



## Case 15

# Internship, or someone's unpaid job?

## When is an unpaid internship really a job that should be paid?

Internships open doors, but unpaid ones favor people who can afford to work for free, and some “internships” are just unpaid jobs. Knowing the questions the law asks helps students ages 16–24 evaluate an offer before they give it a summer.

### In the real world

**PBS NewsHour (YouTube), 2023** Why unpaid internships still exist despite hardships for young workers

**NPR, 2013** Internships: Low-Paid, Unpaid Or Just Plain Illegal?

*Rafa*

Sige, I want the experience. I also work at the shop. So what would I actually learn, and who's teaching me?

### You'll make

Questions sheet plus 150-word summary

### Time

About 50 minutes

### Level

Grades 9–10



# The case file

Look at what's actually here before deciding what it means.

## Fictional case material

1

### Studio internship listing, posted on the campus job board in April

"Summer Editing Intern (unpaid). Join our fast-paced studio! You'll run the customer inbox all summer, help with client files and get great exposure to the industry. College credit available."



*Which words describe learning, and which describe work? What does the listing leave out?*

## Fictional case material

2

### Studio reply to Rafa, Tuesday 11:20 a.m.

"Thanks for your interest, Rafa! Since interns get college credit, it's totally legal for us not to pay. We'd love for you to start right after finals."



*Is credit one factor or the whole test? What did the reply not answer?*

## Fictional case material

3

### Gia and Rafa talking it through, Tuesday lunch

Gia: Didn't they pay someone to do the inbox last year?

Rafa: Yeah, their assistant.

Gia: And it's your summer, not theirs. What about your shifts at the shop?



*Whose time and money does this offer spend? Which DOL factor does the first question connect to?*

## Fictional case material

4

"Sige, I want the experience. I also work at the shop. So what would I actually learn, and who's teaching me?"

**Rafa, 18, first-year commuter who works at his family's shop**



*Turn Rafa's two questions into questions he could send the studio in writing.*

# Outside the story

The case is fictional. The questions in it are not. Here is where they show up in the real world.

## Still missing

What training and supervision the studio actually provides, how many hours a week the role takes, whether Rafa's school will grant credit, and how many paid shifts at the family shop Rafa would give up.

## Real-world evidence



### Real source

#### U.S. Department of Labor, Wage and Hour Division, Fact Sheet #71: Internship Programs Under the Fair Labor Standards Act

Summary, not a quotation: for-profit employers use the "primary beneficiary test" to decide whether an intern is an employee who must be paid under the FLSA. The fact sheet lists seven factors, including whether the internship is tied to formal education or academic credit and whether the intern's work complements rather than displaces paid employees, and says the test is flexible with no single factor determinative.



### video

#### Why unpaid internships still exist despite hardships for young workers

[PBS NewsHour \(YouTube\), 2023-08-26](#)

Reports that nearly half of U.S. interns were unpaid in 2022 and who can afford to take those jobs.



### article

#### Internships: Low-Paid, Unpaid Or Just Plain Illegal?

[NPR, 2013-05-18](#)

Explains when an unpaid internship can break wage law, using the 'Black Swan' intern lawsuit.

## Discuss before deciding

- Which item did you trust first, and why?
- What would you need to see before repeating the strongest claim?
- Who is missing from these documents?

# What the evidence can hold up

Test the studio's claim against the factor list. Which evidence points toward training, which toward a job, and what is still unknown?

| Evidence                                                            | Claim 1<br>College credit makes the unpaid internship legal. | Claim 2<br>The role looks more like a job than training. |
|---------------------------------------------------------------------|--------------------------------------------------------------|----------------------------------------------------------|
| 1 DOL: credit is one of seven factors, and no single factor decides | Challenges                                                   | —                                                        |
| 2 The listing: Rafa runs the customer inbox all summer              | —                                                            | Supports                                                 |
| 3 A paid assistant ran the inbox last year                          | —                                                            | Supports                                                 |
| 4 The role is openly unpaid and offers credit (factors 1 and 3)     | —                                                            | Challenges                                               |

## Still open

- Is there a learning plan, and who supervises?

