

Washington State Board of Community and Technical Colleges

# Work Based Learning Toolkit for Washington State Employers

Manual for employers to provide meaningful work based  
learning to Community and Technical College  
students.

**AWB Institute**

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# 1. A Description and Examples of Work Based Learning

## Internship Description

The National Association of Colleges and Employers (NACE), position statement defines an internship as “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.”

<http://naceweb.org/advocacy/position-statements/united-states-internships.aspx>

## Examples of Internships

### For Credit Internship

Students must consult their school/academic department prior to the start of an internship if they wish to receive credit for an internship. It usually involves a partnership between the student, business and a college faculty member.

### Full Time Internship

Full time internships tend to be paid. They are most common in the summer when students are able to be fully committed to their internship. Full time internships allow for the most extensive submersion for an intern in a particular company.

### Summer Internship

Summer internships usually last eight to twelve weeks and can be either full or part time. They can also be completed for credit but must be cleared with the intern's school first. Summer internships allow for an in-depth experience of what it is like to work for a specific company.

### Part Time Internship

Part time internships are usually given to students who are enrolled in school during the same time period. They can be unpaid and can vary in duration. They are a great way for a student to get a feel for a company and what life in said company entails.

### Paid Internships

Paid internships should be the first choice for a company to consider. They tend to be full time positions and offer the most in depth experience of what working for a company entails. Many companies pay interns and treat them as regular employees in an evaluation period with the option to hire them after, fully trained.

### Non-Paid Internships

Non-paid internships tend to be utilized by non-profit companies and startup companies that may not have sufficient funds to pay their interns. Although monetary incentives are not present, this type of internship still grants interns the necessary knowledge needed in their field of study and allows companies to have extra resources available. Please refer to the section on WA L&I Internship Regulations, Unpaid Internships 101, for specific guidelines.

## Apprenticeships

<http://www.lni.wa.gov/TradesLicensing/Apprenticeship/default.asp>

Washington State Department of Labor & Industries describes an Apprenticeship as “a combination of on-the-job training (OJT) and related classroom instruction under the supervision of a journey-level craft person or trade professional in which workers learn the practical and theoretical aspects of a highly skilled occupation.

After completing an apprenticeship program, the worker's journey-level status provides an additional benefit of nationwide mobility at journey level scale.”

<http://www.lni.wa.gov/TradesLicensing/Apprenticeship/About/WhatIs/default.asp>

Regional L&I Apprentice Coordinators

<http://www.lni.wa.gov/TradesLicensing/Apprenticeship/About/AppCoordinators/Default.asp>

<http://www.lni.wa.gov/TradesLicensing/Apprenticeship/About/IntroProg/>

## Teacher Externships

<https://wbl.fhi360.org/teacher-externships/>

Teacher externships are work based learning as well as professional development opportunities for teachers and employers. According to the FHI 360 Group, externships “... are hands-on learning experiences that help teachers enrich their classroom pedagogy by using real-world applications of the academic content they teach.” Externships allow teachers to gain insight to which they can pass along to their students, the future workforce.

Externships usually take place in the summer, at 30-40 hours a week. All teachers can participate in externships, but those who teach above grade 7 tend to benefit more. The content of the externship should be agreed upon before and lesson plans should be created by teachers during the duration of the externship. These lesson plans can be shared with the employer and other teachers.

## Job Shadowing

<https://wbl.fhi360.org/job-shadows/>

Job shadows place a student with an employer, so the student can gain firsthand knowledge of the workplace. “Based on students’ interests in specific careers and/or employers, job shadows can help students learn more about the nature of jobs and work environments as well as the education and training required to enter them.”

The format of job shadows can vary greatly, giving more freedom to both the student and employer to tailor the experience to match the need of the student. Job shadows can last only a few hours or be for the whole workday. There is also the possibility to have more than one employee be shadowed by students, allowing them to see different points of views in the company. Companies have the freedom to host one student, or several depending on resources and demand.

## 2. Benefits of Work Based Learning for Students and Businesses

### Benefits for Businesses

#### Work Based Learning Benefits for Employers

- A cost-effective opportunity to evaluate a potential future employee, a pipeline for candidates.
- Access to students with special skills and/or knowledge.
- A way to gain short term talent to assist current employees.
- Enthusiastic, innovative workers who can contribute new ideas based on their academic learning.
- The personal satisfaction of fulfilling a professional responsibility in helping students progress in their career path.
- Enhanced visibility for your organization on college campuses.

<http://www.bothell.washington.edu/careers/employers/internship-guidelines-for-employers>

#### How Hiring an Intern Benefits Your Company

Whether you're thinking about hiring your first intern or your hundredth, you want to make sure they're worth your time and energy. We couldn't agree more. In addition to increasing your team's productivity and reducing hiring costs, interns complete project work that may be on the backburner - and bring fresh, innovative perspectives to your organization. Want to know if there are students looking for internships in your area?

Hiring an intern allows you to:

- Remain competitive within your industry
- Gain short-term talent
- Increase diversity within your organization
- Offer management experience to employees working as intern supervisors
- Provide full-time employees more time to focus on important tasks
- Begin training potential full-time employees  
*(more than 50% of interns accept an employment offer from their host company!)*
- Mentor and cultivate our future workforce leaders
- Provide a student with a rich learning experience
- Influence school curriculum
- Encourage students to stay in their local community
- Use social media to connect with target audiences
- Market your company via word of mouth

<https://www.washingtonworkforceportal.org/employers>

## Benefits for Students

### Work Based Learning Benefits for Students:

- Provides a full and realistic view of the world-of-work.
- Integrates academic preparation with practical application and skill development in the workplace.
- Provides hands-on work experience.
- An opportunity to network with professionals in one's field of interest
- A chance to explore career options and develop transferable skills.

<http://www.bothell.washington.edu/careers/employers/internship-guidelines-for-employers>

### Why Intern?

- Earn college credit
- Fulfill degree requirements
- Learn how to apply academic coursework to the professional world
- Examine and verify career interests
- Explore different organizational departments
- Uncover talents
- Discover ideal job aspects
- Develop responsibility and new, transferable skills
- Experience living in a new area
- Grow your professional network
- Gain possible full-time employment at internship site
- <https://www.washingtonworkforceportal.org/students>

# Work-Based Learning

## Awareness

*Activities that help students learn about a variety of careers*

## Exploration

*Activities that help students learn about what people do for a living and learn more about the skills needed at the work place*

## Preparation

*Activities that integrate career and academic skills learned in the classroom and the workplace*

Guest  
speakers

Workplace  
tours

College  
and career  
fairs

Job shadows

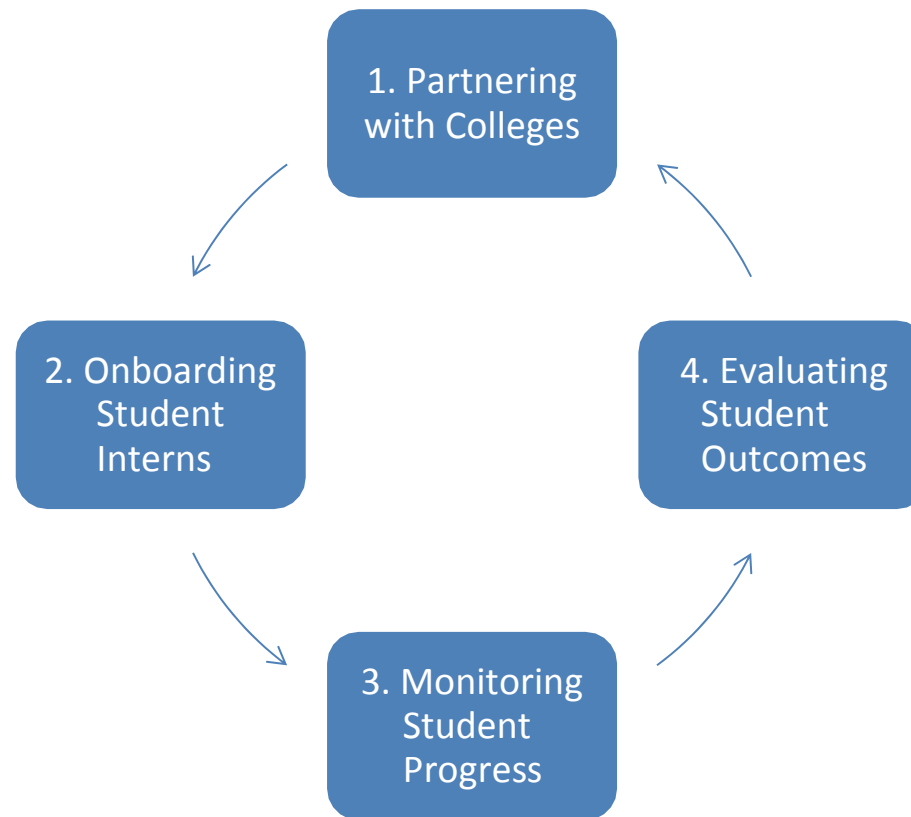
Internships

School - business partnerships

### 3. Process Models for Partnering with Colleges, Onboarding Student Interns, Monitoring Student Progress, and Evaluating Student Outcomes

