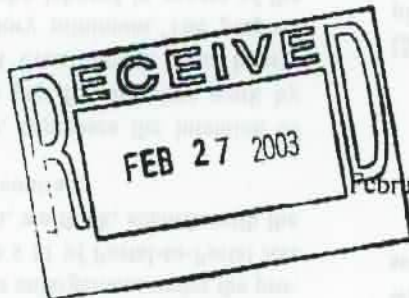


STATE OF NEBRASKA



Mike Johanns
Governor



February 21, 2003

NEBRASKA STATE PATROL
Colonel Tom Nesbitt
Superintendent
P.O. Box 94907
Lincoln, Nebraska 68509-4907
Phone (402) 471-4545

Percella Maupins
U. S. Dept. of Labor
210 Walnut Street
Des Moines, IA 50309-9783

Dear Ms. Maupins:

On behalf of the Nebraska State Patrol, we are requesting a Department of Labor opinion letter regarding implications of the Fair Labor Standards Act on two internships within our Investigative Services Division. *EX 6* are currently enrolled in the Master of Forensic Science program through Nebraska Wesleyan University. The master's program requires the completion of a 180 hour job shadowing internship with a forensic scientist. Both *EX 6* are full-time employees of the Nebraska State Patrol.

EX 6 is assigned to the Intelligence/Crime Analysis Division as an intelligence analyst. His major duties include reviewing, evaluating, and analyzing criminal intelligence. *EX 6* duties are primarily research and analytical, although he does assist with management of major investigations by assembling, collating, coordinating and analyzing investigative reports and evidence. The area of specialization *EX 6* has chosen for his internship is examination of firearm and tool mark evidence. Sergeant *EX 6* the officer under whom *EX 6* is studying, is one of only two experts in the field of forensic firearm and tool mark identification in the state. The Patrol is the only agency in the state that maintains a forensic firearms laboratory in which to understudy.

EX 6 is assigned to the Criminal Records and Identification Division as a fingerprint examiner. *EX 6* main duties include collecting the fingerprints of people who are having their criminal history records examined for licensing and credentialing purposes; entering those fingerprint images into an electronic database; and searching them against the records of known criminals. *EX 6* duties do not include forensics. While working as an understudy, she will be taught to locate and recover latent fingerprint impressions at crime scenes. From evidence submitted to the laboratory *EX 6* will learn techniques for proper preservation of impressions as evidence. She will also be trained to search fingerprints against the national criminal fingerprint database, and prepare laboratory analysis reports.



AN INTERNATIONALLY ACCREDITED LAW ENFORCEMENT AGENCY



Ms. Maupins

Page 2

February 21, 2003

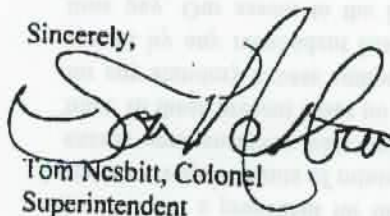
EX-6 will understudy EX-6 who is the supervisor of the Patrol's latent fingerprint laboratory. EX-6 is one of just a few fingerprint examiners (all whom work for the Patrol), who can provide EX-6 the experience she needs to fulfill her understudy requirements. The Patrol is the state central repository of all arrest fingerprint cards. The Patrol operates one of only three or four forensic fingerprint laboratories in the state, in addition to maintaining the Automated Fingerprint Identification System (AFIS). EX-6 understudy assignment will require her to shadow someone who works with all three of the aforementioned systems and databases. There is virtually no other place within the state where EX-6 can gain access to these systems.

I have included additional facts for you to consider when determining whether the understudy hours of both EX-6 are subject to the Fair Labor Standards Act:

1. Through the State Patrol tuition assistance program, both EX-6 will be reimbursed for 50% of their tuition expense.
 2. The state will derive no productivity benefit from the internships in question and in fact, is likely to experience a minor productivity loss due to the time it takes to mentor these individuals.
 3. The time EX-6 devote to their understudy assignments will be spent learning about forensic science that is unrelated to their normally assigned duties. EX-6 will be working with fingerprints while understudying with EX-6. However, there is a vast difference between rolling fingerprints for credentialing purposes and processing evidence for latent fingerprint impressions.
- Lt. Dave Dishong is the Commander of our Criminal Identification and Intelligence Divisions. He would gladly meet with you to explain the differences between EX-6 regularly assigned duties, and what they will be learning while understudying EX-6 if you are in need of additional information, or would like to schedule a meeting or telephone conference with Lt. Dishong, please contact Nebraska State Patrol Personnel Administrator, Sue Dedick, at (402) 479-4904.

Thank you in advance for your timely consideration of our request.

Sincerely,



Tom Nesbitt, Colonel
Superintendent

cc: Major Thorson
Major Tuma
Captain Blausey
Lieutenant Dishong
Sue Dedick

9/28/2009

DEPARTMENT OF LABOR

Executive Secretariat

CORRESPONDENCE CONTROL RECORD

CORRESPONDENCE ID: 577184

DUE DATE: 10/13/2009

ORIGINATOR: DeLuca, Matthew J.

ADDRESSED TO: Solis

CONSTITUENT: MTV in New York City

WH ID NUMBER:

ORGANIZATION:

DATE OF LETTER: 9/21/2009

SUBJECT: FLSA/Annually Hiring Approximately 2,500 People Calling them Interns Without Pay

ACTION AGENCY: ESA

DATE ROUTED: 9/28/2009

SIGNATURE LEVEL: APPROP

REMARKS:

INFO COPIES TO: NR; ALO; ASP; ETA; OPA; SOL

SPECIAL INSTRUCTION:

O

RETAIN WITH ORIGINAL CORRESPONDENCE
IF THE DUE DATE CANNOT BE MET,
CONTACT YOUR CORRESPONDENCE UNIT

577184

Matthew J. DeLuca

Ex 6
Ex 6

September 21, 2009

The Honorable Hilda L. Solis
Secretary of Labor
Department of Labor
200 Constitution Ave., NW
Washington, DC 20210

Dear Secretary Solis:

This letter is intended to share with you a highly visible situation that involves thousands of people that appears to me contrary to the Fair Labor Standards Act, and the Internal Revenue Code. However since I am not a lawyer, I may of course be mistaken.

