

# THE COMPLETE INTERN



# COMPENSATION GUIDE

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## ***Paid vs. Unpaid Internships***

The debate over the legality of unpaid internships has reignited as the number of unpaid internships has risen in recent years and the job market for new graduates continues to worsen.

Employers who treat unpaid interns as free labor may be opening themselves up to a costly lawsuit. The U.S. Department of Labor has a set of six criteria regarding what constitutes a legal unpaid internship. While the criteria can be seen as vague, not meeting one of them may open you up to a lawsuit.

At InternMatch, we have found that pay helps employers attract the best talent, not only because money is a big motivator, but also because it helps attract a larger group of highly qualified individuals, including those who may not be able to work for free due to financial need. In addition, pay is an integral part of treating interns as professionals making them more likely to play the part and more likely to join your company full-time at the end of the internship.



48%

of internships  
are unpaid.

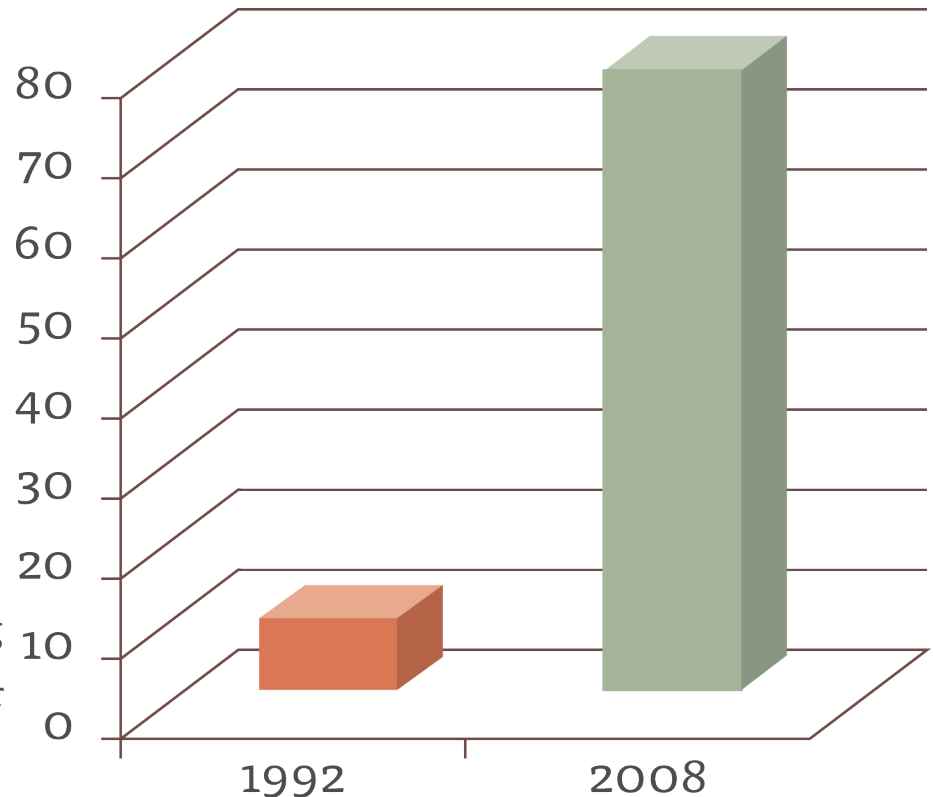
NACE 2011  
Student Survey



## Paid intern vs. full-time hire

Hiring a full-time employee, even at entry level, is a big investment of time and resources. If the new employee does not work out, the process of letting them go is also laborious. Internships are understood to be short term engagements and eliminating a bad hire simply becomes a short waiting game. Hence more and more companies are using internships as a trial period for full-time hires, reducing the risk of a costly firing process if the candidate does not work out. In addition, due to the fact that interns do not usually qualify for benefits, processing through HR is a quick affair.

## % of College Students Graduating with Intern Experience



Career Counselor [Karen Obringer](#) outlines some further benefits to hiring interns:

- Internships enable companies to train potential future employees
- Interns provide new energy to the office
- Interns provide new ideas and technology into the office
- Interns can do the work that the full-time staff haven't had time to accomplish or even start
- Interns can help evaluate current company practices and offer suggestions of alternate options

## *Breaking Down the Six Criteria for a Legal Unpaid Internship*

In April of 2010 the Wage and Hour Division of the U.S Department of Labor released a new set of guidelines for unpaid internships after widespread abuse by private companies was brought to light. Many have criticized the new guidelines for being too vague, leading to employer confusion over whether their internship programs are compliant with the law. At InternMatch we err on the side of caution and this has guided our interpretation of the six criteria.