## Internship Process

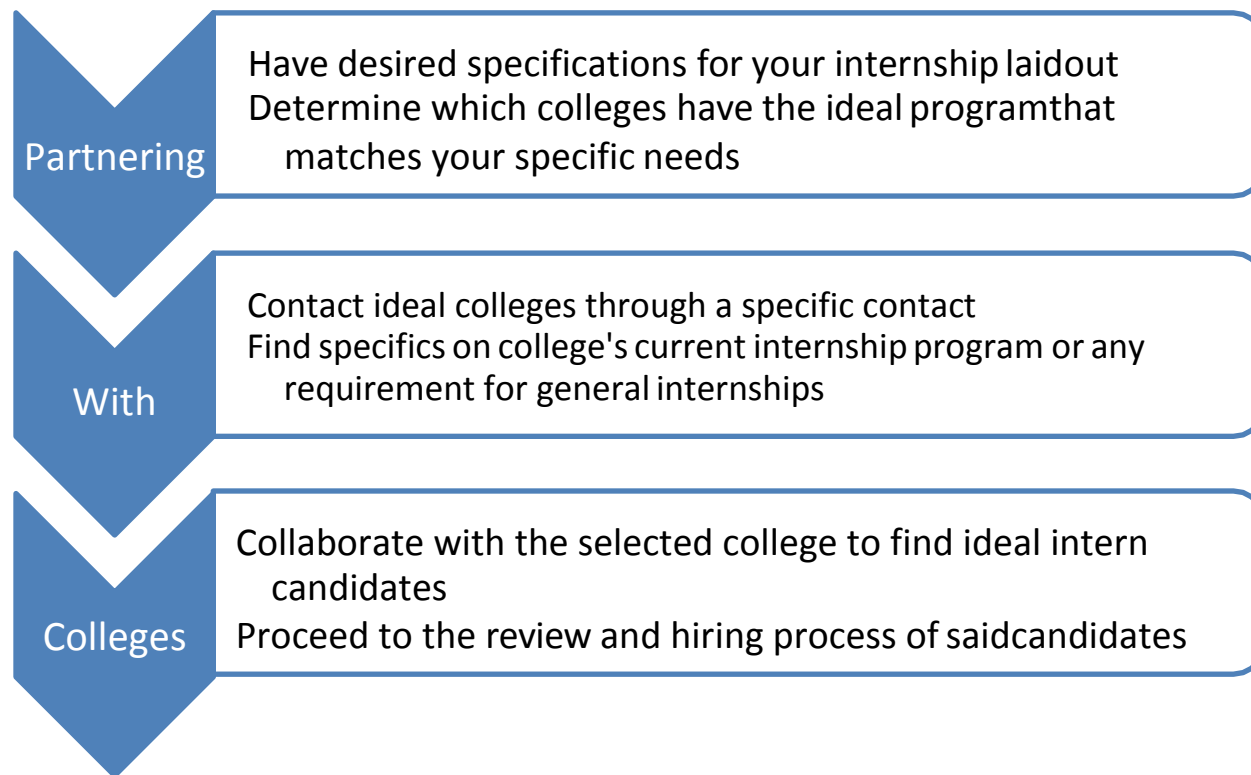
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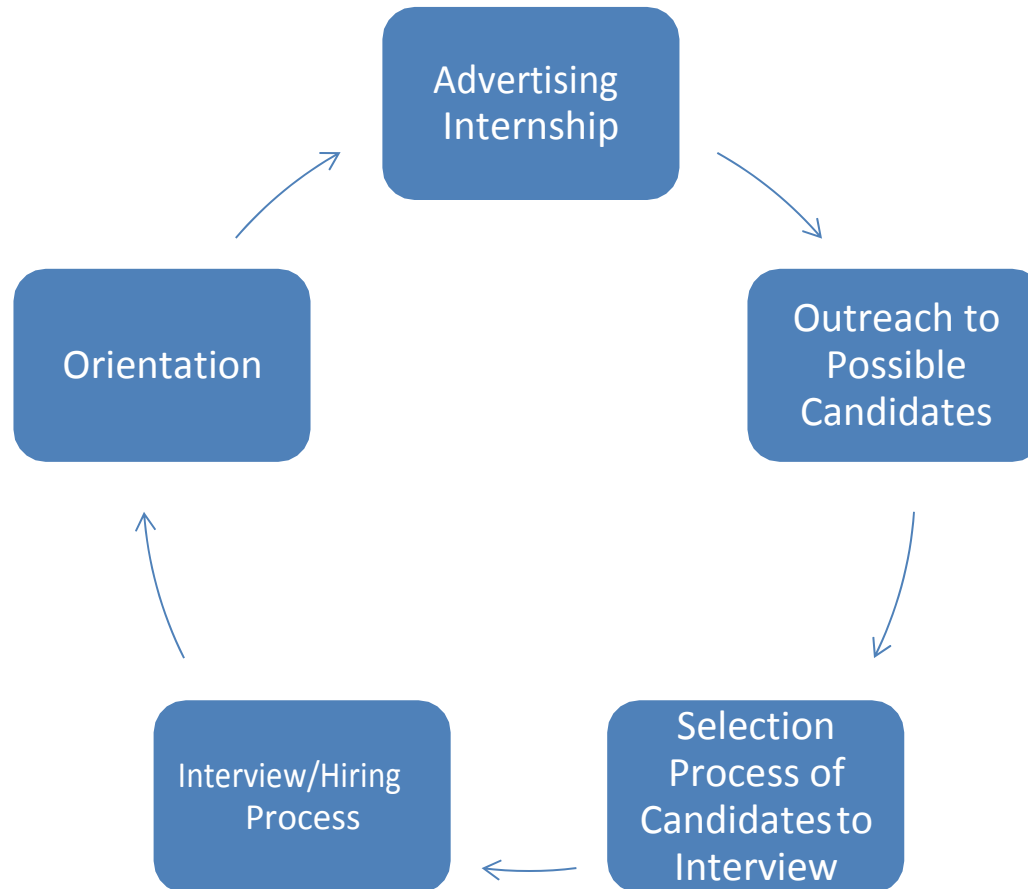
## 2. Partnering With Colleges

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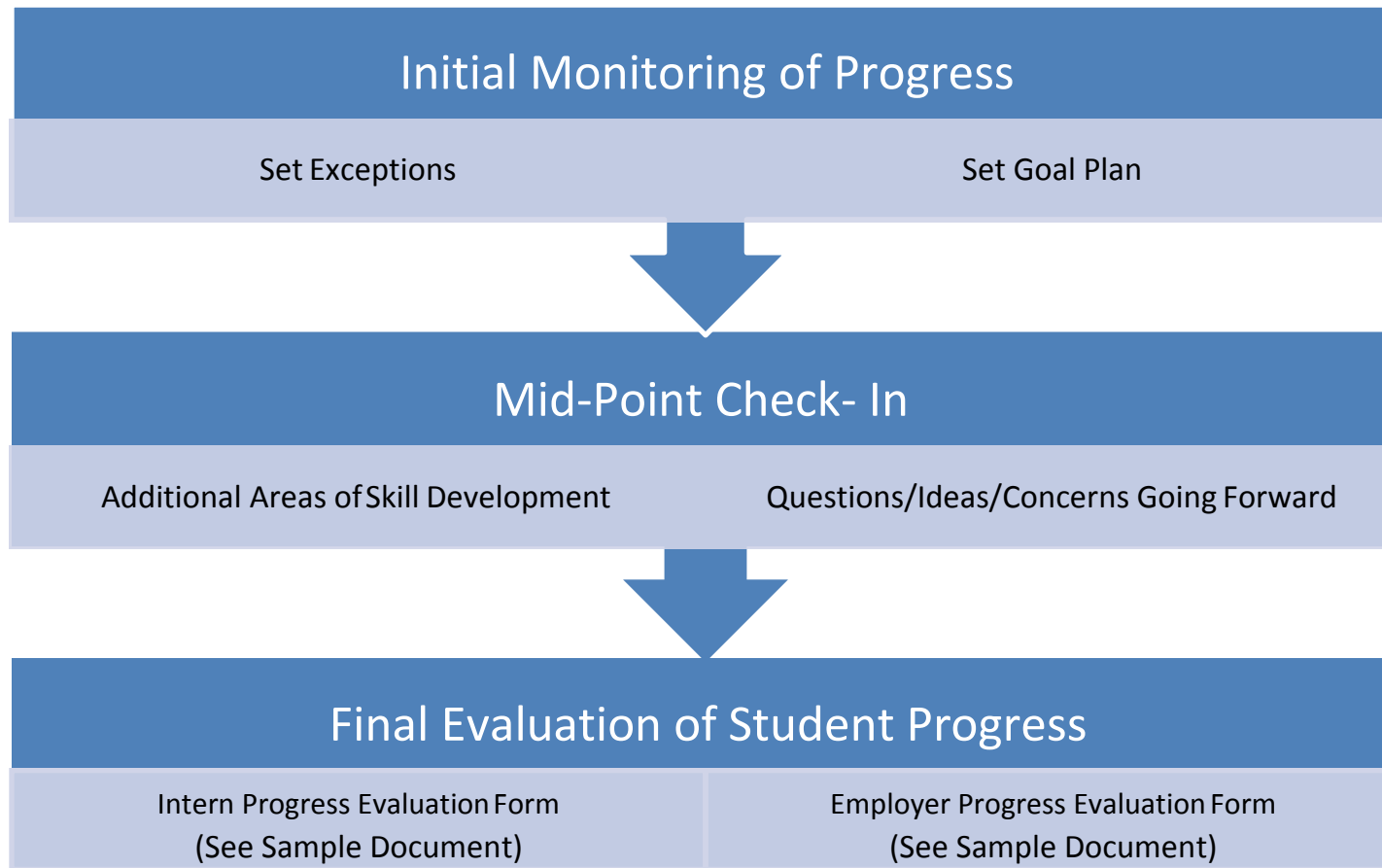
### 3. Onboarding Student Interns

