



# Labor and Employment *ALERT*

Current Law Developments and Legal Issues

That May Affect You Or Your Business

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## [Department of Labor Issues Fact Sheet on Interns in Private Sector](#)

Last week, on April 21, the Wage & Hour Division of the federal Department of Labor (DOL) posted a fact sheet on its website that attempts to clarify its position on the use of unpaid student interns by for-profit, private sector employers. The Fact Sheet is entitled "Fact Sheet #71: Internship Programs Under the Fair Labor Standards Act." According to DOL, student interns who work in the for-profit, private sector will most often be classified as employees under the FLSA, thus subject to the minimum wage and overtime provisions of that law, unless the employer meets all of the following six criteria:

- \* the internship is similar to training that would be given in an educational environment;
- \* the internship experience is for the intern's benefit;
- \* the intern does not displace regular employees but works under close supervision of existing staff;
- \* the employer that provides the training derives no immediate advantage from the intern's activities;
- \* the intern is not entitled to a job when the internship ends; and
- \* the employer and the intern understand that the intern is not entitled to wages for the time spent in the internship.

DOL distinguished private-sector interns from public sector and non-profit interns, who are often considered "volunteers", and who have no expectation of compensation for their volunteer time. However, it did indicate that it was reviewing the need for additional guidance on internships in the public and non-profit sectors.

Any private sector, for-profit employer using unpaid interns should review the entire Fact Sheet for guidance, to ensure that it is in compliance with the guidelines. There has been a lot of focus on the "intern" issue recently, along with other employee "misclassification issues", thus the chance of a complaint being lodged, or

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a target audit being conducted by the DOL, is greater.

Greg Guidry

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