



Memorandum

Date: July 31, 2012

To: Senate Committee on Higher Education

From: Evan Klein (SCS summer 2013 intern)

Re: Internships: Assisting Higher Education Institutions in Developing Internship Opportunities

Brief Summary

This memo presents an overview of the laws and policies affecting internships in Washington State. Internships, at both the federal and state levels are primarily regulated by the Fair Labor Standards Act (“FLSA”). Washington State has adopted its own version of the FLSA, but does not substantially alter the federal regulation in any way.

This memo also provides an analysis of student internship data at state-run higher education institutions, and the resources these schools make available to students and employers. The data provides an analytical view of the current internship landscape in Washington.

Following that analysis is a conclusion with recommendations for improvement. These recommendations are based on the desires of Washington higher education institutions, and a trend of under-inclusive data collection. The key theme is that compiling information on internships proved difficult due to the segmented nature of current data, and that remedying this could provide opportunities for students, schools, and employers to better seek out and participate in internship programs.

Federal Law & Policy

The Fair Labor Standards Act of 1938 is the primary law governing internships in the United States.¹ The FLSA requires “for-profit” employers to provide the federal minimum wage and time-and-a-half overtime wages to interns who qualify as “employees.”² Non-profit and government entities are exempt from this requirement, and may allow interns to volunteer their time at unpaid internships. However, for-profit entities may be exempt from wage requirements and provide unpaid internships too, if they meet the following six requirements:³

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;
2. The internship experience is for the benefit of the intern;
3. The intern does not displace regular employees, but works under close supervision of existing staff;

4. 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;
5. The intern is not necessarily entitled to a job at the conclusion of the internship; and
6. The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship.

These requirements are not included in the FLSA, but were instead derived from a 1947 Supreme Court ruling.⁴ Courts of Appeals are divided as to whether an employer must meet all of these requirements, or if they may fail on one or more of the requirements so long as the totality of the circumstances establishes that the intern is not an “employee.”⁵

Non-employee interns, those who are unpaid, are also exempt from the workplace discrimination protections set forth in Title VII of the Civil Rights Act of 1964.⁶

Washington Law & Policy

Washington law does not abrogate the FLSA definition of “employee.”⁷ Thus, the Washington State Department of Labor and Industries looks to the six FLSA requirements to determine if a for-profit internship program may be exempt from regular wage and hour laws.⁸ Again, government entities and non-profits may provide unpaid internships without meeting these criteria.

Unpaid interns are also precluded from Industrial Insurance coverage in Washington, as they are not considered workers or volunteers for purposes of workers compensation.⁹

Under both federal and state law, internships are regulated only in terms of whether they may be unpaid or paid, which determines what protections attach to each type of internship. Paid interns are treated as regular employees, receiving discrimination, wage, and hour protection, while unpaid interns are afforded far fewer protections under current law.

Statewide Internships Data

Every public baccalaureate institution keeps its own internship data for their student populations. Below is a compilation of internship data as reported by each public institution. Each institution tracks internships in a different way, and this is reflected in the reported data that follows.

[Full reports may be found in the Appendix]

*University of Washington*¹⁰

[Internships posted to the UW online jobs database from July 1, 2011 – June 30, 2012]

- 1,151 – Business/For-Profit
- 283 – Non-Profit
- 60 – Government
- 4 – Education

A total of 1,499 total internships were posted to the HuskieJobs database during the 2011-12 school year. Internships are generally offered through individual colleges, and while UW has a centralized jobs database, it does not fully track student internships.

*Evergreen*¹¹

[Internships for 2011-2012; total Evergreen enrollment during this time was 4,794]

- 602 – Internships sought outside of academic classes
- 348 – Internships sought within an academic program

A total of 950 internships were accepted by students in 2011-12. Evergreen reports that 40% of students complete internships during their time at Evergreen. Evergreen's reporting also shows consistent internship placement of 800 to 900 students every year.

*Central Washington University*¹²

[Only internships completed for credit for 2011-2012]

- 925 – Internships placed through Career Services
- 420 – Student Teaching internships through the College of Education

A total of 1,345 internships were completed for credit at CWU in 2011-12. CWU formally collects only information about internships completed for credit.

*Washington State University*¹³

[Only internships completed for credit for 2011-2012]

- 5,561 Internships/Practicum/Field Work Experience completed for credit
- ~556 - College of Agriculture
- ~111 - College of Business
- ~222 - College of Communication
- ~1,613 – College of Education
- ~167 – College of Engineering
- ~667 – College of Liberal Arts
- ~1,668 – College of Nursing
- ~278 – College of Pharmacy
- ~167 – College of Sciences

With a student enrollment of 27,329 for the 2011-12 school year, WSU reports approximately 20% of its students received internships for credit. These numbers remain relatively consistent for reporting years 2008-2013. WSU does not track or report data on internships not completed for credit.

*Eastern Washington*¹⁴

[Only internships completed for credit for 2011-2012]

- 71 - Children's Studies
- 81 - Counseling Education
- 57 - Exercise Science

- 52 - Psychology
- 79 - Technology

A total of 594 internships were completed for credit at EWU for 2011-12. The university tracks only internships for credit, and reports an annual placement of around 500 to 600 students. The attached Appendix, pages 13 and 14, provides a statistical breakdown by major, of all internships completed for credit from 2009 to 2013. EWU does not track or report data on internships not completed for credit.