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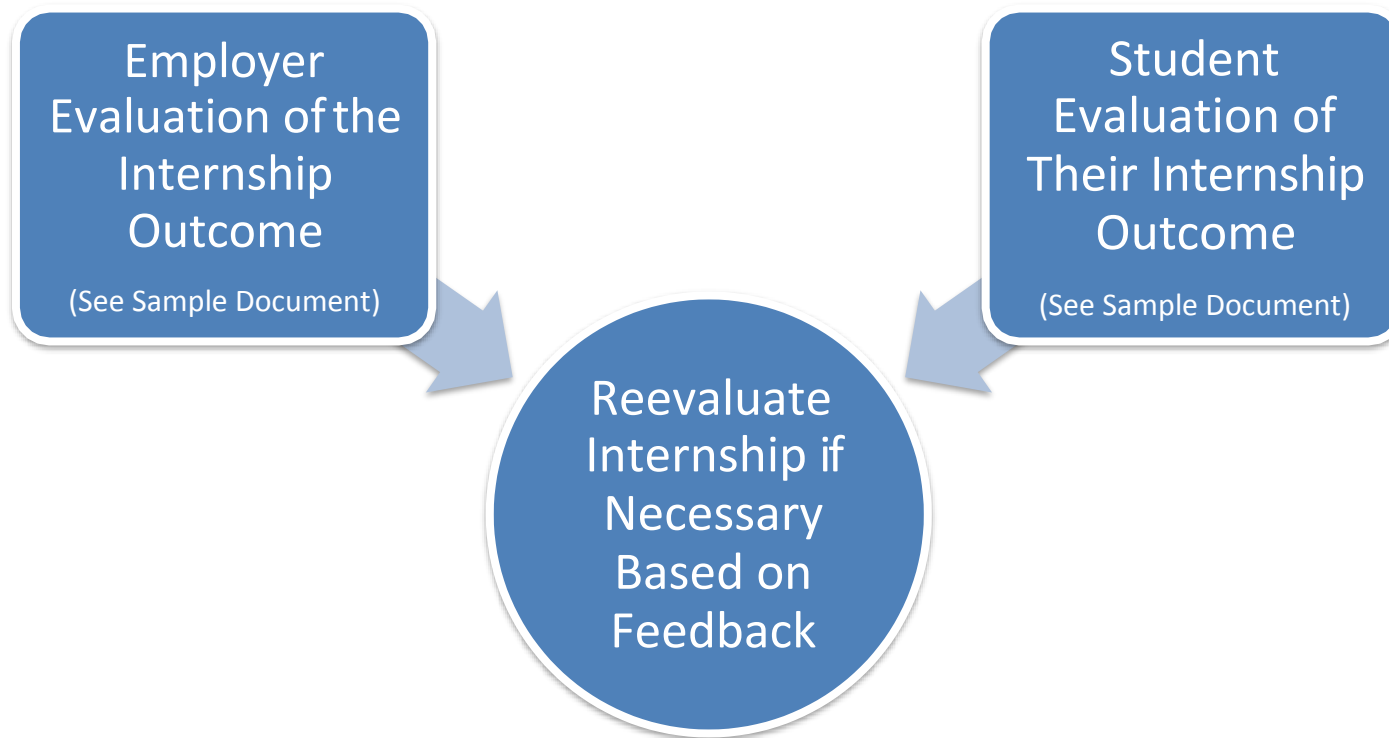
### 3. Monitoring Student Progress

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## 4. Evaluating Student Outcomes

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## 4. Sample Documents

### Student Agreement

Internship Agreement Between Student & Employer	
Intern Name: _____	
Title of Internship Position: _____	
Duration of Internship: Start: _____ End: _____	
Hours Per Week: _____	
Pay Amount (If Applicable) : _____	
Employer/ Company Name: _____	
Phone: _____	
Company Website: _____	
Phone: _____	
Address: _____	
Name of Supervisor: _____	
Phone: _____	
Email: _____	
Duties to be performed:	
_____	
_____	
_____	
_____	
Experience to be gained by the participating Intern:	
_____	
_____	
_____	
_____	
_____ Supervisor Signature	_____ Intern Signature
_____ Date	_____ Date

## Reporting Form

### Internship Placement Reporting Form to the School

#### Student Information

Name: \_\_\_\_\_

School: \_\_\_\_\_

Field of Study: \_\_\_\_\_

Student I.D.: \_\_\_\_\_ Phone: \_\_\_\_\_

Email: \_\_\_\_\_

#### Student Internship Information

Internship Title: \_\_\_\_\_

Hourly Rate (If Applicable): \_\_\_\_\_

Primary Duties: \_\_\_\_\_

\_\_\_\_\_

Academic Credit (Yes or No): \_\_\_\_\_

If Yes, Department and Course Number: \_\_\_\_\_

If Yes, How many credit hours? \_\_\_\_\_

How was Position Secured? \_\_\_\_\_

#### Semester/Quarter

Semester/Quarter: \_\_\_\_\_ Hours per Week: \_\_\_\_\_

Start Date: \_\_\_\_\_ End Date: \_\_\_\_\_

#### Employer (Internship Provider) Information

Employer: \_\_\_\_\_

Contact Name & Title: \_\_\_\_\_

Contact Email: \_\_\_\_\_

Contact Address: \_\_\_\_\_

Contact City, State, Zip: \_\_\_\_\_

Contact Phone: \_\_\_\_\_

## Checklist

### Intern Orientation Checklist

Review Organization and Department Missions
Explain Need to Know Items <ul style="list-style-type: none"><li><input type="checkbox"/> Parking</li><li><input type="checkbox"/> Workstation</li><li><input type="checkbox"/> Specific Work Dates/ Times</li><li><input type="checkbox"/> Office Hours/ Breaks</li><li><input type="checkbox"/> Pay Period and Payment Information</li><li><input type="checkbox"/> Receive Contact Information From Intern</li><li><input type="checkbox"/> Computer Use Policy</li><li><input type="checkbox"/> Equipment Policy</li></ul>
Review the Internship <ul style="list-style-type: none"><li><input type="checkbox"/> Job Description</li><li><input type="checkbox"/> Expectations</li><li><input type="checkbox"/> How the Internship Relates to the Company</li><li><input type="checkbox"/> Action Plan</li></ul>
Review Company Standards <ul style="list-style-type: none"><li><input type="checkbox"/> Performance standards</li><li><input type="checkbox"/> Attendance and Punctuality</li><li><input type="checkbox"/> Conduct in Corporate Environment</li><li><input type="checkbox"/> General Appearance and Expected Attire</li></ul>
Explain the Work Process <ul style="list-style-type: none"><li><input type="checkbox"/> Job Authority and Responsibility</li><li><input type="checkbox"/> Resource Assistance</li><li><input type="checkbox"/> Weekly Meeting</li><li><input type="checkbox"/> Open Door Policy</li><li><input type="checkbox"/> End of Internship Evaluation</li></ul>
Orient the Intern to the Work Area <ul style="list-style-type: none"><li><input type="checkbox"/> Notify All Staff to the New Intern</li><li><input type="checkbox"/> Give a Tour</li><li><input type="checkbox"/> Introduce the Intern</li><li><input type="checkbox"/> Make Personal Introductions and Explain Work Relationships</li></ul>