I wish to make sure that you are aware of an "employment" practice at MTV at its headquarters in New York City that has been going on openly for quite some time.

At MTV they make it a practice to hire annually approximately 2,500 people who they call "interns" without pay (that's the reason I put employment in quotes above). In my humble opinion MTV is acting in clear violation of the Act since these are not really interns (the persons involved for the most part are not associated with any educational institution when they are retained) but employees engaged in productive work for which they should be paid.

MTV, as a profit sector employer, is flaunting its status as a desirable employer who knowingly exploits vulnerable younger persons who are hopeful that these unpaid appointments will lead to a successful career in entertainment.

Please let me know if I am incorrect in my assessment of this situation.

Thanks you for your interest and attention.

Sincerely,

Matthew J. DeLuca

RECEIVED

SEP 22 2009

Ex 6

NEW YORK NY 100
23 SEP 2010 7:14 PM



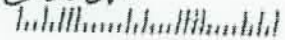
The Honorable Hilda L. Solis

Secretary of Labor

Department of Labor

200 Constitution Ave., NW

Washington DC 20410



Eco

CORRESPONDENCE CLOSED BY TELEPHONE

(or other informal matter)

MEMORANDUM FOR WAGE & HOUR CORRESPONDENCE CONTROL RECORD

FROM: Ex 6
Wage and Hour Division/OEP/FLSA Branch (693-0685)

SUBJECT: Control No: 577184
Originator Matthew J. DeLuca

Ex 6

I spoke with Mr. DeLuca on 10-6-09. Mr. DeLuca is concerned that MTV headquarters in New York hires approximately 2,500 people each year as interns and does not pay them. He states that most of these interns are not in school and are performing productive work. I advised Mr. DeLuca to call the WHD New York DO at Ex 6 to discuss his complaint. If he has any problems contacting the office he will call me back. A written reply is not necessary.

This action has been concurred and approved by:

Monty Nawano 10/9/09

Approved by FLSA Branch Leader

Bonny Crosby 10/21/09

Approved by Bonny Crosby
Acting Director, Office of Enforcement Policy

Attachment(s)(Original incoming letter and control slip)

RECEIVED

2009 OCT 23 PM 12:50

ENEC, SECRETARIAT
OFFICE OF THE
DIRECTOR
FLSA - C-10210

Economic Policy Institute

1333 H Street, NW, Suite 300 • Washington, DC 20005 • Phone 202/775-8810 • Fax 202/775-0819
<http://www.epinet.org>

FAX

To: Hon. Hilda L. Solis
Org.: U.S. Dept. of Labor
Fax: Ex 6
Phone: 202-693-6000

From: Ross Eisenberg
Date: May 5, 2010
Pages (including cover): 3
Code: _____

Comments: _____

RECEIVED
MAY - 3 PM 2010

4/30/2010

DEPARTMENT OF LABOR

Executive Secretariat

CORRESPONDENCE CONTROL RECORD

CORRESPONDENCE ID: 604454

DUE DATE: 5/10/2010

ORIGINATOR: Aoun, Joseph E.; Brown, Robert A. & 11 Others
ADDRESSED TO: Solis
CONSTITUENT:
WH ID NUMBER:
ORGANIZATION: Northeastern University
DATE OF LETTER: 4/28/2010
SUBJECT: Request DOL Reconsider Undertaking the Regulation of Internships

ACTION AGENCY: OASAM

DATE ROUTED: 4/30/2010

SIGNATURE LEVEL: SECY

REMARKS: Please Clear Response Through ExSec Before Sending

INFO COPIES TO: D/S; NR; ALO; ASP; ETA; OCIA; SOL

SPECIAL INSTRUCTION:

O

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IF THE DUE DATE CANNOT BE MET,
CONTACT YOUR CORRESPONDENCE UNIT



004454

April 28, 2010

The Hon. Hilda L. Solis
U.S. Department of Labor
Frances Perkins Building
200 Constitution Ave., NW
Washington, DC 20210

Dear Secretary Solis,

The integration of rigorous classroom study with real-world experiences, including internships, is a powerful way to learn. Recognizing the value of experiential learning, a growing number of colleges and universities are expanding and integrating internships into their curriculum. Some internships are paid and some, on a mutually agreed upon basis, are uncompensated.

The National Association of Colleges and Employers reports that 50 percent of 2008 graduates held internships during their undergraduate careers — many of them in government.

In this context, we are troubled by the Department of Labor's apparent recent shift toward the regulation of internships. The Department's public statements could significantly erode employers' willingness to provide valuable and sought-after opportunities for American college students. //

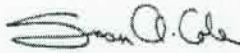
While we share your concerns about the potential for exploitation, our institutions take great pains to ensure students are placed in secure and productive environments that further their education. We constantly monitor and reassess placements based on student feedback.

We urge great caution in changing an approach to learning that is viewed as a huge success by educators, employers, and students alike, and we respectfully request that the Department of Labor reconsider undertaking the regulation of internships.