### **1 The internship, even though it includes actual operation of the facilities of the employer, is similar to training which would be given in an educational environment;**

Many employers have mistakenly interpreted this statement to mean that offering college credit automatically means they do not have to pay their interns. While the phrase “educational environment” is open to interpretation, the Department of Labor defines training as providing interns with skills that can be used in multiple employment settings. Providing interns with weekly workshops, software training, etc, are ways to increase your compliance with this rule.

### **2 The internship experience is for the benefit of the intern;**

The Department of Labor states that an unpaid intern should not be performing routine work of the business on a regular and reoccurring basis. Furthermore, the business cannot depend on the unpaid intern’s work.

### **3 The intern does not displace regular employees, but works under close supervision of existing staff;**

If you are using an intern to complete work that would otherwise fall under the responsibility of a full-time employee, then you must pay the intern. In addition, if the unpaid intern is supervised like a regular employee it will be seen as an employment relationship rather than a training one, mandating pay.

4

**The intern is not necessarily entitled to a job at the conclusion of the internship;**

Utilizing an unpaid internship as a trial period for a prospective full-time hire is illegal. It should be clearly communicated that completion of the unpaid internship will not necessarily lead to a full-time position.

5

**The employer that provides the training derives no immediate advantage from the activities of the intern; and on occasion its operations may actually be impeded;**

This point is commonly cited as the primary legal reason that all interns working at for-profit companies must be paid. It is extremely unlikely that you will not receive any advantage from your intern and doubtful that you'd want to hire one if you do not. Some employers attempt to argue that by investing so much time and resources into their internship program that the value is null – do so at your own risk..

6

**The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship.**

The unpaid nature of the internship must be clearly and contractually stated.

**Conclusion:**

Meeting all of the unpaid internship criteria will be very challenging for a for-profit company.

Employers may argue that the educational value, stipend, perks and training of the internship fairly balances the value added by the intern, but assuming this argument will hold up under legal scrutiny is risky. The safer and more fair choice is to offer interns at least minimum wage. The DOL seems to take a much more lenient stance towards non-profits, however, there is still a strong rationale to pay interns across sectors.

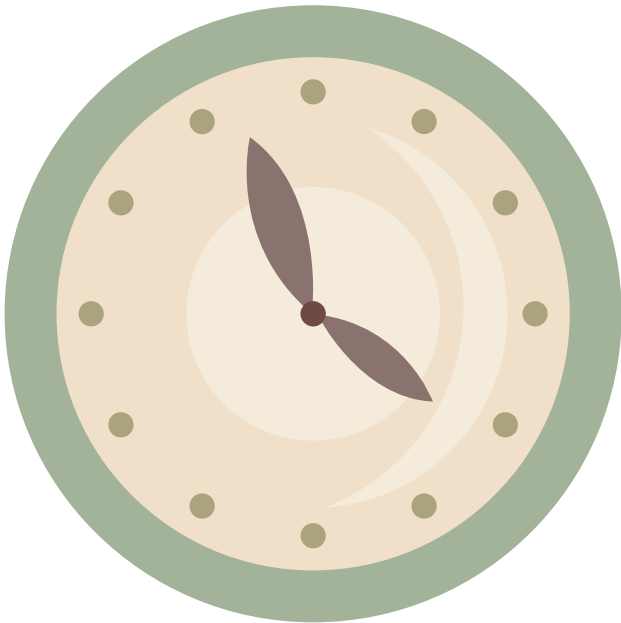
**2012 HIGH PROFILE UNPAID INTERNSHIP LAWSUITS**

- Former intern Xueden "Diana" Wang sues Hearst Corporation
- Former intern Lucy Bickerton sues PBS
- 4 Former interns sue Fox Entertainment Group

# Compensation Breakdown

## How much should I pay my intern?

The most important benefit you can offer an intern is a highly educational experience that provides access to top-level employees, and industry experience. That being said payment is important to set your position apart from the status quo and attract the best candidates. Minimum wage or even a simple stipend can radically improve the quality of applicants to your internship. In addition, pay improves intern morale as well as provides a great incentive for interns to take more responsibility and do better work.