## Evaluation Guidelines

### Internship Progress Evaluation by Intern

To be filled out by the intern reviewing their personal progress made during the internship

Intern Name: \_\_\_\_\_ Date: \_\_\_\_\_

#### Rating Scale

5 – Far exceeded all expected outcomes

4 – Exceeded expected outcomes

3 – Met expected outcome

2 – Met some expected outcomes

1 – Did not meet most expected outcomes

Work Performance Area	Rating
<b>Instructions</b> Comments:	
<b>Quality</b> Comments:	
<b>Planning</b> Comments:	
<b>Communication</b> Comments:	
<b>Attendance</b> Comments:	
<b>Technical Skills</b> Comments:	
<b>Attitude</b> Comments:	
<b>Reliability</b> Comments:	
<b>Professional Appearance</b> Comments:	



## Intern Progress Evaluation by Employer

To be filled out by the Employer evaluating the progress made by the participating intern

Intern Name: \_\_\_\_\_ Date: \_\_\_\_\_

### Rating Scale

5 – Far exceeded all expected outcomes

4 – Exceeded expected outcomes

3 – Met expected outcome

2 – Met some expected outcomes

1 – Did not meet most expected outcomes

Work Performance Area	Rating
<b>Instructions</b> Comments:	
<b>Quality</b> Comments:	
<b>Planning</b> Comments:	
<b>Communication</b> Comments:	
<b>Attendance</b> Comments:	
<b>Technical Skills</b> Comments:	
<b>Attitude</b> Comments:	
<b>Reliability</b> Comments:	
<b>Professional Appearance</b> Comments:	

## Exit Survey of Internship Outcome

Name: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Start Date: \_\_\_\_\_ End Date: \_\_\_\_\_

Did you find this internship successful? Yes\_\_\_\_ No\_\_\_\_

Was this internship a good learning experience? Yes\_\_\_\_ No\_\_\_\_

Were the details of this internship explained thoroughly? Yes\_\_\_\_ No\_\_\_\_

Did you receive enough training to perform the internship? Yes\_\_\_\_ No\_\_\_\_

Did the supervisor provide constructive feedback? Yes\_\_\_\_ No\_\_\_\_

Did this experience help you make a choice for your career goals? Yes\_\_\_\_ No\_\_\_\_

If no was answered for any of the questions above, please explain:

\_\_\_\_\_

\_\_\_\_\_

What did you like most about the internship?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

What did you like least about the internship?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

What actions did you enjoy the most?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

What actions did you enjoy the least?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## Employer Internship Outcome Evaluation Form

Supervisor: \_\_\_\_\_

Intern: \_\_\_\_\_ Intern's School: \_\_\_\_\_

Start Date: \_\_\_\_\_ End Date: \_\_\_\_\_

1. Is this current internship program viable for future internship opportunities?

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2. Are there any areas of concern or areas that need to be changed in the current program?

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3. Did the intern meet all expectations given? Should future expectations be changed?

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4. What aspects, if any, need to be added to improve the next internship?

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## 5. Resources for the Community and Technical Colleges

1. Bates Technical College
  - a. <http://www.bates.ctc.edu/>
  - b. <http://www.bates.ctc.edu/JobServices>
2. Bellevue College
  - a. <http://www.bellevuecollege.edu/>
  - b. <http://depts.bellevuecollege.edu/careers/connect-career-management-system/>
3. Bellingham Technical College
  - a. <http://www.btc.ctc.edu/>
  - b. <http://www.btc.ctc.edu/CurrentStudents/CareersJobs/JobListings.aspx>
4. Big Bend CC
  - a. <http://www.bigbend.edu/>
  - b. <http://www.bigbend.edu/information-center/resources-for-business/>
5. Cascadia College
  - a. <http://www.cascadia.edu/>
6. Centralia College
  - a. <http://www.centralia.edu/>
  - b. <http://www.centralia.edu/admissions/finaid/jobcenter.html>
7. Clark College
  - a. <http://www.clark.edu/>
8. Clover Park Technical College
  - a. <http://www.cptc.edu/>
  - b. <http://www.cptc.edu/work-study>
9. Columbia Basin College
  - a. <http://www.columbiabasin.edu/>
10. Edmonds CC
  - a. <http://www.edcc.edu/>
  - b. <http://www.edcc.edu/hr/Volunteer.html>
11. Everett CC
  - a. <http://www.everettcc.edu/>
  - b. <http://www.everettcc.edu/administration/admin-services/hr/internships>
12. Grays Harbor College
  - a. <http://www.ghc.edu/>
  - b. Criminal Justice Only
13. Green River College
  - a. <http://www.greenriver.edu/>
  - b. <http://www.greenriver.edu/academics/workforce-education.htm>

14. Highline College
  - a. <http://www.highline.edu/>
  - b. <https://connections.highline.edu/>
15. Lake Washington Institute of Technology
  - a. <http://www.lwtech.edu/>
  - b. [http://www.lwtech.edu/student\\_life/employment\\_resource\\_center/default.aspx](http://www.lwtech.edu/student_life/employment_resource_center/default.aspx)
  - e. For department specific contact information: [Lake Washington Program Contact.pdf](#)
16. Lower Columbia College
  - a. <http://www.lowercolumbia.edu/>
  - b. <http://lowercolumbia.edu/careerservices/index.php>
17. North Seattle College
  - a. <https://northseattle.edu/>
  - b. <https://northseattle.edu/internships>
18. Olympic College
  - a. <http://www.olympic.edu/>
  - b. <http://www.olympic.edu/services/career-center/student-employment>
19. Peninsula College
  - a. <http://www.pencol.edu/>
20. Pierce College: Fort Steilacoom
  - a. <http://www.pierce.ctc.edu/>
21. Pierce College: Puyallup
  - a. <http://www.pierce.ctc.edu/>
  - b. [puycareer@pierce.ctc.edu](mailto:puycareer@pierce.ctc.edu)
22. Renton Technical College
  - a. <http://www.rtc.edu/>
  - b. <http://www.rtc.edu/page/workforce-education>
  - c. <http://www.rtc.edu/page/worksource>
23. Seattle Central College
  - a. <http://www.seattlecentral.edu/>
  - b. [http://www.seattlecentral.edu/coop/intern\\_stuinfo.php](http://www.seattlecentral.edu/coop/intern_stuinfo.php)
24. Shoreline CC
  - a. <http://www.shoreline.edu/>
  - b. <http://www.shoreline.edu/workforce/>
25. Skagit Valley College
  - a. <http://www.skagit.edu/default.asp>
26. South Puget Sound CC
  - a. <http://www.spscc.ctc.edu/>
27. South Seattle College
  - a. <http://www.southseattle.edu/>
  - b. <http://www.southseattle.edu/worksource/>

28. Spokane CC
  - a. <http://spokanecc-csm.symplicity.com>
29. Spokane Falls CC
  - a. <http://www.spokanefalls.edu/>
  - b. <http://www.spokanefalls.edu/Resources/Careers/Home.aspx?Page=PV4>
  - c. Department Specific
30. Tacoma CC
  - a. <http://www.tacomacc.edu/>
31. Walla Walla CC
  - a. <http://www.wvcc.edu/>
32. Wenatchee Valley College
  - a. <http://www.wvc.edu/>
  - b. <http://www.wvc.edu/programs/prof-tech/default.asp>
33. Whatcom CC
  - a. <http://www.whatcom.ctc.edu/>
  - b. <http://www.whatcom.ctc.edu/about-the-college/employment-hr>
34. Yakima Valley CC
  - a. <http://www.yvcc.edu/Pages/default.aspx>
  - b. <http://www.yvcc.edu/resources/CareerConnectionCenter/Pages/default.aspx>
  - c. Main Telephone (509) 574-4670

## Liability Information

### **L&I Internship Regulations**

#### **Unpaid Internships 101**

“There are limited circumstances in which unpaid student internships are allowed and exempt from the Minimum Wage Act, Chapter 49.46 RCW and the Industrial Insurance laws, Chapter 51 RCW. The fact sheet describes the criteria and limitations for unpaid internships under the wage and hour as well as the industrial insurance (i.e., workers’ compensation) laws.” <http://www.lni.wa.gov/WorkplaceRights/Wages/PayReq/Internships/>

Fact sheet: Document provides information as the state and federal restrictions for unpaid interns who are in an educational capacity in a workplace." <http://www.lni.wa.gov/IPUB/700-173-000.pdf>

#### **Federal Internship Compliance with Fair Labor Standards Act (FLSA), Test for Unpaid Interns**

<http://www.dol.gov/whd/regs/compliance/whdfs71.pdf>

#### **Relevant L&I Policies:**

- Hours Worked <http://www.lni.wa.gov/WorkplaceRights/files/policies/esc2.pdf>
- Minimum Hourly Wage\_ \_  
<http://www.lni.wa.gov/WorkplaceRights/files/policies/esa3.pdf> \_

#### **L& I Resources**

- Workers’ compensation 1-800-547-8367
- Workplace safety and health 1-800-423-7233
- Wage and hour questions 1-800-219-7321
- Workplace Injury Claims 1-800-831-5227

**\*See Appendix A for relevant government literature regarding liability information**

# Appendix A

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**Student Volunteers and Workers'  
Compensation Coverage**

**Unpaid Internships 101**

**Internship Programs Under The Fair Labor Standards Act**

**L&I Hours Worked Policy L&I**

**Minimum Hourly Wage**

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# Student Volunteers and Workers' Compensation Coverage

*A new law passed in 2016 expands who is eligible for L&I's medical only coverage.*



## What's new?

**Before the new law, L&I offered medical aid coverage for only public K-12 school student volunteers.**

- Beginning June 9, 2016, L&I will offer medical aid-only coverage for qualified student volunteers in private K-12 schools, and in private and public institutions of higher education.
- In an effort to encourage employers to participate in school-sponsored, unpaid work-based learning, the new law enables L&I to provide medical aid-only coverage for unpaid students.