Sincerely yours,

Joseph E. Aoun
President
Northeastern University

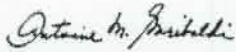
Robert A. Brown
President
Boston University



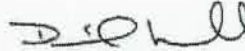
Susan A. Cole
President
Montclair State University



Pamela B. Gann
President
Claremont McKenna College



Antoine M. Garibaldi
President
Gannon University



David Maxwell
President
Drake University




Charles R. Middleton
President
Roosevelt University




Stephen A. Privett
President
University of San Francisco



Kevin P. Reilly
President
University of Wisconsin System



John Sexton
President
New York University



R. Gerald Turner
President
Southern Methodist University



Leslie E. Wong
President
Northern Michigan University



Mark G. Yudof
President
University of California

RECEIVED
JUN 10 1993

Original
(yellow-grid)

CORRESPONDENCE CLOSED BY TELEPHONE

(or other informal matter)

MEMORANDUM FOR WAGE & HOUR CORRESPONDENCE CONTROL RECORD

FROM:

Ex 6
Wage and Hour Division/OEP/FLSA Branch (693-0685)

SUBJECT:

Control No: 606285
Originator: Senator Jeffrey Merkley on behalf of Randall Thayer
107 Russell Senate Office Building
Washington, D.C. 20510
(202) 224-3753

Randall Thayer
Sheraton Portland Airport Hotel
8235 N. E. Airport Way
Portland, Oregon 97220
(503) 281-2500

Joyce Daniels of OCIA gave me permission to call Sen. Merkley's office 5-17-10. I spoke with Katherine Siros at the Senator's office on 5-19-10 and she gave me permission to call Mr. Thayers. I called the Sheraton Portland Airport Hotel and spoke with Ex 6 in Human Resources. She advised that Mr. Thayer is the Executive Vice-President of Pollin Hotels which owns the Sheraton Portland Airport Hotel. I explained I was calling in response to his letter to Senator Merkley and she advised that he would want to speak to me because they have an internship program with a local high school. Ex 6 assists him in running the program. I emailed Ex 6 a copy of the internship fact sheet. I left several messages for Mr. Thayer and he returned my call on 6-1-10.

Mr. Thayer advised that each summer they have two-week internships for high-school students that are a part of the student's curriculum. These internships are unpaid and consist of job shadowing and on-the-job training. He is concerned that the Obama Administration is proposing legislation that would require that all internships be paid. I advised Mr. Thayer that the Obama Administration is not proposing any such legislation. I emailed him the internship fact sheet and advised that he could speak to the WHD Portland DO (503-326-3057) if he has any questions. I also advised him to speak with the State of Oregon, Bureau of Labor and Industry (971-673-0761) regarding state requirements for internships and that if state law is stricter than federal he would have to abide by state law. Mr. Thayer is concerned that legislation requiring paid internships would be attached to a bill. I advised him that I did not know of any proposed legislation regarding internships. He said he will call me if he hears of such legislation.

I spoke with Katherine Siros at Sen. Merkley's office regarding my conversation with Mr. Thayer. Ms. Siros does not require a written reply.

This action has been concurred and approved by:

Monty Navarro 6/1/10

Approved by FLSA Branch Leader

MW for B. CROSBY 6/1/10

Approved by Acting Director
Division of Enforcement Policy

Mr. Randall Thayer
8235 NE Airport Way
Portland, OR 97220

Dear Senator Merkley,

Just enter a response on their comment log. The only way change occurs is to stand up and shout. For those of you who gave money, they will listen even more.

There have been articles and news reports concerning the idea that the Dept. of Labor will regulate un-paid internships making them unlawful.

Whether this has happened or could happen, I would hope you are seriously against the effort and take action to suppress this sort of regulation.

Internships play an important role in the last years of a college student and high school student. It offers them a chance to observe and become involved in the day-to-day activities of a business or organization they may find they want to pursue as a career. It provides a reference many students would not have if only work experience were considered in the hiring phase. It reflects the initiative of a student when an employer reflects on what activities beyond educational courses the student pursued.

I have to believe you participated in some internship opportunity. Please do not allow the Labor Department to eliminate this valuable tool.

United States Senate

WASHINGTON, DC 20510-3705

OFFICIAL BUSINESS

J. P. [Signature]

A. M. [Signature]

PRSRT STD U.S.

The Honorable Hilda L. Solis
Secretary of Labor
Department of Labor
200 Constitution Avenue, Nw
Washington, DC 20210-0002



DIUHTPI 20210



5/5/2010

DEPARTMENT OF LABOR

Executive Secretariat

CORRESPONDENCE CONTROL RECORD

CORRESPONDENCE ID: 605146

DUE DATE: 5/20/2010

ORIGINATOR: Eisenbrey, Ross (Vice President)
ADDRESSED TO: Solis
CONSTITUENT: Aoun, Joseph & 12 Others
WH ID NUMBER:
ORGANIZATION: Economic Policy Institute (EPI)
DATE OF LETTER: 5/5/2010
SUBJECT: Oppose the Request DOL Reconsider Undertaking the Regulation of Internships/FLSA

ACTION AGENCY: WHD

DATE ROUTED: 5/5/2010

SIGNATURE LEVEL: SECY

REMARKS: PC# 604454, Open-Due 05/14/2010 Please Clear Response Through
ExSec Before Sending Fax Copy

INFO COPIES TO: D/S; NR; ALO; ASP; ETA; OASAM; OCIA; SOL

SPECIAL INSTRUCTION:

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O

ECONOMIC POLICY INSTITUTE
1333 H STREET, NW • SUITE 300, EAST TOWER • WASHINGTON, DC 20005

EX 6

605/46



May 5, 2010

The Hon. Hilda L. Solis
Secretary, U.S. Department of Labor
200 Constitution Ave., NW
Washington, D.C. 20210

Dear Secretary Solis:

The April 28 letter addressed to you from 13 university presidents about the Department of Labor's enforcement of the minimum wage and overtime law displays a nearly complete misunderstanding of the law the Department enforces. The letter closes with an astonishing request: "that the Department of Labor reconsider undertaking the regulation of internships."

This request is astonishing because, as you know, the Department of Labor has regulated internships as long as they have existed, insofar as internships are, in fact, employment. The Department has not proposed any change in its regulation but has merely sent a reminder to employers and employees that the law, the Fair Labor Standards Act of 1938, must be followed, along with guidance to help them comply.

What the law requires is, in one sense, very simple – that employers pay at least the minimum wage to employees whom they employ. This is as true for students as for other trainees, and has been the law for more than 70 years. When an internship is not employment, but is truly an educational experience for the benefit of the intern rather than for the economic benefit of the company, there is no requirement that the intern be paid.