## Words that do the work

### Primary beneficiary test

*Prueba del beneficiario principal*

The Department of Labor's test asking whether the intern or the company mainly benefits from an unpaid internship at a for-profit employer.

The studio gets its inbox answered all summer. Rafa asks what he gets beyond "exposure."

### Fair Labor Standards Act

*Ley de Normas Justas de Trabajo*

The federal law setting minimum wage and overtime for covered employees.

If Rafa counts as an employee under the FLSA, he must be paid at least minimum wage.

### Displacement

*Desplazamiento*

When an intern does work that a paid employee would otherwise do.

Rafa's role covers the inbox a paid assistant ran last year.

# One student's draft

Turn the seven DOL factors into an internship questions sheet, fill it in with the studio's answers and write a 150-word summary.

Summary: Using the seven factors, Rafa's internship looks more like a job than training. The studio says it's unpaid and gives college credit, so factors 1 and 3 point toward an internship<sup>1</sup>. But the listing says Rafa would run the customer inbox all summer, and a paid assistant did that job last year, so factor 6 points toward a job<sup>2</sup> because he would be replacing a worker. We don't know about training or supervision because the studio didn't answer that question.<sup>3</sup> Since the studio says credit makes it legal, and credit is one of the factors, the internship is probably legal.<sup>4</sup> Rafa should ask for a written learning plan and the weekly hours before he decides.

- 1 Accurate and fair: the writer credits the evidence that cuts the other way instead of ignoring it.
- 2 Strong: specific evidence tied to the displacement factor.
- 3 Good: unknowns are marked as unknown rather than guessed.
- 4 Revise: this repeats the studio's claim and contradicts the summary's own reasoning. No single factor decides the test, and the displacement evidence points the other way.

Works well   Uses evidence   Gap to fix   Think about the reader

## One revision

### Before

~~Since the studio says credit makes it legal, and credit is one of the factors, the internship is probably legal.~~

### After

Credit is only one factor, and no single factor decides the test, so the studio's answer doesn't settle it.

The revision matches the conclusion to the flexible test and to the writer's own evidence instead of adopting the employer's claim.

## Teacher commentary

The summary weighs factors in both directions, ties the displacement factor to specific evidence and marks unknowns honestly. One sentence then adopts the studio's claim that credit settles the question, contradicting the rest of the analysis. Removing that verdict moves the response to Proficient on Reasoning, and completing the remaining factors on the sheet finishes the task.

# Teach it in one period

Grades 9–10

Turn the seven DOL factors into an internship questions sheet and fill it in with the studio's answers.

## Sources

Listing, studio answers and DOL Fact Sheet 71.

## Objective

Students translate a multi-factor legal test into questions, apply the employer's answers and explain why no single factor decides the outcome.

## Product

Questions sheet plus 150-word summary

## Assessed by

The sheet and summary are scored for seven clear questions, answers marked supported or unknown, and an explanation of the flexible test with no legal verdict.

| 45 minutes                                 | You                                                                                                   | Students                                                          | Check for                                            |
|--------------------------------------------|-------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------|------------------------------------------------------|
| <b>5 min</b><br>The offer                  | Read the studio listing: unpaid, run the customer inbox all summer, college credit, "great exposure." | Underline what you would do each day.                             | Students find that duties are mostly inbox work.     |
| <b>10 min</b><br>The seven factors         | Read DOL Fact Sheet 71's factors aloud in plain language.                                             | Rewrite each factor as a question Rafa could ask.                 | Seven questions, one per factor.                     |
| <b>10 min</b><br>Apply them                | Provide the studio's answers to some questions; leave others blank.                                   | Mark each factor: points toward training, toward job, or unknown. | Students leave unknowns as unknowns.                 |
| <b>10 min</b><br>The life around the offer | Share Gia's point about time, rent and the family shop.                                               | List Rafa's practical costs.                                      | Costs include lost paid hours and transport.         |
| <b>7 min</b><br>Write to the studio        | Model a respectful clarifying email.                                                                  | Draft Rafa's email asking for the learning plan and supervision.  | Email asks specific questions without accusing.      |
| <b>3 min</b><br>Exit                       | Ask: which single fact would most change your view?                                                   | Write it.                                                         | Answer names a factor like displacement or training. |

