

# LOS MEDANOS COLLEGE

## Application of the Fair Labor Standards Act (FLSA) Internship Checklist

The information below is to help determine if interns and students working ‘for profit’ employers are entitled to minimum wages and overtime pay under the FLSA. Courts have used the “primary beneficiary test” to determine the economic reality of the intern/employer relationship to determine which party is the “primary beneficiary” of the relationship. Courts have determined the following 7 factors.

**With respect to the individual student’s placement at a business establishment, do all of the following criteria apply?**

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. **Yes**  **No**
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. **Yes**  **No**
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. **Yes**  **No**
4. The extent to which the internship accommodates the intern’s academic commitments by corresponding to the academic calendar. **Yes**  **No**
5. The extent to which the internship’s duration is limited to the period in which the internship provides the intern with beneficial learning. **Yes**  **No**
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. **Yes**  **No**
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. **Yes**  **No**

*Unpaid interns for public sector and no-profit organizations, where the intern volunteers without expectation of compensation, are generally permissible.*

### YES to all seven criteria

The individual student is NOT an employee within the meaning of the FLSA. Wages are optional.

### NO to any seven criteria

The business must compensate the student worker both parties are jointly responsible for compliance.

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|---------------------------|-------|
| Company Name:             |       |
| Representative Signature: |       |
| Contact Email:            | Date: |