But not all internships meet this test of educational benefit. Many so-called internships are nothing more than summer employment under a fancy name. Students go to work packing boxes, running errands, answering phones, doing filing and performing many other tasks that are of immediate benefit to the employer but have no real educational value. Even if such so-called internships are arranged through a college placement office, if the employer is not a government or a non-profit charitable organization, the "intern" must be paid for his or her work.

There is a good reason why internships must be paid when they fail this basic test. Otherwise, what's to stop employers from simply replacing regular paid employees with unpaid student workers? Particularly at a time of high unemployment, we have an obligation to guard vigilantly against employer practices that would seek to reduce labor costs by replacing paid employment with unpaid, illegal internships.

Universities can find themselves in a conflict of interest when the student "intern" is paying for college credits while placed off-campus in a private business. The university is spared the expense of providing a classroom, a teacher, security and counseling services, and might be less careful about ensuring that a quality educational experience is taking place. I have talked to students whose for-credit internships involved far more grunt work than education. Is that the kind of exploitation the universities are seeking to shield from Department of Labor enforcement and regulation?

The National Association of Colleges and Employers reports that more than three-quarters of employers responding to a recent survey "said they prefer candidates with the kind of relevant work experience gained through an internship." It would be unfair – both to American workers and to low- and moderate-income students who can't afford to take unpaid internships – to leave this important first career step unregulated. It would also be against the law.

Ultimately, what the universities are asking is that the Department of Labor look the other way and condone violations of the law, when they ought to be working closely with you to ensure that their students are protected by regulations that are vigorously enforced. I trust that you will not yield to the universities' self-serving request.

Sincerely,

Ross Eisenbrey

Ross Eisenbrey
Vice President
Economic Policy Institute

RECEIVED
MAY - 5 PM 2010

5/14/2010

DEPARTMENT OF LABOR

Executive Secretariat

CORRESPONDENCE CONTROL RECORD

CORRESPONDENCE ID: 606286

DUE DATE: 5/28/2010

ORIGINATOR: Merkley, Jeff (Sen)

ADDRESSED TO: Solis

CONSTITUENT: EX 6

WH ID NUMBER:

ORGANIZATION:

DATE OF LETTER: 5/6/2010

SUBJECT: Concerns About DOL's Regulation of Student Internships

ACTION AGENCY: WHD

DATE ROUTED: 5/14/2010

SIGNATURE LEVEL: APPROP

REMARKS:

INFO COPIES TO: NR, ASP, SOL, OCIA

SPECIAL INSTRUCTION:

C

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EC

CORRESPONDENCE CLOSED BY TELEPHONE (or other informal matter)

MEMORANDUM FOR WAGE & HOUR CORRESPONDENCE CONTROL RECORD

FROM: EX6
Wage and Hour Division/OEP/FLSA Branch (693-0685)

SUBJECT: Control No: 606286
Originator: Senator Jeffrey Merkley on behalf of Denise Murphy
107 Russell Senate Office Building
Washington, D.C. 20510
(202) 224-3753

EX6

EX6

Joyce Daniels of OCIA gave me permission to call Sen. Merkley's office 5-17-10. I spoke with Katherine Siros at the Senator's office on 5-19-10 and she gave me permission to call EX6. I left several messages for EX6 and she returned my call on 5-27-10. EX6 advised that a friend had called EX6 because EX6 has an unpaid position with a college football team and had heard that there is proposed legislation to eliminate internships.

I explained to EX6 that there is no legislation to eliminate internships and that the Department has created a fact sheet describing the criteria for unpaid internships. I emailed her a copy of the fact sheet and provided her the phone number for the WHD Portland DO if she has further questions (503) 326-3057. A written reply is not necessary.

I called Ms. Siros and advised her I had spoken to EX6 and provided her the fact sheet. When I spoke to Ms. Siros on 5-19-10 I had emailed her the fact sheet and she has given it to her staff. She hopes this will allow the staff to answer any further internship questions. She will close her file or EX6. A written reply is not necessary.

This action has been concurred and approved by:

Monty Savano 5/28/10

Approved by FLSA Branch Leader

Bonny Crosby 6/4/10

Approved by Bonny Crosby

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2010 JUN -7 A 9:46
EXEC. SECRETARIAT
OSEC-DOL

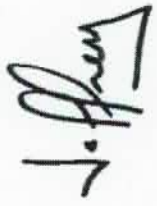
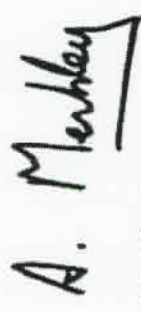
Acting Director, Office of Enforcement Policy

Attachment(s)(Original incoming letter and control slip)

United States Senate

WASHINGTON, DC 20510-3705

OFFICIAL BUSINESS

 
PRESRT STD U.S.S.

The Honorable Hilda L. Solis
Secretary of Labor
Department of Labor
200 Constitution Avenue, Nw
Washington, DC 20210-0002



DIUHTPI 20210



5/14/2010

DEPARTMENT OF LABOR

Executive Secretariat

CORRESPONDENCE CONTROL RECORD

CORRESPONDENCE ID: 606285

DUE DATE: 5/28/2010

ORIGINATOR: Merkley, Jeff (Sen)

ADDRESSED TO: Solis

CONSTITUENT: Thayer, Randall

WH ID NUMBER:

ORGANIZATION:

DATE OF LETTER: 5/6/2010

SUBJECT: Concerns About DOL's Regulation of Student Internships

ACTION AGENCY: WHD

DATE ROUTED: 5/14/2010

SIGNATURE LEVEL: APPROP

REMARKS:

INFO COPIES TO: NR, ASP, SOL, OCIA

SPECIAL INSTRUCTION:

C

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CONTACT YOUR CORRESPONDENCE UNIT

JEFF MERKLEY
OREGON

606285

COMMITTEES:
ENVIRONMENT AND
PUBLIC WORKS

HEALTH, EDUCATION,
LABOR, AND PENSIONS

BANKING, HOUSING,
AND URBAN AFFAIRS

BUDGET

United States Senate

WASHINGTON, DC 20510

May 6, 2010

The Honorable Hilda L. Solis
Secretary of Labor
Department of Labor
200 Constitution Avenue, Nw
Washington, DC 20210-0002

Dear Hilda,

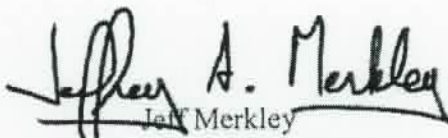
I am writing on behalf of my constituent, Mr. Randall Thayer, of Portland, Oregon.

