



## HOW TO DETERMINE IF YOUR INTERNSHIP PROGRAM IS IN COMPLIANCE WITH FEDERAL LAW

### Employee vs. Volunteer (The Six Prong Test)

*“Whether trainees or students are employees of an employer under the [Fair Labor Standards Act] will depend upon all of the circumstances surrounding their activities on the premises of the employer. If all of the following criteria apply, the trainees or students are not employees within the mean of the [FLSA]:*

- 1) The training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school;*
- 2) The training is for the benefit of the trainees or students;*
- 3) The trainees or students 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 or students, and on occasion his operations may actually be impeded;*
- 5) The trainees or students are not necessarily entitled to a job at the conclusion of the training period; and*
- 6) The employer and the trainees or students understand that the trainees or students are not entitled to wages for the time spent in training.”<sup>1</sup>*

If any of the six prongs are not true, then the intern should be considered an employee and should be entitled to monetary compensation.

More information regarding internship program best practices can be found at [www.internbridge.com](http://www.internbridge.com)

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<sup>1</sup> U.S. Department of Labor. Employment Relations Under the Fair Labor Standards Act. WH Publication 1297. Reprinted August 1985.