## Before class

Prepare the case documents, one set per pair:

- ✓ Studio internship listing, posted on the campus job board in April
- ✓ Studio reply to Rafa, Tuesday 11:20 a.m.
- ✓ Gia and Rafa talking it through, Tuesday lunch
- ✓ Rafa, 18, first-year commuter who works at his family's shop

Every document is fictional case material, printable from the online field guide.

## Questions to keep asking



### Pauta

DOL lists seven factors. No single one, not even credit, decides the answer.



### Lupa

The listing says "run the customer inbox." That's the work. Where's the training?



### Onda

Unpaid summers are easier for people who don't need a paycheck.

# Support every student, then assess

## Success looks like

- ✓ All seven factors turned into clear questions
- ✓ Answers marked supported or unknown
- ✓ Summary explains the flexible test
- ✓ No legal verdict

## Supports at this level

- Questions-sheet template
- Model question for factor 1

## Access

- Provide factor cards with icons and one-line explanations
- Read the listing aloud
- Spanish vocabulary: pasantía, empleado, salario, capacitación
- Offer a partially completed questions sheet
- Reduce to three factors: training, credit, displacement

## Stretch

- Look up whether your state has its own internship or minimum-wage rules
  - Compare the for-profit test with guidance for volunteering at nonprofits
- Challenge:** Explain why no single factor, including credit, decides the answer.

| Rubric                        | Beginning                       | Developing          | Proficient                                  | Advanced                                                           |
|-------------------------------|---------------------------------|---------------------|---------------------------------------------|--------------------------------------------------------------------|
| <b>Evidence</b>               | Relies on rumor.                | Mentions pay only.  | Asks about several factors.                 | Asks about factors and notes what the credit claim doesn't settle. |
| <b>Reasoning</b>              | Declares legal or illegal.      | Asks for a verdict. | Gathers facts before deciding.              | Connects each question to a reason it matters.                     |
| <b>Audience &amp; purpose</b> | Gives away leverage or accuses. | Polite but vague.   | Specific, respectful questions.             | Specific questions plus Rafa's own constraints.                    |
| <b>Revision</b>               | No change.                      | Tone only.          | Replaces rumor with factor-based questions. | Explains how each question helps Rafa decide.                      |

## Standards this can show

**RI.9-10.1** Common Core 9—10

**RH.9-10.8** Common Core 9—10

**W.9-10.1** Common Core 9—10

**RI.11-12.1** Common Core 11—12

**RH.11-12.8** Common Core 11—12

**W.11-12.1** Common Core 11—12

Grades 6—8

## Sort the internship's daily tasks into “learning” and “working,” then tell a partner whether it looks more like school or a job.

**Use**

The listing and a kid-friendly summary of the seven factors.

**You'll make**

Sorted chart plus 3—4 sentences

**Show it your way****Write it**

Write 3—4 sentences with the frame “Most of the tasks are \_\_, so \_\_.”

**Say it**

Tell a partner whether the internship looks more like school or a job, using two task cards as your proof.

**Show it**

Sort the task cards into two columns, learning and working, and star the task Rafa would do most.

**Done when**

- ☐ Sorts tasks accurately
- ☐ Gives a reason
- ☐ Asks a useful question
- ☐ Doesn't declare it illegal

**Version A** What it says or shows

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**Version B** Same moment, told differently

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**Need a boost?**

- Task cards to sort
- Frames: “Most of the tasks are \_\_, so \_\_.”
- Vocabulary: intern, employee, wage, training
- Discussion first

**The difference that matters** What does one version leave out, add or frame differently?

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**Who would react differently, and why**

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**Take it off the page** Ask what the work is before you accept it.