I would appreciate it if you would review the enclosed information and respond directly to my constituent at:

8235 NE Airport Way
Portland, Oregon 97220

Thank you for your attention to this matter.

All my best,


Jeff Merkley
United States Senate

EX-100
05/06/10
2010 MAY 14 A 11:19
RECEIVED

Enclosure

JM/ks

JEFF MERKLEY
OREGON

United States Senate

WASHINGTON, DC 20510

606286

COMMITTEES:
ENVIRONMENT AND
PUBLIC WORKS
HEALTH, EDUCATION,
LABOR, AND PENSIONS
BANKING, HOUSING,
AND URBAN AFFAIRS
BUDGET

May 6, 2010

The Honorable Hilda L. Solis
Secretary of Labor
Department of Labor
200 Constitution Avenue, Nw
Washington, DC 20210-0002

Dear Hilda,

I am writing on behalf of my constituent. **Ex 6**

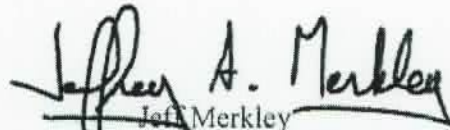
Ex 6

I would appreciate it if you would review the enclosed information and respond directly to my constituent at:

Ex 6

Thank you for your attention to this matter.

All my best,


Jeff Merkley
United States Senate

2010 MAY 14 A 11:19
EX-6
RECEIVED

Enclosure

JM/ks

Ex 6

Ex 6

Ex 6

If there is a movement to stop student internships please oppose it. I agree companies should not use it as a way to avoid salary costs or take a job from a worker. But internships are a valuable tool for students to get real on the job training which they will need when they enter their chosen field. I had them in college and don't believe I was displacing anyone. But it was as important as the classroom experience.

JOHN KERRY
MASSACHUSETTS

COMMITTEES:
COMMERCE, SCIENCE,
AND TRANSPORTATION
FINANCE
FOREIGN RELATIONS
SMALL BUSINESS

United States Senate

WASHINGTON, DC 20510-2102

May 11, 2010

The Hon. Hilda L. Solis
U.S. Department of Labor
Frances Perkins Building
200 Constitution Ave., NW
Washington, DC 20210

Dear Secretary Solis,

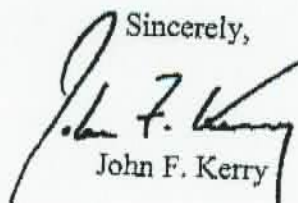
As you know, U.S. businesses, non-profit organizations and the federal government provide thousands of college students internships each year that provide them with invaluable professional and networking experience. Many paid and unpaid college internships across the country help students enter the workforce better prepared for their chosen career when they matriculate.

As the Department of Labor considers the regulation of college internships, I hope that you take into consideration the important exchange that happens between the intern and the institution. The student gains valuable experience that they then take with them back to college and ultimately to their profession. The benefit to the student can be immediate, while the institution benefits incrementally as the student learns. The college also benefits from having a relationship with the institution in the form of higher placement rates for their students and connections to employment opportunities for their graduates. I have seen this replicated time and time again in higher education institutions across the state of Massachusetts. Be it through internships, fellowships or co-op programs this symbiotic relationship helps foster economic development and a competitive workforce.

While I agree that we need to safeguard students from unpaid labor with no benefit to the student, a college internship is one of the best ways for students to be ready to enter the workforce before graduation. I understand that exploitation can and does happen and I applaud your efforts to curtail this practice, ensuring that internships continue to be a viable pathway to a successful career.

I hope you will consider any potential chilling affects on college internship programs before any regulatory steps are taken. If I or my staff can be of assistance please contact Alex Nunez of my office at alexandra_nunez@kerry.senate.gov. Thank you for your consideration in this matter.

Sincerely,



John F. Kerry

5/17/2010

DEPARTMENT OF LABOR

Executive Secretariat

CORRESPONDENCE CONTROL RECORD

CORRESPONDENCE ID: 606503

DUE DATE: 6/1/2010

ORIGINATOR: Kerry, John F. (Sen)

ADDRESSED TO: Solis

CONSTITUENT:

WH ID NUMBER:

ORGANIZATION:

DATE OF LETTER: 5/11/2010

SUBJECT: College Internships Help Students Enter The Workforce Better Prepared

ACTION AGENCY: ETA

DATE ROUTED: 5/17/2010

SIGNATURE LEVEL: APPROP

REMARKS:

INFO COPIES TO: NR, ASP, SOL, OCIA, OASAM

SPECIAL INSTRUCTION:

C

RETAIN WITH ORIGINAL CORRESPONDENCE
IF THE DUE DATE CANNOT BE MET,
CONTACT YOUR CORRESPONDENCE UNIT

United States Senate

WASHINGTON, DC 20510-2102

May 11, 2010

The Hon. Hilda L. Solis
U.S. Department of Labor
Frances Perkins Building
200 Constitution Ave., NW
Washington, DC 20210

RECEIVED
MAY 17 11 31 AM '10

Dear Secretary Solis,

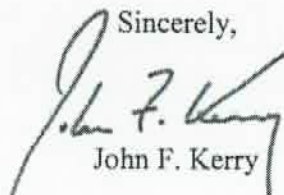
As you know, U.S. businesses, non – profit organizations and the federal government provide thousands of college students internships each year that provide them with invaluable professional and networking experience. Many paid and unpaid college internships across the country help students enter the workforce better prepared for their chosen career when they matriculate.