## What is a student volunteer? What is an unpaid student?

**Definitions of student volunteers and unpaid students:**

	Student volunteer	Unpaid student
<b>Enrollment:</b>	Enrolled in a public or private K-12 school or institution of higher education	Enrolled in a public or private institution of higher education, not in a K-12 school
<b>Authorization of program:</b>	Participating as a volunteer under a program authorized by the school	<ul style="list-style-type: none"><li>■ Participating in an unpaid work-based learning program authorized by the school</li><li>■ Includes students in school-sponsored, unpaid work-based learning, including cooperative education, clinical experiences, and internship programs</li></ul>
<b>Wages/ remuneration:</b>	<ul style="list-style-type: none"><li>■ Performing duties for employer without wages</li><li>■ Student volunteers in K-12 schools may receive credit towards graduation</li><li>■ May receive maintenance and reimbursement for actual expenses incurred in performing assigned duties (not considered wages)</li></ul>	<ul style="list-style-type: none"><li>■ Performs duties without wages</li><li>■ Receives credit (not considered wages) toward completing school program, certification, or degree in return for services</li></ul>



Washington State Department of  
**Labor & Industries**  
*Workers' Compensation Services*

*Upon request, foreign language support and formats for persons with disabilities are available. Call 1-800-547-8367. TDD users, call 360-902-5797. L&I is an equal opportunity employer.*

## How do I get medical aid coverage for student volunteers and/or unpaid students?

Complete an *Application for Elective Coverage of Excluded Employment* form (F213-112-000). The completed form serves as notice to L&I that you will be providing this coverage. (See WAC 296-17-935 for your reporting options.)

### State fund employers:

- Submit the completed application to L&I's Employer Services section at the address printed on the form.
- Call 360-902-4817 or your Account Manager with any questions.

### Self-insured employers:

- Submit the completed application to L&I's Self-Insurance section at the address printed on the form.
- Call 360-902-6867 with any questions.

## Where do I get the application form?

The *Application for Elective Coverage of Excluded Employment* (F213-112-000) is available online at [www.Lni.wa.gov/Forms/WordForms/F213-112-000.docx](http://www.Lni.wa.gov/Forms/WordForms/F213-112-000.docx) or by calling the numbers listed above.

## What about internships?

### Internships mean different things to different people. If you have:

- Paid interns: you must report them in your business' risk classification. Reimbursement for expenses incurred in performing assigned duties is **not** considered a wage.
- Unpaid interns working for credit towards completing a school program, certification, or a degree in return for services: may be unpaid students – each scenario will be reviewed on a case-by-case basis.

## What does medical aid coverage mean?

This coverage pays approved medical care costs that pertain to an injury or illness resulting from volunteer activities. Electing this coverage does **not** protect employers from tort liability.

## Who pays the L&I premium?

**State fund employers** who have elected coverage for their student volunteers and/or unpaid students. Schools do not pay the premium unless the student is volunteering for the school.

**Self-insured employers** do not pay premiums; however, they agree to pay the costs of a qualifying claim filed by a student volunteer and/or unpaid student.

## Which law established this volunteer coverage and is now being updated?

In 1994, the Washington State Legislature passed the student volunteers statute, RCW 51.12.170. This RCW was updated in 2016 by Engrossed Substitute Senate Bill 6293. Rules administering the law may be found in Washington Administrative Code (WAC) Chapter 296-17, at <http://app.leg.wa.gov/wac/default.aspx?cite=296-17>.



# Unpaid Internships 101

## INTRODUCTION

### What is an internship?

An internship is work-related learning for individuals who wish to have hands-on work experience in a certain occupational field.

### What determines an employment relationship with trainees or interns?\*

As the state and federal definitions of “employ” are basically the same, the Department of Labor & Industries (L&I) looks to the U. S. Department of Labor (USDOL) Fair Labor Standards Act for certain training conditions exempted from the wage and hour laws.

Under certain conditions, individuals without an expressed or implied compensation agreement may work for their own advantage on the premises of another and not necessarily be employees. Whether trainees are employees depends on all the circumstances surrounding their activities on the employer’s premises.

If **all** six of the following criteria are met, the trainees are **not** considered employees:

1. The training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in an educational environment or vocational school.
2. The training is for the benefit of the trainee.
3. The trainees do not displace regular employees, but work under their close supervision.
4. The business that provides the training derives no immediate advantage from the activities of the trainees, and may in fact be impeded.
5. The trainees are not necessarily entitled to a job at the conclusion of the training period.
6. The trainees understand they are not entitled to wages for the time spent in the training.

## THE FOLLOWING QUESTIONS HELP CLARIFY ELEMENTS OF THE CRITERIA LISTED ABOVE:

### What does it mean to be similar to an “educational environment”?\*

In general, the more an internship program is structured around a classroom or academic experience as opposed to the employer’s actual operations, the more likely the internship will be viewed as an extension of the individual’s educational experience. For example, this often occurs when a college or university oversees the internship program and provides educational credit.

The more the internship provides the individual with skills that can be used in multiple employment settings, as opposed to skills particular to one employer’s operation, the more likely the intern would be viewed as receiving training.

Under these circumstances, the intern does not perform the routine work of the business on a regular and recurring basis, and the business is not dependent upon the work of the intern.

If the interns are engaged in the operations of the employer or are performing productive work that benefits the employer (for example, filing, performing other clerical work, or assisting customers), then interns may be entitled to the benefits provided under the wage and hour laws, even if they also derive other benefits from this type of placement.

### What are the displacement and supervision criteria?\*

The following examples provide guidance for when the requirements of the Minimum Wage Act, Chapter 49.46 RCW, applies:

- If an employer uses interns as substitutes for regular workers or to augment its existing workforce during specific time periods; or
- If the employer would have hired additional employees or required existing staff to work additional hours had the interns not performed the work, then the interns will be viewed as employees and entitled to compensation.

Job shadowing opportunities that allow an intern to learn certain functions under the close and constant supervision of regular employees, but where the intern performs no or minimal work, are more likely to be viewed as a bona fide education experience.

### What does the term job entitlement mean?\*

The following conditions indicate an unpaid internship:

- The internship is of a fixed duration, established before the start of the internship.
- Unpaid internships are not used by the employer as a trial period for individuals seeking employment at the conclusion of the internship period.

\* The questions above were adapted from the USDOL Fact Sheet on Unpaid Internships, online at [www.dol.gov/whd/regs/compliance/whdfs71.htm](http://www.dol.gov/whd/regs/compliance/whdfs71.htm).

## HIGH SCHOOL STUDENTS IN WORK-BASED LEARNING PROGRAMS

### What constitutes paid or unpaid work for high school students in a school-to-work program?

Students may be placed in a school-to-work program on a paid or unpaid basis. If all of the following criteria are met, L&I will not require payment of minimum wage. If all five requirements are **not** met, the business must pay minimum wage, as required by the Minimum Wage Act:

1. The training program is a bona fide program certified and monitored by the school district or the Office of the Superintendent of Public Instruction.
2. A training plan exists that establishes a link to the academic work; for example, the training plan could be a detailed outline of the competencies to be demonstrated to achieve specific outcomes and gain specific skills. The worksite effectively becomes an extension of the classroom activity and credit is given to the student as part of the course.
3. The school has a designated district person as an agent/instructor for the worksite activity and monitors the program.
4. The worksite activity involves students observing, work shadowing, or watching demonstrations, with students doing no substantive production or benefit to the business. The business has an investment in the program and actually incurs a burden for the training, and supervision of the student offsets any productive work performed by the student. Students may not displace regular workers or cause regular workers to work fewer hours as a result of any functions performed by the student.

5. The student is not entitled to a job at the completion of the learning experience. The parent, student, and business all understand the student is not entitled to wages for the time spent in the learning experience.