Grades 9–10

## Turn the seven DOL factors into an internship questions sheet and fill it in with the studio's answers.

**Use**

Listing, studio answers and DOL Fact Sheet 71.

**You'll make**

Questions sheet plus 150-word summary

**Item 1: what it shows, and what it doesn't****Item 2: what it shows, and what it doesn't****Item 3: what it shows, and what it doesn't****What I can actually claim****Done when**

- ☐ All seven factors turned into clear questions
- ☐ Answers marked supported or unknown
- ☐ Summary explains the flexible test
- ☐ No legal verdict

**Need a boost?**

- Questions-sheet template
- Model question for factor 1



Prefer typing? Scan to do this in the online workspace.

## Honors

**Argue whether unpaid internships widen inequality.****Use**

Case materials plus one teacher-selected article on internship access.

**You'll make**

Argument, 600—700 words

**Thesis** A claim someone could reasonably disagree with

**Reason 1: claim, evidence, commentary**

**Reason 2: claim, evidence, commentary**

**Done when**

- ☐ Qualified thesis
- ☐ Uses evidence beyond the case
- ☐ Engages the employer perspective
- ☐ Proposes a policy or practice

**Need a boost?**

- Claim/counterclaim chart
- Stakeholder list

**The strongest counterargument, and your answer**

**Why it matters beyond this case**



Prefer typing? Scan to do this in the online workspace.

## Pre-AP

**Closely read the internship listing and the studio's reply, and write an evidence-based paragraph on whether the listing describes training or work.**

**Use**

The listing, the studio email and DOL Fact Sheet 71.

**You'll make**

Annotated listing plus paragraph (150—200 words)

**Item 1: what it shows, and what it doesn't**

**Item 2: what it shows, and what it doesn't**

**Item 3: what it shows, and what it doesn't**

**What I can actually claim**

**Done when**

- ☐ Precise annotation
- ☐ Claim supported by listing wording
- ☐ Uses one DOL factor accurately
- ☐ Asks a testable question

**Need a boost?**

- Word-level annotation: learning words / work words
- Question stems: "What would a week actually look like?"
- Paragraph frame



Prefer typing? Scan to do this in the online workspace.

**Take it off the page** Ask what the work is before you accept it.

## AP English Language

## Rhetorically analyze the internship listing and write a revised, honest version.

### Use

The listing.

### You'll make

Analysis (about 400 words) plus revised listing

#### Version A What it says or shows

#### Version B Same moment, told differently

#### Done when

- ☐ Thesis on persuasive strategy
- ☐ Analyzes specific phrases
- ☐ Revision is specific and honest
- ☐ Commentary explains effect

#### Need a boost?

- Analysis stems
- Revision checklist: duties, hours, supervision, pay

**The difference that matters** What does one version leave out, add or frame differently?

**Who would react differently, and why**



Prefer typing? Scan to do this in the online workspace.

**Take it off the page** Ask what the work is before you accept it.

## AP U.S. Government

## Concept application: Congress passed the Fair Labor Standards Act, and the Department of Labor interprets it through guidance like Fact Sheet 71. Explain bureaucratic discretion and how it affects Rafa's offer.

**Use**

DOL Fact Sheet 71 and a short explainer on the federal bureaucracy.

**You'll make**

Concept-application response, about 300 words

**Who decides** Role and the rule behind it

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**Who can influence them** How?

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**Who lives with it** Who wasn't in the room?

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**Done when**

- ☐ Accurate description of the bureaucracy's role
- ☐ Explains discretion
- ☐ Applies to Rafa's offer
- ☐ Uses correct terms

**Need a boost?**

- Diagram: Congress → FLSA → DOL Wage and Hour Division → guidance → employers
- Vocabulary: discretion, rule-making, compliance

**The best place to push** Which person or process, and what you'd ask

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Prefer typing? Scan to do this in the online workspace.

