Should I be Paid for This Internship?

- In 2010, the U.S. Department of Labor’s Wage and Hour Division developed these six standards to evaluate whether a worker is a trainee or an employee for purposes of the Fair Labor Standards Act (FLSA).

1. The training, even though it includes actual operation of the facilities of the employer, is similar to what would be given in a vocational school or academic educational instruction;

2. The training is for the benefit of the trainees;

3. The trainees do not displace regular employees, but work under their close observation;

4. The employer that provides the training derives no immediate advantage from the activities of the trainees, and on occasion the employer’s operations may actually be impeded;

5. The trainees are not necessarily entitled to a job at the conclusion of the training period; and

6. The employer and the trainees understand that the trainees are not entitled to wages for the time spent in training.

If all factors are met, then the worker is a “trainee,” an employment relationship does not exist under FLSA, and the FLSA’s minimum wage and overtime provisions do not apply to the worker. On the other hand, if the workers are engaged in the primary operations of the employer and are performing productive work (for example, filing, performing other clerical work, or assisting customers), then the fact that they [the employer] may be receiving some benefits in the form of a new skill or improved work habits is unlikely to make them trainees given the benefits received by the employer. Above information was derived from the “Training and Employment Guidance Letter NO. 12–IndianaINTERN.net”.