



denverpost.com

Monday, June 04, 2007

Home News Politics Sports Business Entertainment Style Opinion Outdoors Travel

Classifieds Jobs Autos Homes Shopping

Al Lewis Aerospace Airlines Economy / Real Estate Energy / Mining Food / Retail Healthcare Money Technology Tourism Telecom Stocks: Local - Lookup - My Portfolio

Subscribe / Customer Care PDF Electronic Edition RSS Web Feeds Email Newsletters

Search

Search

Home > Business

business | online extras

Businesses shouldn't use summer interns as substitute employees

By Joyce M. Rosenberg
The Associated Press

Article Last Updated: 06/01/2007 05:15:25 PM MDT

Print Email

New York - Across the country, as millions of high school and college students spend the summer working as interns at small businesses, company owners should be aware that treating these young people as unpaid workers could run them afoul of federal and state labor authorities.

Labor lawyers and human resources executives, who note that internships are intended to educate or train students and help them earn school credit, say many small businesses make the mistake of using interns to do the same work other staffers do. Many use interns to fill in for vacationing employees, or do odd jobs around the office or factory.

If these interns aren't being paid, that's a violation of the federal Fair Labor Standards Act and also laws in many of the states, said Marc Zimmerman, a labor and employment attorney with the law firm Philips Nizer LLP in New York.

"You must pay at least minimum wage for all hours actually worked" and overtime when applicable, Zimmerman said.

Zimmerman said that under federal law - which sees an internship as a training program - there are six criteria that an internship must meet. Fail to meet any one of them, and the government could consider the intern to be an employee.

First, he said, the intern must receive training similar to what he or she would receive in a vocational school. Second, the training must be for the benefit of the intern. Third, the intern must not be displacing a regular employee - in other words, doing a regular employee's work.

No. 4 is probably the acid test: "An employer has no immediate advantage from the activities" of the intern, Zimmerman said.

Fifth, the intern is not necessarily entitled to a job at the end of the internship, and sixth, both the intern and the employer understand that the intern is not entitled to wages. A student may be able to receive a stipend, however.

Violating the FLSA can subject a small business to steep fines and penalties. A company can also leave itself open to federal and state human rights laws violations if an intern is not paid for work and should be, Zimmerman said.

There are other legal considerations, said Rick Gibbs, a senior human resources specialist with the professional employment organization Administaff Inc. "There could be liability issues in terms of having a person work in a dangerous situation, and certain requirements in respect to minor labor laws," if the intern is under age 18, Gibbs said.

Beyond legal issues, internships can be problematic because students need to be doing tasks that will help them learn - that's what the internship is supposed to be all about.

"Make sure the internship is closely related to some actual academic course of study or provides practical work experience," Zimmerman said.

An owner should carefully think through what the intern is going to be doing - ideally coordinating with school officials to determine what their requirements are for giving students credit.

Gibbs said owners need to be prepared to commit time and attention - either theirs or staffers' - to supervise and teach the intern, something he said many fail to do.

"They don't have time to spend time with the person and it becomes sort of a burden to write the reports or the performance reviews" that a school often requires, he said.

It's a good idea to put on paper exactly what the internship will be about, to be sure it accomplishes the school's and the student's goals, Gibbs said.

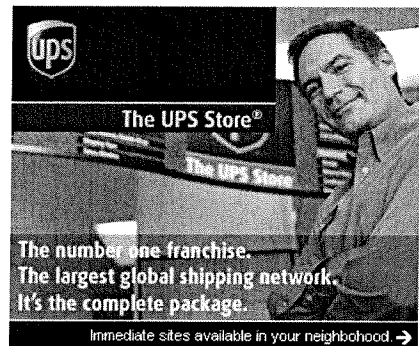
"You need to distinguish it from a summer job or a person who just wants to come to work at a place to just put on their resume," he said.

But, Zimmerman warned, you need to keep the government's requirements in mind as you put the internship together. No matter what your intent is, the government looking at the situation might say otherwise.

"Just because you call someone a volunteer, or an intern doesn't make them that," Zimmerman said.

Top Business Stories

A key place to unlock Asia market
Shares' boost seen as mild
Coloradans find cafeterias tray chic
Week ahead
Comcast, DPS mull partnership
Brand of plenty



Top Stories

Paying the price
Democratic candidates spar over Iraq
DPS expects closure fights
Overend not over hill at Teva Games
Credit-score upgrades skew creditors
Sam Adams close to signing with Broncos

Most Popular Stories

'Chilling' terror plot foiled
Elephant 'talk' travels through ground
Dems debate war on terrorism
Rox erase six-run deficit to win
Immigration push tests GOP base
How-to on workplace hooky: Easy does it with the hooley
A life-or-death issue for millions
Boeing jet order will take off - if fat cats take off pounds
Faster airport security for first class isn't fair
Rox to shuffle back end of rotation?

Marketplace Links

40% Off Siding
Durable, attractive and fade-resistant siding.
www.khwindows.com

Cave of the Winds
Explore a Colorado Cave with your family. Book your adventure today!
www.CaveOfTheWin.com

Efficient Gutter Remodels
Give your house a face lift with some

2007 8:35 AM