Community & Technical Colleges

[No statistical data provided; see Appendix for Community and Technical College internship and experiential learning descriptions and resources]

Many of the workforce programs offered at Community and Technical Colleges require internships or co-operative learning experiences. The Community and Technical Colleges offer a variety of opportunities to students, and highly encourage experiential learning outside of the classroom, as it is often the source of a student's first job offer.

Resources Available to Students

Students locate internships in a variety of ways:¹⁵

1. Clearinghouse Websites (i.e. internships.com, internmatch.com)
2. School Career Services & Academic Departments
3. Individual Employers
4. Internet Searches
5. Niche Websites (i.e. idealist.org, makingthedifference.org)

All of the public higher education institutions in Washington maintain some form of a career services department. These departments generally provide a variety of resources for students seeking internship, co-op, volunteer, and externship opportunities. Many of the smaller academic departments also provide their own resources, allowing students to hone in on career preferences.

Departments at some of the universities actually include an experiential requirement in their curriculum.¹⁶ However, fitting internships and externships into rigid curriculums, having to pay for extra credit hours, and issues with underfunding and understaffing, make it difficult for all students to participate in experiential learning.¹⁷

Resources Available to Employers

Public four-year institutions, much like how they provide information to students, provide a variety of resources to employers seeking to hire interns and externs:¹⁸

1. "Create an Internship" pages are available through university websites;

2. Pamphlets and guides on how to create successful internships are available through career services departments;
3. Employers can post internship openings to individual university career services job listing pages;
4. Employers can attend career fairs; and,
5. Career services departments are readily available to work with employers to help set up internship and externship programs for their students.

Specific departments at the universities, generally career services, will work with employers to help assist in developing internship programs for their students.¹⁹ As well, the National Association of Colleges and Employers (“NACE”) can be an asset to employers seeking to create an internship program. NACE informational resources are available to guide employers in setting up effective internships.²⁰

Conclusion: Methods for Assisting Higher Education Institutions in Placing Students in Internships

There are two significant issues that seem to be stagnating student internships in the United States as well as in Washington: A lack of funding for paid internships, and a need for more centralized resources. These two major concerns have been highlighted by Washington higher education institutions and routinely appeared during research of this topic.

Below are three possible solutions, the first two of which have the interest of Washington baccalaureate institutions:

- 1) A State-Wide Internship Clearinghouse
 - a. State institutions have all expressed interest in a one-stop state-wide internship clearinghouse, where employers can post internship opportunities. Students at state institutions would be given access to the website, and therefore access to hundreds of internship openings at once. The idea is that this website would foster accessibility to internship postings for employers and students alike.
- 2) A State-Wide Funding Match Program
 - a. This idea, from Central Washington University, would create a state funding pool to help provide students with funding for internships, much like State Work Study. A common theme amongst reports regarding internships in the United States and a common concern amongst Washington public universities is that employers want to provide internships to students, but cannot afford to fund them. While unpaid internships are extremely valuable to students, students may find it difficult to afford to work for no pay. This proposed solution would create a funding mechanism for employers, to aid in establishing more paid internships in Washington. Such a program would also lead to more student interns falling under the definition of “employee” in FLSA, meaning that more students would be protected under wage, hour, and discrimination laws. Such a program would differ slightly from the Washington State Work Study Program, in that it would

solicit a larger portion of its funding from the employers themselves. The match funding from the state would only equate to 50% of the student salaries, as opposed to the roughly 75% the state provided under the Work Study Program in 2010-11.²¹

3) Better Reporting and Recording of Internships

- a. Universities are not currently required to record internship data on students, and students are not required to report their internship information to their universities and colleges. This is evident in the data presented above. Institutions must either extrapolate survey results to try and get an idea of what students are doing, or must merely rely on the mandatory reporting of experiential learning for credit hours. A method of recording and reporting holistic internship data from student populations could aid universities in assessing how to better improve their internship placement. It could also provide the legislature with a clearer picture of internships in Washington. More importantly, publication of such data could allow prospective students to choose a higher education institution based on that institution's internship placements.

¹ U.S. Department of Labor, Wage and Hour Division; Fact Sheet #71: Internship Programs Under the Fair Labor Standards Act, April 2010.

² *Id.*

³ *Id.*

⁴ *See Wallington v. Portland Terminal Co.*, 330 U.S. 148.

⁵ Not-So-Equal Protection, Reforming the Regulation of Student Internships; Economic Policy Institute, April 2010.

⁶ *See O'Connor v. Davis*, 126 F.3d 112.

⁷ Unpaid Internships 101; Washington State Dept. of Labor and Industries, July 2010.

⁸ *Id.*

⁹ *Id.* at 3.

¹⁰ *See Appendix*, pg. 1-3.

¹¹ *See Appendix*, pg. 4-6.

¹² *See Appendix*, pg. 7-8.

¹³ *See Appendix*, pg. 9-12.

¹⁴ *See Appendix*, pg. 13-14.

¹⁵ Internships; The Career Center, University of Washington, May 2012. at 2, <http://www.careers.washington.edu/Students/Internships>.

¹⁶ Responses to email; Patrick Bell, University of Washington Career Center, June 4th, 2012.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Intern/Co-Op Programs; NACE,

<http://www.naceweb.org/KnowledgeCenter.aspx#&&/wEXAQUFaW5kZXgFI2xlZnR+IX5+IX4zOTd+IX4xMDI+IX5GYWxzZX4hfjN+IX4xwDeBI9Qi6ZopHfR4oUXXyebPiEs=>

²¹ Washington State Work Study Program; Washington Higher Education Coordinating Board,

<http://www.wsac.wa.gov/sites/default/files/SWSPProgramOverview.pdf>