As the Department of Labor considers the regulation of college internships, I hope that you take into consideration the important exchange that happens between the intern and the institution. The student gains valuable experience that they then take with them back to college and ultimately to their profession. The benefit to the student can be immediate, while the institution benefits incrementally as the student learns. The college also benefits from having a relationship with the institution in the form of higher placement rates for their students and connections to employment opportunities for their graduates. I have seen this replicated time and time again in higher education institutions across the state of Massachusetts. Be it through internships, fellowships or co-op programs this symbiotic relationship helps foster economic development and a competitive workforce.

While I agree that we need to safeguard students from unpaid labor with no benefit to the student, a college internship is one of the best ways for students to be ready to enter the workforce before graduation. I understand that exploitation can and does happen and I applaud your efforts to curtail this practice, ensuring that internships continue to be a viable pathway to a successful career.

I hope you will consider any potential chilling affects on college internship programs before any regulatory steps are taken. If I or my staff can be of assistance please contact Alex Nunez of my office at alexandra_nunez@kerry.senate.gov. Thank you for your consideration in this matter.

Sincerely,



John F. Kerry

609244

Ex 6

May 17, 2010

Secretary of Labor
Hon. Hilda L. Solis
U.S. Department of Labor
200 Constitution Ave., NW
Washington, DC 20210

Dear Secretary Hollis:

I read that 13 college presidents recently petitioned you to de-regulate job internships. I'm glad you resisted them, but the problem is much worse than just student internships and low-end workers. UNPAID and sub-minimum wage *professional* "job" offers are everywhere... It's not just internships – this threatens ALL jobs and workers.

I am at wit's end. Fully *half* the jobs I see advertised offer *NO pay at all*. I am already up against looking for work over age 50 – these "job offers" are clearly illegal, and should not be allowed to be advertised. It's not just an insult – it's debilitating the economy.

What has to happen to stop this? The offers are already illegal. If the worker has to wait until they get hired to sue – that takes forever, the bills don't get paid, and the worker starves.

I have already emailed every state and federal representative and congressman I have. I can't believe that industry has such a stranglehold on government that this can be allowed.

You grew up in LA – you know how so many jobs here are in entertainment. Well, it's practically de rigeur for film and media producers to offer "jobs" at no or below minimum wage – and they stick to it. And now it's spread to other industries.

People are scared. I'm a multi-generational union member (I know you are, too) – and it doesn't help. As a freelancer, I have to consider non-union work, and both union and non-union employers push the limits as far as they can, especially in the film industry, where "companies" frequently only exist for a single film – then they fold as companies and re-emerge as a new company for the next film... a big shell game.

Madam Secretary, enforcement needs to start with the illegal ads that companies place for workers. This is not free speech. It is advertising. And I can't see how ads can be used to solicit something illegal – whether for drugs or free workers at for-profit companies.

We need to enforce fines and jail time if necessary. *Employers* need to be scared, instead of the workers. Right now, employers are running amok – and it's a race to the bottom.

I'm willing to do what I need to do to stay competitive, but *please*, help us play a fair game. Right now, it's completely stacked against workers of all kinds.

Please advise, thank you.

Sincerely yours

Ex 6

Ex 6

P.S. - I have now started a petition online to raise the profile of this problem. You will get a copy when it finishes.

Thanks

RECEIVED

U.S. Department of Labor

Wage and Hour Division
Washington, D.C. 20210



JUL 12 2010

Leslie E. Wong
President
Northern Michigan University
1401 Presque Isle Avenue
Marquette, MI 49855

Dear President Wong:

Thank you for your letter to U.S. Secretary of Labor, Hilda L. Solis regarding unpaid internships. Secretary Solis requested that I respond to your concerns.


The Department of Labor and its Wage and Hour Division agree with your assessment of the educational value that appropriate internships can have for students. We are also mindful, however, of the need to ensure that students who venture into the workforce receive the full protections of the Fair Labor Standards Act (FLSA), the federal minimum wage and overtime law. Consistent with the FLSA's remedial purpose of ensuring that employees are paid fairly, the Department carefully scrutinizes all categories of workers who may fall outside of the broad coverage of the employer-employee relationship to ensure that such exclusions are appropriate.

The Department has long recognized that bona fide "trainees" are not employees covered by the FLSA. We have applied the test used for trainees to determine whether an "intern" is an employee covered by the FLSA's protections. The Department recently published a Fact Sheet on internship programs. (See enclosed Fact Sheet 71: Internship Programs Under the Fair Labor Standards Act). As set forth in the enclosed Fact Sheet, an intern must meet six criteria in order to not be a covered employee under the FLSA. If the criteria are not met, then the intern is an employee entitled to at least the minimum wage for all hours worked and overtime pay at time-and-one-half for all hours worked over 40 in the workweek. Unless the internship experience is truly educational in nature and for the benefit of the intern—rather than for the economic benefit of the company—an employer-employee relationship exists. While a mutual agreement to not be paid is required, it is not sufficient. This test is neither a change in the law nor a new regulation.

The Department recognizes the important role that colleges and universities play in student internships, and considers whether a college or university exercises oversight over an internship and provides educational credit in determining whether the internship is an extension of the student's educational experience. The Department appreciates your recognition of your institutions' obligation to monitor your students' internship opportunities to ensure that they are "secure and productive environments that further their education." I'm sure you join us in wanting to ensure that a student's first exposure to the workplace is not exploitative and fully complies with our nation's labor laws.

Like you, I believe internships can be both a positive educational and workplace experience. I also believe that this can be achieved in a manner that complies with the FLSA and protects the rights of students who are covered by the Act. I would welcome the opportunity to have a further dialogue with you about what is necessary to ensure that happens.

