

The Fair Labor Standards Act

The Fair Labor Standards Act (FLSA) provides minimum wage and overtime protection to those employed within the meaning of the Act. FLSA section 3(g) states that to “employ” means to “suffer or permit to work.” The Wage and Hour Division of the Dept. of Labor has developed six factors to evaluate whether a trainee, intern, extern, apprentice, graduate assistant, or similar individual is to be considered an employee. If all of the following six factors are met, then an employment relationship does not exist:

1. The training 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 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 the employer’s 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.

For more information, visit The US Department of Labor
<http://www.dol.gov/whd/flsa/index.htm>