Summer Interns: Asset or Impediment?

> Thinking of hiring a summer intern? They’re up on the latest software and social media tools and full of fresh ideas — think of all the projects you don’t have time for that an eager-to-learn student or recent graduate would tackle with zeal.

But before you jump at the first fresh-faced, home-for-the-summer co-ed that comes your way, know what you’re getting into.

To pay or not to pay? Under the Fair Labor Standards Act, interns must be compensated, unless certain criteria are met. A quick review of said criteria reveals that taking on an unpaid intern is more an act of “giving back” than an easy way to get cheap help (search “Fact Sheet 71” at www.dol.gov/whd). The unpaid intern’s experience must be for the intern’s benefit, not the business’. And the boss must understand that an intern may occasionally “impede” operations.

On top of that, the criteria for unpaid internships require that interns not displace employees; that they work under staff supervision; and are not entitled to a job at the end of the fixed-duration internship. As far as what the intern actually does, the job should be an extension of the intern’s classroom experience if you want it to be exempt from the FLSA’s minimum wage and overtime requirements. In other words, if they’re in a floriculture program, then the unpaid intern can do design, production and other typical floral business duties. Not so if they’re in, say, a business program; in that case, you’d need to pay them.

Job shadowing, where the intern performs little or no actual work, counts as “a bona fide education experience” and can be unpaid. (Google class action lawsuits against the “Charlie Rose” show, Hearst Corp. and Fox Searchlight Pictures to see what happens when you don’t follow the rules).

Programs overseen by colleges or universities, in which students receive academic credit for their work, often meet at least some of the criteria for unpaid internships.

Should paid interns be considered temporary employees? Yes, for internships less than one year, according to “Interns: A Basic Resource Guide for Employers,” written for Internships.com by a San Diego law firm, Paul, Plevin, Sullivan & Connaughton. The advantage is you generally don’t have to provide benefits to temporary employees. The guide answers other legal and human resources questions about internships, and includes sample offer letters for paid and unpaid interns.

Remember, though, if a temporary employee files for unemployment after finishing his or her work for you, it counts against your unemployment experience rating in some states. This means the reserve account you pay into is charged, or liable for his compensation benefits if he is eligible. The majority of states require employers to provide unemployment insurance to paid interns unless several criteria are met, says the guide, which includes an overview of each state’s standards. Whether employers are required to provide unemployment insurance to unpaid interns depends on several factors, the guide says.

What if an intern gets hurt on the job? Doug Fick of Broadway Floral Home & Garden in Portland, Ore., avoids hiring interns, especially unpaid, he said, because if they work on premises, they’re not covered under workers’ compensation unless they’re on the payroll. Most interns he’s heard about in the industry work off premises on graphic design, website or similar projects, he said.

What do you get out of the deal? As a small business owner, you likely know the value of finding a good mentor. Maybe you partially credit your success to those who fostered your career. “Here is your chance to give back to the community of entrepreneurs,” Jorgensen said.

If interns have a positive experience, they’ll spread the word that your business is a good place to work. If not, “your interns may take one look at the culture of chaos and despair around them and run for the hills — taking your ‘Excellent Place to Work’ reputation with them,” said Elizabeth Hewitt-Gibson, career management director at the University of California-San Diego Extension, in an April 24 CBS Money Watch article.

Still have questions? SAF members get free consultations with Washington, D.C.-based small business attorney John Satagaj. Contact him with your questions about interns or any other workplace issue, 202-639-8888 or email@jsatlaw.com.

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