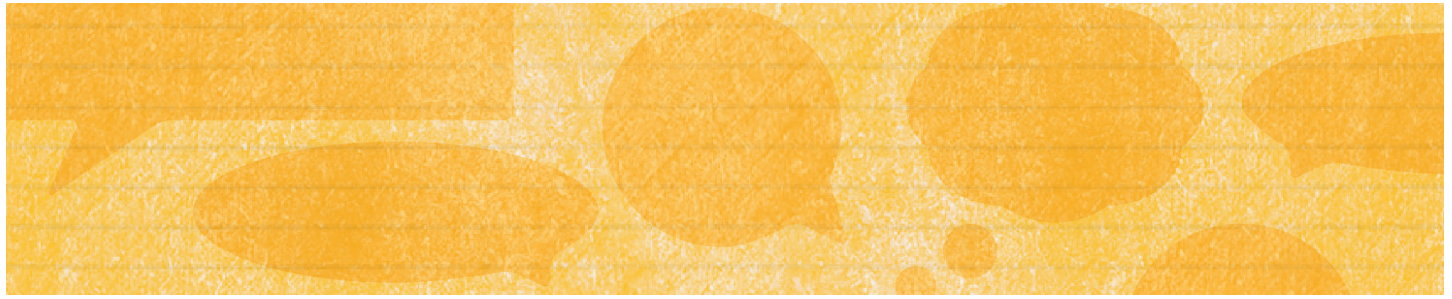
INTERNSHIP TYPE	TO ATTRACT TOP 25% OF STUDENTS	TO ATTRACT TOP 5% OF STUDENTS
Communications/PR	Minimum Wage	\$12-\$15/hour
Marketing	Minimum Wage	\$12-\$15/hour
Computer Science/Engineering	\$12/hour	\$15-\$22/hour
Graduate Business Student	\$12/hour	\$15-\$20/hour
Non-Profit	Unpaid/Stipend	\$12/hour

## Alternative forms of compensation

Whether you can or cannot pay your interns, look toward these other forms of compensation to set your internship apart.

- **Events and Workshops**—Surveys have found that explicit professional experience is the most important reason for students to do an internship. Help your interns gain new skills and experiences by organizing or sending them to professional events and workshops. Many of these professional engagements are priced out of a typical college student's budget, making this a very attractive perk.
- **Hard Skills Training**—Students do not have access to professional software while in school. Teaching them how to use software like Salesforce, Hootsuite, InDesign and more is a powerful perk and will help them be more productive throughout their internship.
- **Meals**—College students are very attracted to the prospect of free food. In addition, breaking bread with the interns is a good way to build loyalty as well as keep up to date on the internship progress and experience.
- **Transportation**—Compensating gas or public transportation costs, will make the unpaid internship more budget neutral.

## *Frequently Asked Internship HR Questions*



### **Should interns be added to payroll, set up as independent contractors or something else entirely?**

Interns should be added to payroll like regular employees. The intern should file a W4 and your payroll firm should deduct the proper state and federal taxes. As a rule, independent contractors are individuals who have their own legal entities, do not require supervision or direction in completing a project and provide their own tools. The vast majority of internships do not meet these requirements, although some virtual internships are the exception.

### **Can I pay with a stipend? If so how?**

Paying interns under minimum wage is illegal for most for-profit companies. Therefore there is no proper process to pay interns at a for-profit with a stipend. In our experience, most companies who utilize stipends usually do so by issuing students a 1099 form (designating them as a contractor) which also requires the student to manage their own tax deductions from this sum. However, employers improperly classifying interns run the risk of significant penalties and fines.

Non-profits on the other hand can classify interns as volunteers and then pay the stipend as a “nominal fee.” The stipend cannot exceed 20% of what would have been paid to a worker performing the same job and cannot be related to the number of hours worked. Stipends over \$600 a calendar year must be reported as 1099 income, stipends under this amount do not need to be reported.

### **How do I offer school credit for my internship?**

The burden is on the student for getting school credit. Students will have to visit their career centers and fill out the relevant paper work. Each school will have different requirements for internships to qualify for school credit. Most of these requirements are fairly lax and vary so much from school to school that employers should not bother making their internships credit compliant until the student presents the requirements.