

## Search

Search for:

Search

**THE INTERNSHIP INSTITUTE**  
*Assuring the Quality, Integrity and Value of Internships*

- [Home](#)
- [About Us](#)
- [Programs](#)
- [Resources](#)
- [Services](#)
- [Register](#)

## [Court slaps DOL on unpaid-intern rules](#)

[Home](#) » [Blog](#) » [Court slaps DOL on unpaid-intern rules](#)

type here to search

 Posted on 5, May |  Posted by cmjaffe

May 4, 2011 by Tim Gould -

(reposted from <http://www.hrmorning.com>)

About this time last year, the Department of Labor was making noise about cracking down on companies who used unpaid interns. Now a federal judge has ruled the DOL regs are “overly rigid and inconsistent.”

You’ll remember that the DOL issued a [fact sheet](#) outlining six scenarios under which it’s OK to use unpaid interns. Here’s the fed’s six-point test:

1. Is the training similar to what would be given in a vocational school or academic educational instruction?
2. Is the training for the benefit of the trainees or students?
3. Do the trainees or students work under their close observation of regular employees without displacing them?
4. Does the employer derive no immediate advantage from the activities of the trainees or students, and on occasion are the employer’s operations actually impeded?
5. Are the trainees or students not necessarily entitled to a job at the conclusion of the training period?
6. Do the employer and the trainees or students understand that the trainees or students are not entitled to wages for the time spent in training?

The recent case involved private school students who worked part-time, unpaid, in a school-owned nursing home. The DOL sued the school, saying the students were providing actual services to the medical facility, and should be regarded as employees.

The feds pointed to the six-point test as the standard the court should use in deciding whether or not the

students were employees.

The court declined. “We find the (DOL) test to be a poor method for determining employee status in a training or educational setting,” the judge wrote. “(I)t is overly rigid and inconsistent with a totality-of-the-circumstances approach.”

Finally, the court found that while the school did benefit from the students’ activities, the primary benefit of the program was the education received by the students. Thus, they were properly classified as unpaid interns.

### **Don’t let your guard down**

Although the employer prevailed here, it’s still pretty clear that companies need to take a hard look at unpaid internship programs. Bottom line: If your company benefits from the work an intern does, the person’s got to be paid.

But it’s also reassuring to know that if an employer can make a case that the participants are reaping the lion’s share of the benefit of an internship program, judges aren’t going to automatically go along with a DOL lawsuit.

*Cite: Solis v. Laurelbook Sanitarium and School, Inc.* To read the full decision, go [here](#).

There are no comments yet

---

### **Leave a comment**

Your name:	<input type="text"/>
Your email:	<input type="text"/>
Comment:	<input type="text"/>
<input type="button" value="Reset"/>	<input type="button" value="Submit"/>

### **Looking for Speakers?**

We speak at conferences, professional gatherings and on campuses on topics that include: How to Find and Succeed in an Internship, E-Portfolios: Strategies for Standing Out, Legal and Ethical Issues Around Internships, Internships as a Talent Development Pipeline

### **Topic Categories**

Select Category

### **Recent Posts**

- [Court slaps DOL on unpaid-intern rules](#)
- [Unpaid Interns, Complicit Colleges](#)

## About TII

The Internship Institute is a non-partisan, 501c3 non-profit whose mission is to assure the quality, integrity and success of internships.

-----  
National Office:  
700 13th St. NW Suite 220  
Washington, DC 20005  
866.60.INTERN (604.6837)

-----  
Northeast Regional Office:  
2865 S. Eagle Road  
Newtown, PA 18940 s

## Upcoming Events

Maximize the Productivity of Your Internship Program - Learn how to prepare interns and staff to get the most from the time invested from Leading internship expert Matthew Zinman. June 9th, 3-4pm EST. [Sign up now>>](#)

## TII News

- [Court slaps DOL on unpaid-intern rules](#)
- [Unpaid Interns, Complicit Colleges](#)
- [Internship Success Launches New Intern Preparation Course](#)
- [Federal Internship Programs Revamp](#)

## Support the Institute



We need your support! Consider the following ways to contribute:

1. Become a sponsor
2. Join as a professional internship program manager
3. Get your program certified
4. Train your supervisors and interns
5. Contribute to the unpaid interns fund

© 2012 The Internship Institute

[Register](#) | [Careers](#) | [Events](#) | [Login](#) 