



# Message to the Membership

**Dear Member:**

**July 2011**

Unpaid internships have been a topic of discussion and concern for the past two years. Last year, NACE provided its membership and the U.S. Department of Labor (DOL) with a **position statement**, which included a recommendation that the DOL review its criteria used to determine whether internships may be unpaid. To date, the DOL has not revised or clarified those criteria.

Key to the ongoing debate regarding unpaid internships is the absence of a definition of what constitutes an "internship," and specific criteria that may be used to assess opportunities. Recognizing this void, the NACE Principles for Professional Practice Committee proposed, and the NACE Board of Directors has approved, the following **Position Statement** to provide members with guidance in this area. In addition, NACE is providing the DOL as well as other government offices with the definition/criteria to further the national discussion on internships.

We welcome your thoughts and dialogue on this issue and invite you to participate by forwarding your thoughts to NACE at [advocacy@naceweb.org](mailto:advocacy@naceweb.org).

## **National Association of Colleges and Employers POSITION STATEMENT ON U.S. INTERNSHIPS A Definition and Criteria to Assess Opportunities And Determine the Implications for Compensation**

### **ABSTRACT**

Experiences through which students can apply their academic knowledge in work settings are a vital component of a college education. These experiences are widely labeled as "internships," but the criteria for and oversight of these experiences vary widely among institutions of higher education and employers in the United States. This paper examines the characteristics of a legitimate internship and the conditions under which such an experience can be engaged on an unpaid basis. At the foundation of this paper is the tenet that an internship is a legitimate learning experience benefitting the student and not simply an operational work experience that just happens to be conducted by a student.

### **Overview of Current Perspectives for Experiential Learning Experiences**

Experiential learning is a crucial component of a college education. Experiential learning encompasses a wide variety of enriching opportunities for students, including service-learning, volunteering, student organization leadership and campus involvement, faculty-led research and projects, experiential study-abroad, student employment/work-study, cooperative education, and internships. This position paper concerns itself specifically with internships.

More students are pursuing experiential learning, particularly internships, more colleges and universities are promoting student engagement in experiential learning such as internships, and a greater number and variety of employers are offering these experiences in the form of internships. Significant discussion has developed, particularly around the concept, purpose, structure, and function of internships, and the conditions under which internships can be pursued on an unpaid basis.

In 2010, the National Association of Colleges and Employers (NACE) issued a position statement on unpaid internships that was developed after conducting a national survey of employer and college members and considering other related research. It is framed by principles, beliefs, assumptions, and information that took into consideration the numerous and varying current practices. NACE has developed a framework within which to define the internship experience and identify criteria for determining when internships can be offered ethically and legitimately without pay.

## Definition of “Internship” and Consistent Criteria

Because the parties involved in the internship process—students, colleges and universities, and employers—have differing objectives, it is important to have a definition of “internship” upon which all parties can agree. Currently, the term “internship” is used to describe various experiences. Moreover, there are no guidelines by which employers, educators, and students can consistently define “internships.”

To establish uniformity in the use and application of the term “internship,” NACE recommends the following definition:

*An internship is a form of experiential learning that integrates knowledge and theory learned in the classroom with practical application and skills development in a professional setting. Internships give students the opportunity to gain valuable applied experience and make connections in professional fields they are considering for career paths; and give employers the opportunity to guide and evaluate talent.*

To effectively implement this definition, it is necessary to develop criteria that college career centers and employer recruiters can use to identify workplace experiences that can legitimately be identified as “internships.” The discussion of these criteria is framed by several conditions. These conditions are the legal definitions set by the Fair Labor Standards Act (FLSA); the widely varying guidelines set by individual educational institutions and academic departments within institutions; employer perspectives on and objectives for internships; and the unique experiential learning objectives of students.

The legal considerations are addressed through six criteria for unpaid interns for the service they provide to “for-profit” private sector employers articulated in the Fair Labor Standards Act (see FLSA Fact Sheet #71). Essentially, if the six criteria are met, the Department of Labor (DOL) considers there to be no employment relationship. The six criteria established by the DOL are:

- The internship, even though it includes actual operation of the employer’s facilities, is similar to training that would be given in a vocational school.
- The internship experience is for the benefit of the student.
- The intern does not displace regular employees, but works under the close observation of a regular employee.
- The employer provides the training and derives no immediate advantage from the activities of the intern. Occasionally, the operations may actually be impeded.
- The intern is not necessarily entitled to a job at the conclusion of the internship.
- The employer and the intern understand that the intern is not entitled to wages for the time in the internship.

