Your Intern Salary Costs
Work-study programs are setup to help students who have financial need get hired for internships and other part-time work. Federal and state legislators allocate millions of dollars for various programs each year, which is then passed on to businesses that employ students eligible for financial aid. Employers can save anywhere from 25 to 100% on intern salaries by hiring work-study students.

How it works:
Current work study options are divided into Federal and State funded programs. These two programs are often further supported by individual universities who add their own funds to the mix. Each program has different eligibility requirements and reimbursements. Ultimately, if you discover that your company is eligible to receive reimbursement AND you hire a student who has financial need, then you will likely save thousands of dollars on your intern salary costs.

The Federal Work Study Program—From Washington DC to Local Universities, to Your Pocket:

The federal program is funded by the federal government but managed and disbursed by individual universities. Every year, funds are distributed to different colleges and universities in the country in an annual grant process. Universities manage the money and broker how much is ultimately awarded to employers and students.

Generally only non-profits qualify for federal funds and offer 75% reimbursement of intern salary costs. However, many universities add their own funds to the program in addition to the federally allocated money, and such schools can dedicate a percentage of their total work-study budget to for-profit businesses.
State Work Study Programs:
Currently, nine states have their own, self-funded work study programs. States that create their own work-study programs also create their own rules and instruments for disbursement, making them more flexible and easier to access than the federal program. In fact, every state work-study program offers funding to both for-profit businesses and non-profits.

What this means for your organization:
If you are hiring in a state with its own work study program you benefit from a much more streamlined process and wider criteria for qualifying organizations.

If you are hiring in a state that does NOT have a state program, your only option is to access federal money or on occasion money budgeted by individual universities. This means as a non-profit organization you still have a very high chance to receive significant reimbursement and as a for-profit organization you may be eligible to receive some funding.

The Student Variable:
All funding decisions ultimately depend on how much money remains in the funding pool, as well as the level of need of the candidate you are hiring. You will only be reimbursed for financially eligible students.

Conclusion:
Ultimately it is very difficult to select students based on their eligibility for work-study as it depends on their university and how much of the work-study fund has been distributed already that year. You should ask students you hire if they are receiving financial aid, and if they are, you should reach out to their financial aid office to see whether or not your company qualifies for work-study reimbursement.
**Frequently Asked Internship HR Questions**

**Should interns be added to payroll, set up as independent contractors or something else entirely?**

Interns should be added to payroll like regular employees. The intern should file a W4 and your payroll firm should deduct the proper state and federal taxes. As a rule, independent contractors are individuals who have their own legal entities, do not require supervision or direction in completing a project and provide their own tools. The vast majority of internships do not meet these requirements, although some virtual internships are the exception.

**Can I pay with a stipend? If so how?**

Paying interns under minimum wage is illegal for most for-profit companies. Therefore there is no proper process to pay interns at a for-profit with a stipend. In our experience, most companies who utilize stipends usually do so by issuing students a 1099 form (designating them as a contractor) which also requires the student to manage their own tax deductions from this sum. However, employers improperly classifying interns run the risk of significant penalties and fines.

Non-profits on the other hand can classify interns as volunteers and then pay the stipend as a “nominal fee.” The stipend cannot exceed 20% of what would have been paid to a worker performing the same job and cannot be related to the number of hours worked. Stipends over $600 a calendar year must be reported as 1099 income, stipends under this amount do not need to be reported.

**How do I offer school credit for my internship?**

The burden is on the student for getting school credit. Students will have to visit their career centers and fill out the relevant paper work. Each school will have different requirements for internships to qualify for school credit. Most of these requirements are fairly lax and vary so much from school to school that employers should not bother making their internships credit compliant until the student presents the requirements.
Below is an internship contract that is similar to the one that we use at InternMatch. You can download an editable version of this contract for your own use in our Resources Section.

January 1, 2012

Dear [Intern Full Name]:

I am pleased to offer you a Marketing Internship with Widgets, Inc. (the “Company”) as of January 1st, 2012 (the “Effective Date”) and reporting to Jane Doe, Chief Marketing Officer of the Company. In addition to the duties that were outlined during your interviews, you shall perform such other duties as are customarily associated with such position and as the President, the Board of Directors, or its authorized representative may from time to time require. You shall devote your full business efforts and time to the Company and agree to perform your duties faithfully and to the best of your ability. You agree not to engage in any other employment, occupation or consulting activity for any direct or indirect remuneration without the prior approval of your supervisor.

You should be aware that your employment with the Company constitutes “at–will” employment. This means that your employment relationship with the Company may be terminated at any time with or without notice, with or without good cause or for any or no cause, at either party’s option. You understand and Agree that neither your job performance nor promotions, commendations, bonuses or the like from the Company give rise to or in any way serve as the basis for modification, amendment, or extension, by implication or otherwise, of your employment with the Company.

You will be compensated $15.00 per hour of work performed. You will be paid in accordance with The Company’s normal payroll practices and be subject to the usual, required withholding.

While employed hereunder, you will not be entitled to participate in the employee benefit plans maintained by the Company, if any. You will be eligible for paid leave and paid holidays only as approved by your supervisor. (Benefits are optional per employer)
The Company will also reimburse you for reasonable and documented travel, entertainment or other expenses incurred by you in the furtherance of or in connection with the performance of your duties hereunder, in accordance with the Company’s expense reimbursement policy as in effect from time to time.

You agree to enter into the Company’s Proprietary Information and Invention Assignment Agreement (the “Proprietary Information Agreement”) (optional) upon commencing employment hereunder.

You acknowledge and agree that you are executing this letter voluntarily and without any duress or undue influence by the Company or anyone else. You further acknowledge and agree that you have carefully read this letter and that you understand the terms, consequences and binding effect of this letter.

This letter, together with the Proprietary Information Agreement and any agreement you enter with the Company represents the entire agreement and understanding between the parties as to the subject matter herein and supersedes all prior or contemporaneous agreements, whether written or oral. In the event that any provision hereof becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this letter will continue in full force and effect without said provision.

No waiver, alteration, or modification of any of the provisions of this Agreement will be binding unless in writing and signed by duly authorized representatives of the parties hereto. This letter shall be governed by the internal substantive laws, but not the choice of law rules, of the State of California.

To indicate your acceptance of the Company’s offer, please sign and date this letter in the space provided below and return it to the address indicated below. A duplicate original is enclosed for your records. We hope that this offer will be favorably received and we look forward to working with you at Widgets, Inc. Your anticipated start date is, January 1, 2012.

Sincerely,
Jane Doe
Chief Marketing Officer

ACCEPTED AND AGREED:
[Intern Full Name]
Signature: ____________________________
Date: ________________________________

Choose state that your company conducts its legal activity.

Attach non-disclosure agreement if necessary.
Conclusion and Additional Resources

After finishing this ebook, you should feel confident about compensating interns. By utilizing the InternMatch templates, sticking closely to the U.S. Department of Labor’s six criteria on unpaid internships and thinking about other unique educational benefits you can offer, you should have no problems creating a high quality, legal internship program.

If you have any questions about this ebook or InternMatch
Email us at feedback@internmatch.com

Or

Give us a call at (866) 818-0092