If a minor student is placed in a **paid** position, all requirements of the Minimum Wage Act, the Industrial Welfare Act, and child labor regulations must be met.

## WORKERS' COMPENSATION COVERAGE

### When are employers allowed to have volunteers?

Volunteers are permitted for non-profit, governmental, charitable or educational organizations.

For-profit businesses don't have volunteers. Instead, they may have:

- Qualified student volunteers in a school-sponsored program (grades K-12 or institutions of higher education)
- Unpaid students participating in a work-based learning program in an institution of higher education, for which the student receives credit (not wages) toward completing a program, certification, or degree in return for services.

For more details about criteria for a qualified student volunteer or unpaid student, go to Volunteers and Workers' Comp Coverage ([www.Lni.wa.gov/ClaimsIns/Insurance/Learn/Volunteers](http://www.Lni.wa.gov/ClaimsIns/Insurance/Learn/Volunteers)).

### What type of workers' compensation coverage is available for student volunteers or unpaid students?

Medical aid only benefits are available to businesses and organizations utilizing qualifying student volunteers and unpaid students. The elective coverage does not include the other usual benefits of workers' compensation, such as wage replacement, vocational and retraining costs, permanent partial disability payments, or death benefits. The business or organization electing the coverage is not protected from civil liability.

For more information, see Student Volunteers and Workers' Compensation Coverage ([www.Lni.wa.gov/IPUB/213-023-000.pdf](http://www.Lni.wa.gov/IPUB/213-023-000.pdf)).

To obtain this coverage for student volunteers and unpaid students, complete the Application for Elective Coverage of Excluded Employments, which is available at Application for Elective Coverage of Excluded Employments ([www.Lni.wa.gov/FormPub/Detail.asp?DocID=1562](http://www.Lni.wa.gov/FormPub/Detail.asp?DocID=1562)).

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*Upon request, foreign language support and formats for persons with disabilities are available. Call 1-800-547-8367. TDD users, call 360-902-5797. L&I is an equal opportunity employer.*

## **Fact Sheet #71: Internship Programs Under The Fair Labor Standards Act**

This fact sheet provides general information to help determine whether interns and students working for “for-profit” employers are entitled to minimum wages and overtime pay under the Fair Labor Standards Act (FLSA).<sup>1</sup>

### **Background**

The FLSA requires “for-profit” employers to pay employees for their work. Interns and students, however, may not be “employees” under the FLSA—in which case the FLSA does not require compensation for their work.

### **The Test for Unpaid Interns and Students**

Courts have used the “primary beneficiary test” to determine whether an intern or student is, in fact, an employee under the FLSA.<sup>2</sup> In short, this test allows courts to examine the “economic reality” of the intern-employer relationship to determine which party is the “primary beneficiary” of the relationship. Courts have identified the following seven factors as part of the test:

1. The extent to which the intern and the employer clearly understand that there is no expectation of compensation. Any promise of compensation, express or implied, suggests that the intern is an employee—and vice versa.
2. The extent to which the internship provides training that would be similar to that which would be given in an educational environment, including the clinical and other hands-on training provided by educational institutions.
3. The extent to which the internship is tied to the intern’s formal education program by integrated coursework or the receipt of academic credit.
4. The extent to which the internship accommodates the intern’s academic commitments by corresponding to the academic calendar.
5. The extent to which the internship’s duration is limited to the period in which the internship provides the intern with beneficial learning.
6. The extent to which the intern’s work complements, rather than displaces, the work of paid employees while providing significant educational benefits to the intern.
7. The extent to which the intern and the employer understand that the internship is conducted without entitlement to a paid job at the conclusion of the internship.

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<sup>1</sup> The FLSA exempts certain people who volunteer to perform services for a state or local government agency or who volunteer for



humanitarian purposes for non-profit food banks. WHD also recognizes an exception for individuals who volunteer their time, freely and without anticipation of compensation, for religious, charitable, civic, or humanitarian purposes to non-profit organizations. Unpaid internships for public sector and non-profit charitable organizations, where the intern volunteers without expectation of compensation, are generally permissible.

<sup>2</sup> E.g., *Benjamin v. B & H Educ., Inc.*, --- F.3d ---, 2017 WL 6460087, at \*4-5 (9th Cir. Dec. 19, 2017); *Glatt v. Fox Searchlight Pictures, Inc.*, 811 F.3d 528, 536-37 (2d Cir. 2016); *Schumann v. Collier Anesthesia, P.A.*, 803 F.3d 1199, 1211-12 (11th Cir. 2015); see also *Walling v. Portland Terminal Co.*, 330 U.S. 148, 152-53 (1947); *Solis v. Laurelbrook Sanitarium & Sch., Inc.*, 642 F.3d 518, 529 (6th Cir. 2011).

Courts have described the “primary beneficiary test” as a flexible test, and no single factor is determinative. Accordingly, whether an intern or student is an employee under the FLSA necessarily depends on the unique circumstances of each case.

If analysis of these circumstances reveals that an intern or student is actually an employee, then he or she is entitled to both minimum wage and overtime pay under the FLSA. On the other hand, if the analysis confirms that the intern or student is not an employee, then he or she is not entitled to either minimum wage or overtime pay under the FLSA.

### **Where to Obtain Additional Information**

This publication is for general information and is not a regulation. For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

**U.S. Department of Labor**  
Frances Perkins Building  
200 Constitution Avenue, NW  
Washington, DC 20210

**1-866-4-USWAGE**  
TTY: 1-866-487-9243  
[Contact Us](#)



## ADMINISTRATIVE POLICY

### STATE OF WASHINGTON DEPARTMENT OF LABOR AND INDUSTRIES EMPLOYMENT STANDARDS

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**TITLE: HOURS WORKED**

**NUMBER: ES.C.2**

**CHAPTER: [RCW 49.12](#)  
[WAC 296-126](#)**

**REPLACES: ES-016**

**ISSUED: 1/2/2002**

**REVISED: 6/24/2005**

**REVISED: 11/28/2007**

**REVISED: 9/2/2008**

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#### ADMINISTRATIVE POLICY DISCLAIMER

This policy is designed to provide general information in regard to the current opinions of the Department of Labor & Industries on the subject matter covered. This policy is intended as a guide in the interpretation and application of the relevant statutes, regulations, and policies, and may not be applicable to all situations. This policy does not replace applicable RCW or WAC standards. If additional clarification is required, the Program Manager for Employment Standards should be consulted.

This document is effective as of the date of print and supersedes all previous interpretations and guidelines. Changes may occur after the date of print due to subsequent legislation, administrative rule, or judicial proceedings. The user is encouraged to notify the Program Manager to provide or receive updated information. This document will remain in effect until rescinded, modified, or withdrawn by the Director or his or her designee.

#### **1. The department has the authority to investigate and regulate “hours worked” under the Industrial Welfare Act.**

“Hours worked,” means all hours during which the employee is authorized or required, known or reasonably believed by the employer to be on duty on the employer's premises or at a prescribed work place. An analysis of “hours worked” must be determined on a case-by-case basis, depending on the facts. See [WAC 296-126-002\(8\)](#). See [Administrative Policy ES.C.1](#).

The department's interpretation of “hours worked” means all work requested, suffered, permitted or allowed and includes travel time, training and meeting time, wait time, on-call time, preparatory and concluding time, and may include meal periods. “Hours worked” includes all time worked regardless of whether it is a full hour or less. “Hours worked” includes, for example, a situation where an employee may voluntarily continue to work at the end of the shift. The employee may desire to finish an assigned task or may wish to correct errors, prepare time reports or other records. The reason or pay basis is immaterial. If the employer knows or has reason to believe that the employee is continuing to work, such time is working time.

**An employer may not avoid or negate payment of regular or overtime wages by issuing a rule or policy that such time will not be paid or must be approved in advance. If the work is performed, it must be paid. It is the employer's responsibility to ensure that employees do not perform work that the employer does not want performed.**

The following definitions and interpretations of “hours worked” apply to all employers bound by the Industrial Welfare Act, even those not subject to the Minimum Wage Act. There is no similar

definition of “hours worked” in [RCW 49.46](#), the Minimum Wage Act, or in [WAC 296-128](#), Minimum Wage rules. Therefore, these definitions and interpretations apply to all employers subject to [RCW 49.12](#), regardless of whether they may be exempt from or excluded from the Minimum Wage Act.

## **2. What is travel time and when it is considered hours worked?**

### **Introductory statement to the policy:**

This policy is designed to provide general information in regard to the current opinions of the Department of Labor & Industries on the subject matter covered. This policy is intended as a guide in the interpretation and application of the relevant statutes, regulations, and policies, and may not be applicable to all situations. This policy does not replace applicable RCW or WAC standards. If additional clarification is required, the Program Manager for Employment Standards should be consulted.