**Take it off the page**

Ask what the work is before you accept it.

## AP Seminar

# Individual written argument on “Do unpaid internships widen inequality?”, using a stimulus packet.

**Use**

Stimulus: DOL Fact Sheet 71, one labor-economics article, one career-services perspective and one first-person account.

**You'll make**

Individual written argument, 1,200–1,500 words

**Thesis** A claim someone could reasonably disagree with

**Done when**

- ☐ Clear question
- ☐ Multiple perspectives
- ☐ Original synthesis
- ☐ Limits acknowledged

**Reason 1: claim, evidence, commentary**

**Reason 2: claim, evidence, commentary**

**Need a boost?**

- Stimulus annotation
- Perspective map
- Argument outline

**The strongest counterargument, and your answer**

**Why it matters beyond this case**



Prefer typing? Scan to do this in the online workspace.

**Take it off the page**

Ask what the work is before you accept it.

## Pre-IB

**Write a structured analysis that uses the seven Department of Labor factors as an analytical framework for Rafa's offer, marking what the evidence shows and what remains unknown. Then give a two-minute talk on the question: who can afford to say yes to an unpaid opportunity, and what does that mean for fairness?**

**Use**

The studio listing, the studio's reply, Gia and Rafa's conversation and DOL Fact Sheet 71.

**You'll make**

Structured analysis (400—500 words) plus a two-minute talk

**Option 1** What would it do?
**Option 2** And this one?
**My call** One sentence.
**Because the evidence shows** Point to a numbered item in the case file.
**Who pays for this choice****What would change my mind****Done when**

- ☐ Applies every factor to specific evidence
- ☐ Marks unknowns instead of guessing
- ☐ Separates the legal question from the fairness question
- ☐ Talk grounds its claim in a concrete person's situation

**Need a boost?**

- Factor grid: evidence for training, evidence for work, unknown
- Talk planner: claim, example, the person most affected
- Glossary: primary beneficiary, displacement, opportunity cost



Prefer typing? Scan to do this in the online workspace.

## IB MYP

# Investigate “Who benefits from internships?” and interview (with permission) an adult about their first work experience.

## Use

Case materials; global context: Fairness and development.

## You'll make

Report plus 150-word reflection

### Version A What it says or shows

### Version B Same moment, told differently

### Done when

- ☐ Clear research question
- ☐ Accurate legal content
- ☐ Ethical interview practice
- ☐ Thoughtful comparison

### Need a boost?

- Statement of inquiry frame
- Interview guide
- Consent script

**The difference that matters** What does one version leave out, add or frame differently?

**Who would react differently, and why**



Prefer typing? Scan to do this in the online workspace.

## Take it off the page

Ask what the work is before you accept it.

## IB DP Language and Literature

## Write a guided textual analysis of the studio's internship listing in response to the guiding question, then test your reading against one real internship listing the teacher selects.

**Use**

The studio listing from the case and one teacher-selected real internship listing.

**You'll make**

Guided analysis, 600—800 words, written in 75 minutes

**Thesis** A claim someone could reasonably disagree with

**Reason 1: claim, evidence, commentary**

**Reason 2: claim, evidence, commentary**

**Done when**

- ☐ Responds directly to the guiding question
- ☐ Analyzes diction, address and omission with precise references
- ☐ Explains the ideal applicant the text constructs
- ☐ Sustains an organized line of analysis in clear academic language

**Need a boost?**

- Guiding question printed above the text
- Annotation layers: prestige vocabulary, second-person address, what is left vague
- Checklist of conventions for job listings as a text type

**The strongest counterargument, and your answer**

**Why it matters beyond this case**



Prefer typing? Scan to do this in the online workspace.

**Take it off the page** Ask what the work is before you accept it.