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PAY REMINDER FOR SUMMER INTERNS: 'Tis the season for...interns...and that age old question, should you pay them or not? The United States Department of Labor (DOL) mandates that you apply a six part test to determine if intern pay is required by the Fair Labor Standards Act (FLSA). In order to avoid paying interns, you must satisfy all six of the following factors:

- (1) The training is similar to what would be given in a vocational school or academic educational instruction
- (2) The training is for the benefit of the trainees or students
- (3) The trainees or students do not displace regular employees, but work under their close observation
- (4) The employer that provides the training derives no immediate advantage from the activities of the trainees or students, and on occasion the employer's operations may actually be impeded
- (5) The trainees or students are not necessarily entitled to a job at the conclusion of the training period
- (6) The employer and the trainees or students understand that the trainees or students are not entitled to wages for the time spent in training.

If your program does not satisfy all six of these points, the intern's time is considered hours worked under FLSA and you must pay the intern in accordance with federal laws. For more details, you can read an informal DOL opinion on this point at:

http://www.dol.gov/esa/whd/opinion/FLSA/2006/2006_04_06_12_FLSA.htm

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Legal-mail is a legal and legislative update service sent out about twice a month to various Utah SHRM members and chapters. As a courtesy to SHRM, the Utah law firm of Jones Waldo Holbrook & McDonough P.C. underwrites the costs of the service. If you have any questions or comments, please contact Michael Patrick O'Brien.

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