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The purpose of this policy statement is to update section two of Labor and Industries’ administrative policy ES.C.2 (section 2) pertaining to hours worked. Following the *Stevens v. Brink’s Home Security* decision, Labor and Industries committed to updating this section of the policy to reflect the Supreme Court decision in the *Brink’s* case and address ambiguity created by that case. [*Stevens v. Brink’s Home Security*, 162 Wn.2d 42, 169 P.3d 473 (2007)]. This policy is not intended to address or cover all employee travel time issues. Instead, it is limited to the particular issues raised in the *Brink’s* case regarding whether time spent driving a company-provided vehicle between home and the first or last job site of the day constitutes compensable “hours worked.”

### **Whether time spent driving in a company-provided vehicle constitutes paid work time depends on whether the drive time is considered “hours worked.”**

Whether travel or commute time is compensable depends on the specific facts and circumstances of each individual employee, employer, and work week. If the travel or commute time is considered “hours worked” under RCW 49.46.020 and WAC 296-126-002(8), then it is compensable and the employee must be paid for this time. These statutory and regulatory requirements cannot be waived through a collective bargaining agreement or other agreement.

“Hours worked” means all hours when an employee is authorized or required by the employer to be on duty on the employer’s premises or at a prescribed workplace. WAC 296-126-002(8).

There are three elements to the definition of hours worked:

- 1- An employee is authorized or required by the employer,
- 2- to be on duty,
- 3- On the employer’s premises or at a prescribed workplace.

If any of the three elements is not satisfied, then the time spent driving in a company-provided vehicle is not considered “hours worked.” The specific factors used to establish the “authorized



or required” element are not listed in this policy. However, the element must be met for “hours worked” under the law.

Time spent driving a company-provided vehicle during an employee's ordinary travel, when the employee is not on duty and performs no work while driving between home and the first or last job site of the day, is not considered hours worked.

Time spent driving a company-provided vehicle from the employer's place of business to the job site is considered hours worked. Time spent riding in a company-provided vehicle from the employer's place of business to the job site is not considered hours worked when an employee voluntarily reports to the employer's location merely to obtain a ride as a passenger for the employee's convenience, is not on duty, and performs no work. Time spent driving or riding as a passenger from job site to job site is considered hours worked.

**Factors to consider in determining IF AN EMPLOYEE IS “on duty” when driving a company-provided vehicle between home and work.**

To determine if the employee is on duty, you must evaluate the extent to which the employer restricts the employee's personal activities and controls the employee's time. This includes an analysis of the frequency and extent of such restrictions and control. Following is a non-exclusive list of factors to consider when making a determination if an employee is “on duty.” There may be additional relevant factors that the Supreme Court or L&I have not considered. All factors must be considered and weighed in combination with each other. The mere presence or absence of any single factor is not determinative.

1. The extent to which the employee is free to make personal stops and engage in personal activities during the drive time between home and the first or last job site of the day, or whether the vehicle may only be used for company business.
2. The extent to which the employee is required to respond to work related calls or to be redirected while enroute.
3. Whether the employee is required to maintain contact with the employer.
4. The extent to which the employee receives assignments at home and must spend time writing down the assignments and mapping the route to reach the first job site before beginning the drive.

**Factors to consider in determining if an employee is “on the employer's premises or at a prescribed work place” when driving a company-provided vehicle between home and work.**

To determine if a company-provided vehicle constitutes a “prescribed work place,” you must evaluate whether driving the particular vehicle is an integral part of the work performed by the employee. Following is a non-exclusive list of factors to consider when making a determination if an employee is “on the employer's premises or at a prescribed work place.” There may be additional relevant factors that the Supreme Court or L&I have not considered. All factors must

be considered and weighed in combination with each other. The mere presence or absence of any single factor is not determinative.

1. Whether the nature of the business requires the employee to drive a particular vehicle provided by the employer to carry necessary nonpersonal tools and equipment to the work site.
2. The extent to which the company-provided vehicle serves as a location where the employer authorizes or requires the employee to complete business required paperwork or load materials or equipment.
3. The extent to which the employer requires the employee to ensure that the vehicle is kept clean, organized, safe, and serviced.

**The following are two examples of how this policy may be used to determine whether or not drive time between home and the first or last job site of the day in a company-provided vehicle is compensable. These examples are illustrative and are not intended to create additional factors or address other scenarios where the facts differ from those below.**

#### **COMPENSABLE EXAMPLE:**

1. In this example, the facts establish that the drive time between home and the first or last job site of the day in a company-provided vehicle is compensable. For purposes of this example, all of the following facts are present. The employee drives between home and the first or last job site of the day in a company-provided vehicle:

- As a matter of accepted company practice, the employee is prohibited from any personal use of the vehicle, which must be used exclusively for business purposes; and
- The employer regularly requires the employee to perform services for the employer during the drive time including being redirected to a different location; and
- The employee regularly transports necessary nonpersonal tools and equipment in the vehicle between home and the first or last job site of the day; and
- The employee receives his/her daily job site assignments at home in a manner that requires the employee to spend more than a de minimis amount of time writing down the assignments and mapping travel routes for driving to the locations.

#### **NON COMPENSABLE EXAMPLE:**

2. In this example, the facts establish that the drive time between home and the first or last job site of the day in a company-provided vehicle is not compensable. For purposes of this example, all of the following facts are present. The employee drives between home and the first or last job site of the day in a company-provided vehicle:

- The employer does not strictly control the employee's ability to use the vehicle for personal purposes. E.g., the employee, as a matter of accepted company practice, is

able to use the vehicle for personal stops or errands while driving between home and the job site; and

- The employee is not required to perform any services for the employer during the drive including responding to work related calls or redirection; and
- The employee does not perform any services for the employer during the drive including work related calls or redirection.

### **3. What constitutes training and meeting time and when is it considered “hours worked”?**

Training and meeting time is generally interpreted to mean all time spent by employees attending lectures, meetings, employee trial periods and similar activities required by the employer, or required by state regulations, and shall be considered hours worked.

Time spent by employees in these activities need *not* be counted as hours worked if all of the following tests are met:

**3.1** Attendance is voluntary; and

**3.2** The employee performs no productive work during the meeting or lecture; and

**3.3** The meeting takes place outside of regular working hours; and

**3.4** The meeting or lecture is not directly related to the employee's current work, as distinguished from teaching the employee another job or a new, or additional, skill outside of skills necessary to perform job.

If the employee is given to understand, or led to believe, that the present working conditions or the continuance of the employee's employment, would be adversely affected by non-attendance, time spent shall be considered hours worked.

Time spent in training programs mandated by state or federal regulation, but *not* by the employer, need not be paid if the first three provisions are met; that is, if attendance is voluntary, the employee performs no productive work during the training time, and the training takes place outside of normal working hours.

A state regulation may require that certain positions successfully complete a course in Cardio-Pulmonary Resuscitation (CPR). The rules may require that in order to be employed in such a position the person must be registered with the state or have successfully completed a written examination, approved by the state, and further fulfilled certain continuous education requirements. However, should the employer require all employees to attend training, all employees attending the training must be paid for the hours spent in the training course.

Although the training course may be directly related to the employee's job, the training is of a type that would be offered by independent institutions in the sense that the courses provide generally applicable instruction which enables an individual to gain or continue employment with any employer which would require the employee to have such training, then this training would be regarded as primarily for the benefit of the employee and not the employer. In training of this type, where the employee is the primary beneficiary, the employee need not be paid for attending.

Where an employer (or someone acting on the employer's behalf), either directly or indirectly, requires an employee to undergo training, the time spent is clearly compensable. The employer in such circumstances has controlled the employee's time and must pay for it. However, where

the state has required the training, as in the example stated above, a different situation arises. When such state-required training is of a general applicability, and not tailored to meet the particular needs of individual employers, the time spent in such training would not be compensable.

When state or federal regulations require a certificate or license of the employee for the position held, time spent in training to obtain the certificate or license, or certain continuous education requirements, will not be considered hours worked. The cost of maintaining the certificate or license may be borne by the employee.

#### **4. What determines an employment relationship with trainees or interns?**

As the state and federal definition of “employ” are identical, the department looks to the federal Fair Labor Standards Act for certain training conditions exempted from that act. Under certain conditions, persons who without any expressed or implied compensation agreement may work for their own advantage on the premises of another and are not necessarily employees. Whether trainees are employees depends upon all of the circumstances surrounding their activities on the premises of the employer. If all six of the following criteria are met, the trainees are not considered employees:

- 4.1** 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; and
- 4.2** The training is for the benefit of the trainee; and
- 4.3** The trainees do not displace regular employees, but work under their close observation; and
- 4.4** The business that provides the training derives no immediate advantage from the activities of the trainees, and may in fact be impeded; and
- 4.5** The trainees are not necessarily entitled to a job at the conclusion of the training period; and
- 4.6** The trainees understand they are not entitled to wages for the time spent in the training.

