Interns & Volunteers: 4 Things You Need to Consider Before Hiring Unpaid Interns



The intern has become a workplace fixture. It's not just the energy, enthusiasm and fresh ideas interns bring to the table; it's the fact that they work for free and aren't subject to the onerous employment regulations that pertain to normal employment relationships. At least that's the perception among many employers. But the perception is wrong. Here are 4 things you need to recognize if you're looking to bring interns into your own organization.

1. **Most Unpaid Internships Are Now Illegal**

There's an old cliché about interns: They don't get paid but they do gain "valuable experience." While the question of whether experience is adequate replacement for a paycheque is subject to debate, the point is moot since unpaid internships are now largely illegal in most of Canada. That's because all but 2 provinces (New Brunswick and Newfoundland) have changed their employment standards legislation to clarify that interns are "employees" entitled to minimum wages. However, there are also narrow exemptions allowing for unpaid internships. While the grounds for exemption differ by province, they typically include:

- Individuals receiving training to become a professional in medicine, law, engineering and other designated fields;
- Students receiving training as part of a government-approved educational or vocational program; and
- Volunteers working at political organizations or non-profit summer camps.

Bottom Line: Don't hire unpaid interns unless and until you verify that the arrangement is exempt from minimum wage rules of your own jurisdiction.

2. **Interns Must Be Protected from Health and Safety Hazards**

Paid or unpaid, interns who work at your site must be protected against the health and safety hazards they face while performing their duties. Explanation: Many provinces' OHS laws define "worker" or "employee" broadly enough to cover any worker exposed to danger regardless of title or compensation.

Bottom Line: Identify the health and safety hazards to which your interns are exposed and ensure that you provide interns the same training, supervision, instruction and other safety protections you provide to any of your other employees exposed to those

hazards.

3. **Interns May Be Covered by Workers' Compensation**

What many employers fail to recognize is that interns may be entitled to workers' comp benefits for job-related injuries and illnesses. Explanation: In most provinces, the workers' comp laws define covered "workers" broadly to include "learners," i.e., individuals who perform work on a voluntary or uncompensated basis but who are exposed to the same hazards that paid workers are.

Bottom Line: Most student and volunteer work interns would not qualify for workers' comp. That's because the "learner" hook generally applies only if the person exposed to the hazards is also undergoing training or carrying out probationary work as a preliminary to permanent employment.

4. **Interns Must Be Protected from Discrimination and Harassment**

Interns are entitled to the same protections against employment discrimination and harassment as standard employees and job applicants. This is clear not just from the phrasing of human rights laws (as covering "persons" or "individuals") but numerous court cases finding that internships and volunteer work count as "employment" for purposes of discrimination.

Example: BC Human Rights Tribunal upholds discrimination claim of post-operative male to female transsexual denied opportunity to do volunteer work on the basis of gender [*Nixon v. Vancouver Rape Relief Society*, 2002 BCHRT 1 (CanLII)].

Bottom Line: You need to ensure that your organization's anti-discrimination and harassment policy applies not just to standard job applicants and employees but also volunteers and interns.

Takeaway: You Need an Internship Policy

Internships and voluntary employment is **not** a break from normal employment regulation. Interns have clear rights that you must recognize and respect, including in most cases the right to be paid at least minimum wages. So make sure you implement a clearly worded and specific policy setting out interns' rights and obligations. (Click here for a Model Policy you can adapt.)