Sincerely,



Stanley J. Leppink
Deputy Administrator

Enclosure

U.S. Department of Labor

Wage and Hour Division
Washington, D.C. 20210



JUL 12 2010

Pamela B. Gann
President
Claremont McKenna College
500 E. 9th Street
Claremont, CA 91711

Dear President Gann:

Thank you for your letter to U.S. Secretary of Labor, Hilda L. Solis regarding unpaid internships. Secretary Solis requested that I respond to your concerns.

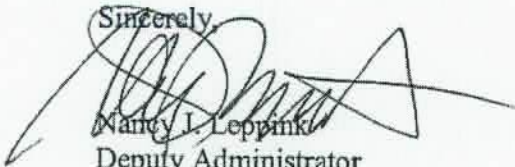
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Sincerely,



Nancy J. Leppink
Deputy Administrator

Enclosure

U.S. Department of Labor

JUL 12 2010

Wage and Hour Division
Washington, D.C. 20210



David E. Maxwell
President
Drake University
2507 University Avenue
Des Moines, IA 50311

Dear President Maxwell:

Thank you for your letter to U.S. Secretary of Labor, Hilda L. Solis regarding unpaid internships. Secretary Solis requested that I respond to your concerns.

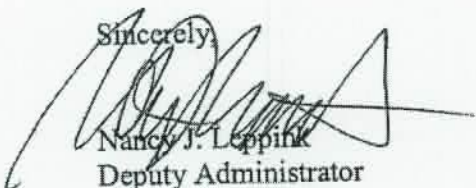
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Like you, I believe internships can be both a positive educational and workplace experience. I also believe that this can be achieved in a manner that complies with the FLSA and protects the rights of students who are covered by the Act. I would welcome the opportunity to have a further dialogue with you about what is necessary to ensure that happens.

Sincerely,



Nancy J. Leppink
Deputy Administrator

Enclosure

U.S. Department of Labor

JUL 12 2010

Wage and Hour Division
Washington, D.C. 20210



Stephen A. Privett
President
University of San Francisco
2130 Fulton Street
San Francisco, CA 94117

Dear President Privett:

Thank you for your letter to U.S. Secretary of Labor, Hilda L. Solis regarding unpaid internships. Secretary Solis requested that I respond to your concerns.

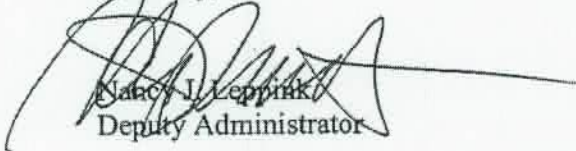
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Sincerely,



Nancy J. Leppink
Deputy Administrator

Enclosure

U.S. Department of Labor

Wage and Hour Division
Washington, D.C. 20210



JUL 12 2010

R. Gerald Turner
President
Southern Methodist University
6425 Boaz Lane
Dallas, TX 75205

Dear President Turner:

Thank you for your letter to U.S. Secretary of Labor, Hilda L. Solis regarding unpaid internships. Secretary Solis requested that I respond to your concerns.

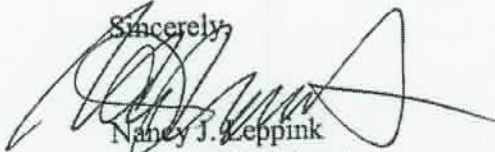
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Sincerely,



Nancy J. Leppink
Deputy Administrator

Enclosure

U.S. Department of Labor

Wage and Hour Division
Washington, D.C. 20210



JUL 12 2010

Mark G. Yudof
President
University of California
1111 Franklin Street, 9th Floor
Oakland, CA 94607

Dear President Yudof:

Thank you for your letter to U.S. Secretary of Labor, Hilda L. Solis regarding unpaid internships. Secretary Solis requested that I respond to your concerns.


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Sincerely,



Nancy J. Lepplak
Deputy Administrator

Enclosure

U.S. Department of Labor

Wage and Hour Division
Washington, D.C. 20210



JUL 12 2010

Charles R. Middleton
President
Roosevelt University
430 S. Michigan Avenue
Chicago, IL 60605

Dear President Middleton:

Thank you for your letter to U.S. Secretary of Labor, Hilda L. Solis regarding unpaid internships. Secretary Solis requested that I respond to your concerns.

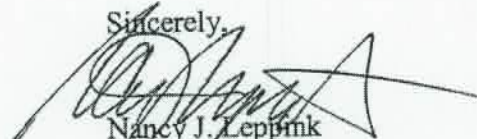
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Nancy J. Leppink
Deputy Administrator

Enclosure

U.S. Department of Labor

JUL 12 2010

Wage and Hour Division
Washington, D.C. 20210



Antoine M. Garibaldi
President
Gannon University
109 University Square
Erie, PA 16541

Dear President Garibaldi:

Thank you for your letter to U.S. Secretary of Labor, Hilda L. Solis regarding unpaid internships. Secretary Solis requested that I respond to your concerns.


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Sincerely,



Nancy J. Leppink
Deputy Administrator

Enclosure

U.S. Department of Labor

JUL 12 2010

Wage and Hour Division
Washington, D.C. 20210



Susan A. Cole
President
Montclair State University
1 Normal Avenue
Montclair, NJ 07043

Dear President Cole:

Thank you for your letter to U.S. Secretary of Labor, Hilda L. Solis regarding unpaid internships. Secretary Solis requested that I respond to your concerns.

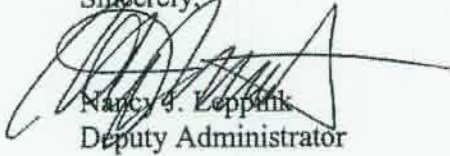
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Sincerely,

A handwritten signature in black ink, appearing to read "Nancy J. Leppink", is written over the typed name and title. The signature is stylized with a large, sweeping initial "N" and a long horizontal stroke extending to the right.