#### **5. What constitutes paid or unpaid work for students in a school-to-work program?**

Students may be placed in a school-to-work program on a paid or unpaid basis. The department will not require payment of minimum wage provided all of the following criteria are met. If all five requirements are not met, the business will not be relieved of its obligation to pay minimum wage, as required by the Minimum Wage Act.

- 5.1** The training program is a bona fide program certified and monitored by the school district or the Office of the Superintendent of Public Instruction; and
- 5.2** A training plan exists that establishes a link to the academic work, e.g., a detailed outline of the competencies to be demonstrated to achieve specific outcomes and gain specific skills. The worksite effectively becomes an extension of the classroom activity and credit is given to the student as part of the course; and
- 5.3** The school has a designated district person as an agent/instructor for the worksite activity and monitors the program; and
- 5.4** The worksite activity is observational, work shadowing, or demonstrational,

with no substantive production or benefit to the business. The business has an investment in the program and actually incurs a burden for the training and supervision of the student that offsets any productive work performed by the student. Students may not displace regular workers or cause regular workers to work fewer hours as a result of any functions performed by the student, and

**5.5** The student is not entitled to a job at the completion of the learning experience. The parent, student, and business all understand the student is not entitled to wages for the time spent in the learning experience.

If a minor student is placed in a paid position, all requirements of the Minimum Wage Act, the Industrial Welfare Act, and minor work regulations must be met. Minor students placed in a paid position with public agencies are subject to the Industrial Welfare Act.

Public agencies are not subject to the state minor work regulations, but they are subject to payment of the applicable state minimum wage. Note: Public agencies employing persons under age 18 are subject to the federal Child Labor Regulations and should contact the United States Department of Labor for specific information on hours and prohibited occupations.

## **6. What constitutes “waiting time” and when is it considered “hoursworked”?**

In certain circumstances employees report for work but due to lack of customers or production, the employer may require them to wait on the premises until there is sufficient work to be performed. “Waiting time” is all time that employees are required or authorized to report at a designated time and to remain on the premises or at a designated work site until they may begin their shift. During this time, the employees are considered to be engaged to wait, and all hours will be considered hours worked.

When a shutdown or other work stoppage occurs due to technical problems, such time spent waiting to return to work will be considered hours worked *unless* the employees are completely relieved from duty and can use the time effectively for their own purposes. For example, if employees are told in advance they may leave the job and do not have to commence work until a certain specified time, such time will not be considered hours worked. If the employees are told they must “stand by” until work commences, such time must be paid.

## **7. Is there a requirement for “show up” pay?**

An employer is not required by law to give advance notice to change an employee’s shift or to shorten it or lengthen it, thus there is no legal requirement for show-up pay. That is, when employees report to work for their regularly scheduled shift but the employer has no work to be performed, and the employees are released to leave the employer’s premises or designated work site, the employer is not required to pay wages if no work has been performed.

## **8. What constitutes “on-call” time and when is it considered “hours worked”?**

Whether or not employees are "working" during on-call depends upon whether they are required to remain on or so close to the employer's premises that they cannot use the time effectively for their own purposes.

Employees who are not required to remain on the employer's premises but are merely required to leave word with company officials or at their homes as to where they may be reached are not working while on-call. If the employer places restrictions on where and when the employee may travel while “on call” this may change the character of that “on call” status to being engaged in the performance of active duty. The particular facts must be evaluated on a case-by-case basis.

## **9. What constitutes preparatory and concluding activities and when is this time considered “hours worked”?**

Preparatory and concluding activities are those activities that are considered integral or necessary to the performance of the job. Those duties performed in readiness and/or completion of the job shall be considered hours worked. When an employee does not have control over when and where such activities can be made, such activities shall be considered as hours worked.

Examples may include the following:

**9.1** Employees in a chemical plant who cannot perform their principle activities without putting on certain clothes, or changing clothes, on the employer's premises at the beginning and end of the workday. Changing clothes would be an integral part of the employee's principle activity.

**9.2** Counting money in the till (cash register) before and after the shift, and other related paperwork.

**9.3** Preparation of equipment for the day's operation, i.e., greasing, fueling, warming up vehicles; cleaning vehicles or equipment; loading, and similar activities.

## **10. When are meal periods considered “hours worked”?**

Meal periods are considered hours worked if the employee is required to remain on the employer's premises at the employer's direction subject to call to perform work in the interest of the employer. In such cases, the meal period time counts toward total number of hours worked and is compensable. See [Administrative Policy ES.C.6](#).

## ADMINISTRATIVE POLICY



### STATE OF WASHINGTON DEPARTMENT OF LABOR AND INDUSTRIES EMPLOYMENT STANDARDS

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**TITLE: MINIMUM HOURLY WAGE**

**NUMBER: ES.A.3**

**CHAPTER:** [RCW 49.46.020](#)  
[WAC 296-126](#)  
[WAC 296-125](#)  
[WAC 296-131](#)

**REPLACES:** ES-008  
**ISSUED:** 1/2/2002  
**ISSUED:** 7/15/2014

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This document is effective as of the date of print and supersedes all previous interpretations and guidelines. Changes may occur after the date of print due to subsequent legislation, administrative rule, or judicial proceedings. The user is encouraged to notify the Program Manager to provide or receive updated information. This document will remain in effect until rescinded, modified, or withdrawn by the Director or his or her designee.

### Minimum Wage Adjustments

The Minimum Wage Act provides that on September 30, 2000 and on each following year on September 30<sup>th</sup>, the Department of Labor and Industries shall calculate an adjusted minimum wage rate to maintain employee purchasing power by increasing the current year's minimum wage rate by the rate of inflation. The adjusted minimum wage rate will be calculated to the nearest cent using the consumer price index for urban wage earners and clerical workers, CPI-W, or a successor index, for the twelve months prior to each September 1<sup>st</sup> as calculated by the United States Department of Labor. Each adjusted minimum wage rate takes effect on the following 1<sup>st</sup> of January.

Each minimum wage adjustment will be published in the Washington State Register.

### Minimum Hourly Wage—Adults

Employers must pay each employee who is age 18 or older at least the minimum hourly wage established under [RCW 49.46.020](#). This includes agricultural workers, except as provided in [RCW 49.46.010\(3\)\(a\)](#).

## **Minimum Hourly Wage—Minors**

The department has the authority to set the minimum wage rate for minors by regulation, and did so in [WAC 296-125-043](#), [WAC 296-126-020](#), and [WAC 296-131-117](#), which state that the minimum wage for minors 16- and 17-years of age is equal to that of adults, and the minimum wage for minors under 16 years of age is 85 percent of the applicable adult minimum wage.

## **Minimum Hourly Wage—Agricultural Labor**

Agricultural workers, including minors, are covered under the state minimum wage provisions, except the minimum wage requirement doesn't apply to hand harvest laborers paid piece rate, *and* who commute daily from their permanent residence to the farm *and* who are employed fewer than thirteen weeks in agriculture in the preceding calendar year. See [RCW 49.46.010\(3\)\(a\)](#).

An example of workers within this group might include berry pickers who reside permanently in the area and work only in the berry crop.

The employer has the burden of proving that workers fall within the above exemption.

## **Determining whether an employee has been paid the minimum wage**

In order to determine whether an employee has been paid the statutory minimum hourly wage when the employee is compensated on other than an hourly basis, the following standards should be used:

- If the pay period is weekly, the employee's total weekly earnings are divided by the total weekly hours worked (including hours over 40). Earnings must equal minimum wage for each hour worked. If such earnings do not equal minimum wage, the employer must pay the difference.
- If the regular pay period is not weekly, the employee's total earnings in the pay period are divided by the total number of hours worked in that pay period. The result is the employee's hourly rate of pay. Earnings must equal minimum wage for each hour worked. If such earnings do not equal minimum wage, the employer must pay the difference.
- For employees paid on commission or piecework basis, wholly or in part, other than those employed in bona fide outside sales positions, the commission or piecework earnings earned in each workweek are credited toward the total wage for the pay period. The total wage for that period is determined by dividing the total earnings by the total hours worked; the result must be at least the applicable minimum wage for each hour worked. See [WAC 296-126-021](#).



Meal periods are considered hours worked if the employee is required to remain on duty or on the employer's premises at the employer's direction subject to call. In such cases, the meal period counts toward total number of hours worked and must be included in the minimum wage determination.

- “Total earnings” is meant to include all compensation received for hours worked in the pay period, as well as any additional payments, i.e., split-shift bonus or stand-bypay.
- See [ES.A.8.1](#) and [ES.A.8.2](#) for overtime calculations for payment of other than a single hourly rate.

**Payments not Included in minimum wage determination:**

- Vacation pay or holiday pay is not considered when computing the minimum wage.
- Gratuities, tips, or service fees are not considered when computing the minimum wage and may not be credited as part the minimum wage. See [WAC296-126-022](#)