



Are Students' Rights Violated in Field Practicums?: A Review of the Fair Labor Standards Act in Social Work Field Education

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Abstract

In recent years, there has been much confusion over whether or not internships violate the Fair Labor Standards Act (FLSA). This article discusses the catalyst leading to the media coverage of internships as a "hot button issue" in higher education. The author distinguishes between traditional internships and the nature of the social work field practicum. The article also outlines the importance of field education programs remaining structured, organized, and well-staffed to provide the significant oversight needed to ensure educational opportunities are afforded to students and to protect students, staff, faculty, and universities from potential litigation.

In the past few years, there has been much discussion throughout universities and higher education groups as to whether or not unpaid internships are in violation of the Fair Labor Standards Act (FLSA). The topic reached a climax when unpaid interns sued companies for violations of the FLSA, claiming they could provide evidence that no educational benefit to the student occurred. In most of those cases, the interns' duties revolved around taking lunch orders and answering phone calls with no structure, oversight, or clear educational goals provided by the college or university. In an increasingly competitive economy and unstable job market, students today recognize the importance of supplementing their academic courses with practical skill building through internships and field practicums. Almost two-thirds of all graduates in 2013 worked in an internship or "cooperative-education assignment" during their college years (Mangan, 2014, p. 2). Despite the growing number of interns, there appears to be little guidance or oversight to ensure their fair treatment as unpaid volunteers.

Are Unpaid Internships Free Labor?

Amid the controversy, the National Association of Colleges and Employers (NACE), representing more than 3,000 higher education institutions and employing organizations, released a position statement regarding unpaid internships in 2010. NACE recognized that the definition of "internship"

can vary widely depending on the university and the academic discipline in which “real-world” experiences may or may not be required for academic credit. Therefore, NACE asserted, “The broad use of this term [internship] to cover diverse circumstances makes it difficult to apply common and consistent standards, guidelines, and applicable policies” (NACE, 2010, para. 2). *The Chronicle of Higher Education*, the foremost news and information source for faculty and staff within colleges and universities, also reported on the concern that a common interpretation of the labor laws may mislead academia and businesses to believe “that academic credit can substitute for compensation and qualify interns as legally unpaid trainees” (McDermott, 2013, p. 1).

What is the Fair Labor Standards Act?

The Fair Labor Standards Act outlines standards for basic minimum wage compensation, appropriate working conditions, and restrictions for working youth under the age of 16. The FLSA is administered by the Employment Standards Administration’s Wage and Hour Division within the U.S. Department of Labor. In 2010, the U.S. Department of Labor Wage and Hour Division provided a fact sheet that helps define internship standards (For clarification visit: <http://www.dol.gov/whd/regs/compliance/whdfs71.htm>).

Compliance with the Fair Labor Standards Act, as it relates to internships, is based on six criteria (also called the six-point test) for for-profit private sector employers:

- The internship, even though it includes actual operation of the facilities of the employer, is similar to training which would be given in an educational environment;
- The internship experience is for the benefit of the intern;
- The intern does not displace regular employees, but works under close supervision of existing staff;
- The employer that provides the training derives no immediate advantage from the activities of the intern; and on occasion its operations may actually be impeded;
- The intern is not necessarily entitled to a job at the conclusion of the internship; and
- The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship (U.S. Department of Labor, 2010).

However, even with the above criteria, there still appears to be some confusion on whether businesses, either for-profit or non-profit, are abiding by the law. In fact, NACE’s position paper called for the U.S. Department of Labor’s six-point test to be reconsidered and further clarified to account for the diversity among internships within higher education (NACE, 2010).

Internships versus Field Practicums?

When reviewing the U.S. Department of Labor’s six criteria through the lens of social work education, field practicum requirements as set forth by the Council on Social Work Education (CSWE) appear to abide by the Fair Labor Standards Act. In 2014, CSWE released a statement concurring that field education meets the stipulations. All social work students, both in undergraduate and graduate programs, are required to complete a field practicum as an academic assignment within the degree

requirements. Social work educators prefer the term “field practicum” rather than “internship,” because it denotes a clear difference between the two. One of the most frequently asked questions by students as they begin the field placement process is, “What is the difference between an internship and a field practicum?” While many disciplines may or may not require some internship experience for academic credit, social work education identifies a field practicum experience as the “signature pedagogy,” a common term used in professional programs such as medicine, engineering, teaching, law, and social work. The Council on Social Work Education further defines the term in their 2008 Educational Policy and Accreditation Standards, stating the “signature pedagogy represents the central form of instruction and learning in which a profession socializes its students to perform the role of practitioner” (CSWE, 2008, p. 8). The Council also clarifies that the “intent of field education is to connect the theoretical and conceptual contribution of the classroom with the practical world of the practice setting. It is the basic precept of social work education that the two interrelated components of curriculum – classroom and field – are of equal importance within the curriculum” (CSWE, 2008, p. 8).

Therefore, field practicums are very different from an internship. When comparing the six-point test with social work field practicum standards, even when students are placed in for-profit private sectors, such as a placement in a medical setting, the emphasis on the educational experience as the signature pedagogy is evident. Field practicums, by their very nature, are controlled and supported training opportunities for students to earn required academic credit and actual practice experience. For those schools of social work housed within other more academically oriented departments, such as sociology, psychology, family studies, etc., it is apparent that social work tends to provide significantly more oversight within the field practicum experience. This is certainly one of those areas where accreditation standards are beneficial when justifying personnel time and costs associated with field practicums in higher education. Unlike most disciplines, social work programs require a consistent classroom experience, sometimes known as a field seminar, to explore practicums in an educational environment, tying the theoretical and practical together under the guidance of a faculty member with significant practice experience. Social work field practicums also require students to attain certain levels of experience for educational gain by, for example, working directly with clients and managing a caseload independently, as opposed to making copies, taking lunch orders, and answering phones, which may suffice for other disciplines’ internship requirements.

Implications for Field Educators

The criteria outlined by the U.S. Department of Labor emphasize the importance of the social work field practicum being a truly educational experience. The criteria also highlight the necessity of agencies, field instructors, and students to take the field seminar assignments, including the learning contract, seriously during the practicum period. It is also an important consideration for those programs that may be removing the field seminar as an integrated classroom experience. CSWE warns that, although field education meets the Department of Labor stipulations, “ the six criteria

[...] must be documented and defensible for unpaid internship positions” (CSWE, 2014, p.1). When focusing on the educational needs of a student, agencies and field instructors are less likely to “displace or duplicate the work of paid employees,” which may be considered a labor law violation under the six criteria (Mangan, 2014, p. 4). Ultimately, social work programs with structured and well-staffed field education offices provide the necessary support and gatekeeping to ensure students are treated fairly and agencies are abiding by their affiliation agreements with the university to provide a true educational experience for students.

For more information on the Fair Labor Standards Act, visit: <http://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf>

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