



## Fact Sheet #71: Internship Programs Under The Fair Labor Standards Act

This fact sheet provides general information to help determine whether interns and students for “for-profit” employers are entitled to minimum wages and overtime under the Fair Labor Standards Act (FLSA).<sup>1</sup>

### Background

The FLSA requires “for-profit” employers to pay employees for their work. Interns and students, however, may not be “employees” under the FLSA in which case the FLSA does not require compensation for their work.

### The Test for Unpaid Interns and Students

Courts have used the “primary beneficiary test” to determine whether an intern or student is, in fact, an employee under the FLSA. In short, this test allows courts to examine the “economic reality” of the intern employer relationship to determine which party is the “primary beneficiary” of the relationship. Courts have identified the following seven factors as part of the test:

1. The extent to which the intern and the employer clearly understand that there is no expectation of compensation. Any

