

US DOL Issues New Guidance on Unpaid Interns

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The United States Department of Labor (DOL) recently made it easier for “for-profit” employers to establish an unpaid internship program. Under federal law, covered employers must pay individuals that they “suffer or permit to work” for all hours worked. However, covered employers are not required to pay interns who provide services in connection with a qualifying internship program.

In January 2018, the DOL revised its “fact sheet” on Internship Programs, Fact Sheet # 71. The revised Fact Sheet explains that the issue of whether an individual is an employee or an intern under the FLSA should be governed by a seven-factor test which “examine[s] the economic reality of the intern-employer relationship.”

Employers should be aware that state wage and hour laws may differ from the federal law on this issue. Employers should consult with experienced employment counsel prior to establishing an unpaid internship program or reclassifying a paid position into an unpaid internship.

A copy of the DOL’s new guidance, Fact Sheet #71, can be found at the following web address: <https://www.dol.gov/whd/regs/compliance/whdfs71.htm>