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Unpaid Interns, Registered Apprentices, and Volunteers – Rhode Island

Background

Many people are curious about what happens at a farm and would be happy to volunteer a few hours of labor in return for the experience of farming. Others would be willing to work as an unpaid intern in order to gain valuable knowledge and farm skills. To a farmer (or any other employer), the prospect of free labor is appealing. But is it legal? Do you understand the distinction between registered apprentices, paid and unpaid interns and volunteers? This Lightning Guide summarizes the legal requirements for these workers under Rhode Island law.

Interns: For-profit employers

An intern typically works for a fixed period of time and is provided practical skills and workplace experience. Federal law requires for-profit employers to pay interns as employees, unless they qualify as unpaid interns under specific guidelines. If the internship is primarily for the **economic benefit** of the employer and not the **educational benefit** of the intern, the worker must be paid. The US Department of Labor (DOL) considers seven (7) factors to evaluate the educational benefits of the internship and decide if someone qualifies as an intern who can work without being paid:

1. The employer and the intern understand that the intern is not entitled to pay;
2. The internship training is similar to what would be given in an educational setting, such as hands-on training given by an educational institution;
3. The internship is an integral part of the intern's formal education or coursework or the receipt of school credit;
4. The internship accommodates the intern's school commitments by following the school calendar;
5. The internship continues only for as long as it provides the intern with useful learning;
6. The intern's work complements, rather than displaces, the work of paid employees and is for the benefit of the intern; and
7. The intern is not necessarily entitled to a job at the end of the internship.

The DOL will evaluate these factors to determine who is the “primary beneficiary” of the services. If the work arrangement primarily benefits the worker, he or she may be treated as an unpaid intern.



Greater flexibility in meeting these criteria may be given to for-profit employers who partner with educational institutions to provide on-site training. Cooperative education programs, such as [Northeastern University's co-op program](#), is an example of an on-the-job learning experience that might qualify as an unpaid internship.

Interns: Not-for-profit employers

Unpaid internships for public sector and non-profit charitable organizations are generally allowed as long as the intern works without expecting to be paid. Non-profit organizations that are not public sector or charitable may still use unpaid workers, e.g., volunteers, however; they are not considered interns unless they meet the DOL's 7-factor test. See considerations below for volunteers.

Registered Apprentices

A registered apprenticeship combines on-the-job training and mentorship with classroom or field-based instruction. Apprentices are employees, with the opportunity to “earn while they learn.”

Unlike an internship, which is often unpaid and temporary work, a registered apprenticeship program is paid employment that is intended to lead to a career, and compensation may increase as the apprentice gains skills. While registered apprenticeship programs have a designated timeframe (e.g. one year), upon completion of the program, the apprentice remains employed by the company.

In February 2018, the Rhode Island Nursery and Landscape Association, in conjunction with Real Jobs Rhode Island and Apprenticeship RI, launched the first in the nation multi-employer registered Horticulture/Landscape Technician apprenticeship program for different occupations within the agriculture and plant-based industry, including farming. For more information on the program, please go to <https://rinla.org/apprenticeship/>.

Volunteers

Non-profit entities are permitted greater flexibility in using volunteer workers.

Rhode Island law permits people to work as volunteers for public sector and charitable non-profit organizations. To qualify as a volunteer, the person should freely offer their services without expectation of payment and should not be performing the work regularly performed by employees. Other indications that a worker is a volunteer are (1) the work is not full-time; (2) the worker does not displace a regular employee; and (3) the nature of the work is not that typically done by a paid employee.

The law in Rhode Island does not permit people to volunteer at for-profit businesses. This means that people who work with for-profit organizations **must be paid** for their work unless they meet the 7-factor intern criteria discussed above.

Conclusion

Employment rules gives employers flexibility when selecting workers, but determining the type of worker you have can be complex. Unpaid interns and volunteers are permitted only under the limited circumstances discussed above. When in doubt, consultation with an employment lawyer is recommended.

Additional Resources

- [A Farmer's Guide to Employment Law's in Rhode Island](#)
- United States Department of Labor, Wage and Hour Division Fact Sheet #71: Internship Programs Under The Fair Labor Standards Act:
<https://www.dol.gov/whd/regs/compliance/whdfs71.htm>
- Rhode Island Department of Labor and Training Employer Handbook Rhode Island Digest of Labor Laws, Section II Division of Labor Standards, Overtime Provisions, Exceptions: <http://www.dlt.ri.gov/lmi/publications/handbook.htm>
- A Rhode Island Guide to Employment Law, Third Edition 2015: riilsr.org/wp-content/uploads/2014/10/Guide-to-Employment_COMPLETE.pdf

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