Nancy J. Leppink
Deputy Administrator

Enclosure

U.S. Department of Labor

Wage and Hour Division
Washington, D.C. 20210



JUL 12 2010

Robert A. Brown
President
Boston University
One Silber Way, 8th Floor
Boston, MA 02215

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Thank you for your letter to U.S. Secretary of Labor, Hilda L. Solis regarding unpaid internships. Secretary Solis requested that I respond to your concerns.

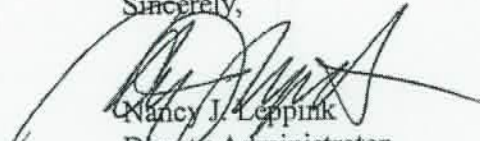
The Department of Labor and its Wage and Hour Division agree with your assessment of the educational value that appropriate internships can have for students. We are also mindful, however, of the need to ensure that students who venture into the workforce receive the full protections of the Fair Labor Standards Act (FLSA), the federal minimum wage and overtime law. Consistent with the FLSA's remedial purpose of ensuring that employees are paid fairly, the Department carefully scrutinizes all categories of workers who may fall outside of the broad coverage of the employer-employee relationship to ensure that such exclusions are appropriate.

The Department has long recognized that bona fide "trainees" are not employees covered by the FLSA. We have applied the test used for trainees to determine whether an "intern" is an employee covered by the FLSA's protections. The Department recently published a Fact Sheet on internship programs. (See enclosed Fact Sheet 71: Internship Programs Under the Fair Labor Standards Act). As set forth in the enclosed Fact Sheet, an intern must meet six criteria in order to not be a covered employee under the FLSA. If the criteria are not met, then the intern is an employee entitled to at least the minimum wage for all hours worked and overtime pay at time-and-one-half for all hours worked over 40 in the workweek. Unless the internship experience is truly educational in nature and for the benefit of the intern—rather than for the economic benefit of the company—an employer-employee relationship exists. While a mutual agreement to not be paid is required, it is not sufficient. This test is neither a change in the law nor a new regulation.

The Department recognizes the important role that colleges and universities play in student internships, and considers whether a college or university exercises oversight over an internship and provides educational credit in determining whether the internship is an extension of the student's educational experience. The Department appreciates your recognition of your institutions' obligation to monitor your students' internship opportunities to ensure that they are "secure and productive environments that further their education." I'm sure you join us in wanting to ensure that a student's first exposure to the workplace is not exploitative and fully complies with our nation's labor laws.

Like you, I believe internships can be both a positive educational and workplace experience. I also believe that this can be achieved in a manner that complies with the FLSA and protects the rights of students who are covered by the Act. I would welcome the opportunity to have a further dialogue with you about what is necessary to ensure that happens.

Sincerely,



Nancy J. Leppink
Deputy Administrator

Enclosure

U.S. Department of Labor

Wage and Hour Division
Washington, D.C. 20210



JUL 12 2010

Joseph E. Aoun
President
Northeastern University
360 Huntington Avenue
Boston, MA 02115-2000

Dear President Aoun:

Thank you for your letter to U.S. Secretary of Labor, Hilda L. Solis regarding unpaid internships. Secretary Solis requested that I respond to your concerns.


The Department of Labor and its Wage and Hour Division agree with your assessment of the educational value that appropriate internships can have for students. We are also mindful, however, of the need to ensure that students who venture into the workforce receive the full protections of the Fair Labor Standards Act (FLSA), the federal minimum wage and overtime law. Consistent with the FLSA's remedial purpose of ensuring that employees are paid fairly, the Department carefully scrutinizes all categories of workers who may fall outside of the broad coverage of the employer-employee relationship to ensure that such exclusions are appropriate.

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Nancy J. Leppink
Deputy Administrator

Enclosure

U.S. Department of Labor

Wage and Hour Division
Washington, D.C. 20210



JUL 14 2010

The Honorable John F. Kerry
United States Senate
Washington, D.C. 20510

Dear Senator Kerry:

Thank you for your letter to Secretary of Labor Solis regarding the issue of unpaid internships. Secretary Solis requested that I respond to your concerns. We appreciate your thoughts on the matter, particularly given that you share our concerns about students entering into exploitative work arrangements.

The Secretary and I agree with your assessment that internships can have educational value and, as such, can play a significant role in preparing students for their future careers. However, the law is very clear about when an internship may be unpaid and not be a violation of the Fair Labor Standards Act (FLSA).

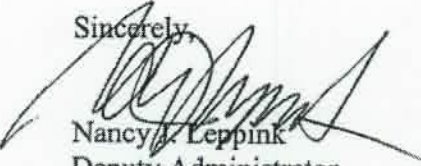
The determination of whether an internship or training program may be unpaid and still comport with the law rests on six criteria. (See enclosed Fact Sheet 71: Internship Programs Under the Fair Labor Standards Act). For example, the internship experience must be truly educational in nature and for the benefit of the intern rather than for the economic benefit of the company. If the six criteria are not met, the intern is an employee under the FLSA entitled to at least the minimum wage for all hours worked and overtime pay at time-and-one-half for all hours worked over 40 in the workweek. The test is neither a change in the law nor a new regulation.

As I recently wrote several university presidents who expressed similar concerns about the legality of unpaid internships, academic institutions play an important role in monitoring student internship opportunities to ensure that they provide a secure and productive environment that furthers the student's education. The Department recognizes the benefits of internships that are truly educational in nature and considers whether a college or university exercises oversight over an internship and provides educational credit in determining whether the internship is an extension of the educational experience.

Like you, I believe internships can be both a positive educational and workplace experience. I also believe this can be achieved in a manner that complies with our laws and protects the rights of students. I would welcome the opportunity to discuss this important issue further with you or your staff.

Thank you again for your letter. If we can provide additional assistance on this matter, please contact Janna Bergquist in the Office of Congressional and Intergovernmental Affairs at 202-693-4600.

Sincerely,



Nancy A. Leppink
Deputy Administrator

Enclosure

U.S. Department of Labor

Wage and Hour Division
Washington, D.C. 20210



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Concurrence	Initials					
	Date					
	Last Name					
	Office Symbol					
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