

Volunteering and Unpaid Internships

Volunteering while on a student visa is not as simple as it may first seem. While no payment is involved in volunteering, you still must be aware of the regulations so that you don't violate your status by participating in unauthorized employment.

If you are an international student with an F-1 or J-1 visa status, keep in mind that any off-campus employment must be authorized. Off-campus employment without authorization is a status violation and will result in the loss of your immigration status. Unauthorized employment is considered a serious status violation by the U.S. government, so it's important to know the rules about volunteering and unpaid internships before you engage in any off-campus activity.

Volunteering

Volunteering refers to donating time with an organization whose primary purpose is charitable or humanitarian in nature, without compensation. If you are interested in volunteering, you must be aware of the regulations so you do not violate any laws or participate in unauthorized employment.

Volunteer work can generally be identified as a position in which a person is not normally paid or would expect to be paid for their time and efforts. Additionally, volunteering often does not require any special academic skills, and a wide range of individuals could perform the same work.

The following are examples of volunteer opportunities that do not require authorization:

- Walking dogs or cleaning kennels for an animal shelter
- Serving on a church committee that organizes youth groups
- Spending time making meals for the elderly or homeless
- Assisting with events put on by a non-profit organization

If you would like to volunteer but are unsure if your volunteer opportunity is permissible under your visa type, please check with the ISSS office.

Unpaid Internships

Most often, unpaid internships relate to a student's area of study and the student may be using the internship as professional or career-based experience. Unpaid internships **do** require work authorization, and students must be approved for either CPT or pre-completion OPT in order to participate in an unpaid internship.

If students do not obtain work authorization for internships, their F1 status will be terminated for unauthorized employment. Work that is unpaid may still be considered employment for F-1 visa holders.

For more information about applying for CPT, please read the [CPT policy guide](#).

If you have questions about your unpaid internship, please check with the ISSS office.

Volunteering While on OPT

Students are eligible to count volunteering or unpaid internships as OPT employment, provided the opportunity does not violate U.S. labor laws. The volunteer position or unpaid internship must meet all other OPT regulations, including that it is related to the student's major and is at least 21 hours per week.

If a student accepts a volunteer or unpaid position that does not comply with U.S. labor laws, the time spent in that position will count as unemployment time and may also expose the employer to wage law penalties such as having to pay back wages.

The principal federal labor law concerned with unpaid positions is the Fair Labor Standards Act (FLSA), which requires individuals performing work to be paid for their services. The following is a test that students can consider when accepting an unpaid position (generally for a private, for-profit company). This "primary beneficiary test" helps to determine whether an intern is in fact an employee under FLSA. In short, this test allows courts to examine the "economic reality" of the intern-employer relationship to determine which party is the "primary beneficiary" of the relationship.

Courts have described the "primary beneficiary test" as a flexible test, and no single factor is determinative. Accordingly, whether an intern or student is an employee under the FLSA necessarily depends on the unique circumstances of each case.

1. The extent to which the intern and the employer clearly understand that there is no expectation of compensation. Any promise of compensation, express or implied, suggests that the intern is an employee-and vice versa.
2. The extent to which the internship provides training that would be similar to that which would be given in an educational environment, including the clinical and other hands-on training provided by educational institutions.
3. The extent to which the internship is tied to the intern's formal education program by integrated coursework or the receipt of academic credit.
4. The extent to which the internship accommodates the intern's academic commitments by corresponding to the academic calendar.
5. The extent to which the internship's duration is limited to the period in which the internship provides the intern with beneficial learning.
6. The extent to which the intern's work complements, rather than displaces, the work of paid employees while providing significant educational benefits to the intern.
7. The extent to which the intern and the employer understand that the internship is conducted without entitlement to a paid job at the conclusion of the internship.

General information on labor laws is available on the Department of Labor's [Wage and Hour Division website](#). Definitively assessing an unpaid activity's compliance with labor laws, however, is generally beyond the scope of expertise of the ISSS office. Students who wish to pursue unpaid activities to satisfy the 90-day unemployment limit who wish to have a professional assessment can choose to consult an experienced labor lawyer.

Volunteering While on STEM OPT

Unlike post-completion OPT, hours spent in an unpaid or volunteer position during 24-month STEM OPT do **not** constitute employment for purposes of the 24-month STEM OPT rule. For 24-month STEM OPT, a student must engage in paid employment for at least 21 hours per week for each employer with whom he or she works during the 24-month STEM OPT period.

Students who are employed on STEM OPT may perform volunteer services (in addition to fulfilling all employment requirements) if the volunteering is a true volunteer opportunity and does not violate federal labor laws.

***Disclaimer:** International Student & Scholar Services (ISSS) provides support and information related to U.S. immigration laws and regulations related to F and J status at the University of Utah. ISSS staff are not attorneys and any information provided by ISSS should not be construed as legal advice. Individuals are welcome to consult a qualified immigration attorney for specific legal advice, particularly in complicated cases. For a list of local Utah attorneys please visit our website [here](#).*

***Employment:** ISSS reviews work related requests based upon the information provided to us by the student. If USCIS later determines that the student misused the work authorization, or otherwise did not follow the required rules and regulations, additional immigration benefits could be denied by USCIS.*