



## Volunteering and Unpaid Internships

The issue of volunteering may seem simple, but it is actually a complex area where immigration regulations and labor laws intersect. There is more to distinguish between employees and volunteers than whether an individual is paid—work that is unpaid might still be considered employment for F-1 or J-1 status holders. If you are an international student in F-1 or J-1 status, you should be aware of the regulations so that you do not violate any laws and participate in unauthorized employment. Unauthorized work can have severe consequences, including the termination of your F-1 or J-1 status and putting future US visa applications and immigration benefits at risk.

US federal immigration regulations define *an employee as someone who performs services “for wages or other remuneration”* [8 CFR 274a.1(f)]. Remuneration can include monetary reimbursements or food. The guide is the US Fair Labor Standards Act of 1938, as amended.

### Volunteer Work

The US Department of Labor uses Section 3(e)(4) of the FLSA to determine what constitutes a volunteer. The following guidelines apply:

- No expectation of compensation
- The volunteer cannot displace a genuine employee or provide services that are the same as services provided by a paid employee
- The services provided by the volunteer should not be the same services for which he or she was previously paid and/or expects to be hired and paid for in the future
- The services must be entirely voluntary
- Services are performed for a non-profit organization
- Services are performed for civic, charitable, or humanitarian purposes

[From <https://webapps.dol.gov/elaws/whd/flsa/docs/volunteers.asp>]

Students in F-1 or J-1 status are permitted to engage in volunteer work as long as it meets the above criteria.

### Unpaid Internships

To determine whether an internship is considered a legitimate unpaid internship (and not employment below minimum wage, in violation of US labor laws), several factors are considered. No single factor is determinative. The factors include:

- The employer and the intern understand that there is no expectation of compensation
- The internship is similar to training which would be given in an educational environment
- The internship is tied to the intern’s education program by integrated coursework or the receipt of academic credit
- The internship accommodates the intern’s academic commitments by corresponding to the academic calendar
- The internship’s duration is limited to the period in which the intern is provided with beneficial learning
- The intern’s work does not displace paid employees
- The intern is not necessarily entitled to a job at the end of the internship

[From <https://www.dol.gov/whd/regs/compliance/whdfs71.htm>]

Authorization for Curricular Practical Training (CPT) is required for all unpaid internships. You can find more information about CPT on the OU ISS website, under “Jobs for Students.”

### Students on OPT

F-1 international students on Optional Practical Training (OPT) can count qualifying volunteer work and unpaid internships toward their USCIS employment requirements as long as the work is in their field of study and more than 20 hours per week. Reporting non-qualifying volunteer opportunities as OPT employment will be deemed a violation of your reporting requirements and subject you to removal from the United States. In addition, non-qualifying volunteer positions do not stop the accrual of unemployment, which is limited to a total of 90 days during OPT. If you are not sure if your volunteer work qualifies, please talk to your ISS adviser.

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