WASHINGTON AND LEE UNIVERSITY
Office of Career Development and Office of General Counsel

Q&A Guidance for Undergraduate Students on Internships (2014)

Q1: What determines whether an internship must be paid or can be unpaid?

A1: Interns for private "for profit" businesses are entitled under the law to be paid at least minimum wage unless the internships satisfy six specific criteria provided by the U.S. Department of Labor (DOL). In a nutshell, interns for "for profit" organizations may lawfully work without pay only when the program is similar to that offered in an educational environment, benefits the student, does not displace a regular employee, does not entitle the student to a job, both the organization and the student agree that the student is not entitled to wages, and when the employer derives "no immediate advantage" from the student's work. In other words, DOL does not allow private, "for-profit" business to use unpaid "volunteers" unless the internship criteria are satisfied. See DOL Fact Sheet #71 regarding internships in the "for profit" private sector (*www.dol.gov/whd/regs/compliance/whdfs71.htm*).

The most difficult of these criteria for many private organizations to satisfy is that the organization derives "no immediate advantage" from the intern's work. Where, for example, an intern is merely shadowing, observing, and doing "mock" assignments, or where a supervisor spends significant time collaborating with and supervising the intern on work product, this criterion may be satisfied. However, where, for example, an intern is collecting data, doing research, and preparing work product that generally is of the same type as regular staff, the private organization may be deriving an advantage from the intern's work. Students should be aware that unless the DOL criteria are satisfied, they have the legal right to be paid, though they may choose to go ahead with an unpaid internship for purposes of gaining experience or networking opportunities with an employer.

Q2: Can I "volunteer" to participate in an unpaid internship for a government agency or non-profit (charitable, educational, humanitarian) organization?

A2: YES. DOL does allow government and non-profit charitable, educational, or humanitarian organizations to have individuals volunteer without pay.

Q3: Does W&L award credit for student internships?

A3: W&L awards academic (degree) credit for undergraduate internships only in certain situations. Some organizations require their interns to receive academic credit for an internship. Sometimes, this requirement can represent an attempt to avoid interns being classified as employees for payment of wages. W&L currently gives undergraduate academic (degree) credit only for internships that are specified by departments listing internship experiences as a

450-level course. However, the university will award a student one non-degree credit per summer (maximum three) for high quality internship programs approved in advance by the Career Development Center in accordance with university policy and procedures. For specific information on degree and non-degree credit for internships, see the Undergraduate Internship Policies at *go.wlu.edu/internship-policies*.

Q4: If academic credit is awarded for an internship with a private, "for profit" employer, does this mean the organization does not need to pay me?

A4: NO, as a matter of law. Unless the internship satisfies the DOL criteria for an unpaid internship set forth in A1 above, the law entitles the intern to be paid at least minimum wage, regardless of whether academic credit is also awarded.

Q5: Are there any particular restrictions that could impact international students in accepting paid or unpaid internships?

A5: YES. International students need to obtain work authorizations for paid internships, as well as any unpaid "volunteer" internships that do not qualify under the DOL guidelines. Failure to do so could jeopardize a student's visa status. International students should check with Amy Richwine in the Center for International Education before pursuing any internship to be sure of what authorizations will be required.

Q6: The organization with which I will be doing an internship is requiring W&L to sign a form indemnifying it for any damages, including attorney's fees, caused by me and confirming that the university will maintain liability insurance to cover any damages caused by me. Does the University sign these forms?

A6: NO. W&L cannot indemnify host organizations. W&L cannot insure for potential losses over which it has no control. In most cases, the organization will waive such a requirement if faculty simply write or type on the bottom of the form that, "Washington and Lee University does not execute indemnification clauses as part of student internships."

Q7: Does W&L provide insurance coverage for students doing internships?

A7: Not in most situations. As well, unpaid student interns should realize that they will not likely be covered under the host organization's worker's compensation policy while participating in the internship. W&L's General Liability coverage could apply in certain situations if a student is injured while participating in a W&L-sponsored internship. With regard to housing for such off campus trips, if a student is living in a property of his/her own choice that is not owned, managed, contracted or recommended by W&L, coverage likely would not apply. However, there might be coverage under the university's policy if W&L arranged the housing with a third party.

Students engaged in University approved or sponsored internships in foreign countries can be covered under the University sponsored Global Medical Insurance program (no cost to the student). Students must contact the designated representative from Williams School, the Law

School, or the College, as appropriate to their circumstances, to register for the insurance during the school term before the internship.

Q8: May I use documents, power points, and any other work product I prepare in the course of my internship as samples of my writing when applying for future positions, or for other purposes once I leave the internship?

A8: Not unless you have express permission to do so from the internship organization. Realize that it is their property (or the property of their client), not yours, so you should ask for permission to use documents, or excerpts of other work product, and be prepared to redact all client and other confidential or proprietary information if the organization requires you to do so. When in doubt, ask!

Q9: What else should I be aware of regarding my internship?

A9: Students should choose their internship organization and site carefully and familiarize themselves with applicable policies and procedures at their host organization. Students are encouraged to report to their site supervisor or other site official any concerns they have about safety, harassment/discrimination, or other issues, and report to appropriate W&L officials any such concerns not promptly resolved, so that W&L may assist with resolution.

Q10: Should I give any University office notice of my internship site and other contact information?

A10: Yes. In order to have a complete database of internship sites for W&L students for compliance with federal and/or state authorization compliance obligations, as well as for prudent risk management in case of emergency at locations where W&L students are on internships, students should notify the Undergraduate Office of Career Development of their internship (location/employer/dates) and their emergency contact information (address during internship, cell phone number, and emergency contact individual with cell phone number and email).