In the 2010 NACE survey, both career services and employers agreed with five of the six FLSA criteria; both groups disagreed with the criterion that the employer derives no immediate advantage from the activities of the student.

Students pursue internships because they want to gain professional experience that links their academic coursework to the disciplines they want to pursue for their careers. To gain this experience, students want to engage in projects and tasks that contribute to the professional work of the organization. This means that the employer *does* benefit from the work of the intern while, at the same time, it provides a meaningful experience that allows for the application of academic knowledge.

While the DOL standards are a matter of law, they were originally created for vocational training programs. NACE has recommended to the DOL that it reconsider and revise the FLSA criteria to ensure they “account for the incredible diversity of students, higher education institutions, and employing organizations involved in such programs.” In fact, a recent decision by the 6th Circuit Court in *Solis v. Laurelbrook Sanitarium* addressed the issue of students working

unpaid. The case turned on the issue of “primary benefit,” and the court held that students in this case were not “employees” for purposes of the FLSA. The ruling in this case bolsters NACE’s position. It should be noted, however, this case concerned a not-for-profit organization.

To advance this assessment, the ethics must be considered. *At the foundation of such an assessment is the tenet that the internship is a legitimate learning experience benefitting the student and not simply an operational work experience that just happens to be conducted by a student.* The core question then is whether or not work performed by an intern will primarily benefit the employer in a way that does not also advance the education of the student.

## Criteria for an Experience to Be Defined as an Internship

To ensure that an experience—whether it is a traditional internship or one conducted remotely or virtually—is educational, and thus eligible to be considered a legitimate internship by the NACE definition, all the following criteria must be met:

1. The experience must be an extension of the classroom: a learning experience that provides for applying the knowledge gained in the classroom. It must not be simply to advance the operations of the employer or be the work that a regular employee would routinely perform.
2. The skills or knowledge learned must be transferable to other employment settings.
3. The experience has a defined beginning and end, and a job description with desired qualifications.
4. There are clearly defined learning objectives/goals related to the professional goals of the student’s academic coursework.
5. There is supervision by a professional with expertise and educational and/or professional background in the field of the experience.
6. There is routine feedback by the experienced supervisor.
7. There are resources, equipment, and facilities provided by the host employer that support learning objectives/goals.

If these criteria are followed, it is the opinion of NACE that the experience can be considered a legitimate internship.

## Posting Unpaid Internships

Career services professionals should monitor positions posted through their career centers to see that they follow the NACE definition and criteria articulated in this paper. This is particularly important for unpaid internships, as allowing an unpaid internship to be posted implies approval of the internship. Therefore, career centers should not post any unpaid internships that do not meet the seven criteria set forth above.

## Academic Credit

While academic credit legitimizes an unpaid experience, in order to be identified as an internship, that experience must fit the criteria. For experiences that employers make available only if academic credit is awarded, the college or university’s requirements in combination with the criteria laid out in this paper should be used to determine if the experience is a legitimate internship.

## Conclusion

This paper examines how to assess experiences often promoted to students as “internships” with the goal of determining the implications for compensation by exploring three components:

- The experience’s legitimacy as an internship must be determined. To do so, the educational value of the experience must be considered of most importance.
- Once the experience can be ethically identified as an internship, the implications for compensation can be determined. An experience that meets all the criteria may be offered unpaid.

- Only an experience that meets the criteria presented in this paper should be labeled an internship.

It is the considered opinion of NACE that career services professionals and employment professionals can work collaboratively to ensure that an experience meets and adheres to the criteria so that it can be legitimately considered an internship. In this way, valuable experiential learning can be ethically provided for students.

**Adopted by the NACE Board of Directors  
July 2011**

Going forward, NACE will continue to provide guidance both to its members and to relevant government agencies on issues affecting the world of college recruiting and employment. Again, we invite you to share your thoughts and concerns with NACE at [advocacy@naceweb.org](mailto:advocacy@naceweb.org) on issues affecting your operations, organizations, and success.

Sincerely,



Marie Artim  
2011-12 NACE President  
Vice President, Talent Acquisition  
Enterprise Rent-A-Car



Tom Devlin  
2010-11 NACE President  
Director, Career Center  
University of California, Berkeley



Marilyn Mackes  
NACE Executive Director



National Association of Colleges and Employers  
62 Highland Avenue • Bethlehem, PA 18017 • Phone: 800.544.5272 • Fax: 610.868.0208