

News for Employers Hiring Summer Interns

Over the years, many of you have asked us whether an intern may perform services at your company without compensation. The question takes on some urgency during this time of the year, when students on summer break want the experience of working in a corporate setting.

The Wage and Hour Division of the U.S. Department of Labor (DOL) has issued a fact sheet on internship programs under the Fair Labor Standards Act, which sets forth a six-part test for determining whether a person may participate in an internship program without compensation. The factors are:

1. 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;
2. The internship experience is for the benefit of the intern;
3. The intern does not displace regular employees, but works under close supervision of existing staff;
4. 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;
5. The intern is not necessarily entitled to a job at the conclusion of the internship; and
6. The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship.

The fact sheet is available at <http://www.dol.gov/whd/regs/compliance/whdfs71.pdf>

Please note that there is no requirement to complete an I-9 form for an unpaid intern. Under the employer sanctions law, an employer must complete the form I-9 when it hires any person to perform services in the United States *in return for wages or other compensation*.

To discuss any particular cases, please contact us:

Ted Ruthizer	(212) 715-9421	truthizer@kramerlevin.com
Mark D. Koestler	(212) 715-9385	mkoestler@kramerlevin.com
Matthew S. Dunn	(212) 715-9408	mdunn@kramerlevin.com
Naomi Schorr	(212) 715-9339	nschorr@kramerlevin.com
Jennifer R. Danzo	(212) 715-9270	jdanzo@kramerlevin.com
Allison D. Gray	(212) 715-9439	agrays@kramerlevin.com
William Johnson	(212) 715-9454	wjohnson@kramerlevin.com
Jeffrey A. Barlekamp	(212) 715-9241	jbarlekamp@kramerlevin.com

About Kramer Levin's Business Immigration Group:

Chambers USA and *Chambers Global* have consistently ranked Kramer Levin's Business Immigration Group within the top tier (Band One) of immigration practices. We are one of only two firms in New York to be so listed, and one of only six firms throughout the entire country to have this ranking. Our lawyers have been recognized for their excellence by *Best Lawyers in America*, *Legal 500*, *Lawdragon*, *The International Who's Who of Business Lawyers* (Corporate Immigration), *Human Resource Executive* and *New York Super Lawyers*. Ted Ruthizer was named New York's Immigration Lawyer of the Year for 2010 by *Best Lawyers*. We act as immigration counsel to many leading multinational companies in all sectors of the economy.

This memorandum provides general information on legal issues and developments of interest to our clients and friends. It is not intended to provide legal advice. Readers should seek specific legal advice before taking any action with respect to the matters we discuss here. Should you have any questions or wish to discuss any of the issues raised in this memorandum, please contact one of the members of our Business Immigration Group.

Kramer Levin Naftalis & Frankel LLP

1177 Avenue of the Americas
New York, NY 10036
Phone: 212.715.9100
Fax: 212.715.8000

47, avenue Hoche
75008 Paris
Phone: (33-1) 44 09 46 00
Fax: (33-1) 44 09 46 01

www.kramerlevin.com