

Case 15: Is Rafa’s unpaid internship really a job?

Content note

This case explains general rules. It is not legal advice for your situation.

Overview

Students read a story in which a studio offers Rafa an unpaid summer internship running its inbox. The studio says college credit makes it legal. They read the listing, the studio’s reply and Gia’s questions, and they apply the seven factors in the Department of Labor’s Fact Sheet #71. They then write Rafa’s email asking the studio about the learning plan and supervision.

Before this case

Students should already be able to:

- weigh the benefits and costs of a choice
- apply a multi-factor test to a case
- write a memo for a named reader

Objectives

Students will be able to:

- apply the factors of the primary beneficiary test accurately
- set up the opportunity cost of an unpaid summer, with the numbers still needed
- note the limits of the federal test
- leave a well-supported choice with Rafa

Materials

- This chapter, one copy per student
- Evidence A, B and C
- Fact Sheet #71 from the U.S. Department of Labor
- The memo planner on the task page

The task in this edition

Task: Write Rafa a decision memo weighing the offer’s benefits, costs and legal questions.

Students make: Memo, 400—500 words

Pacing

Opener (page 290): 5 min. Short on time: 4 min. Read What happened aloud.

Key terms (pages 291 and 292): 5 min. Short on time: skip.

Look at the evidence (page 296): 8 min. Short on time: 8 min.

Look at the evidence (page 297): 4 min. Short on time: 3 min. Read Evidence C aloud; students fill in only its “What it shows” box.

Key idea (pages 298 and 299): 10 min. Short on time: 8 min. Skip the In the news section.

Sort the evidence (page 300): 8 min. Short on time: skip.

Practice (page 301): 6 min. Short on time: skip.

Pacing, continued

Your task (pages 302 and 303): 15 min. Short on time: 12 min. Set up the cost line together on the board.

Your draft (page 304): 25 min. Short on time: 20 min. Students draft the benefits and costs sections in class and finish at home.

Check your work (pages 305 and 306): 6 min. Short on time: skip. Collect memos and score them yourself.

Questions to discuss (pages 307 and 308): 10 min. Short on time: 5 min. Use question 2 as an exit ticket, with its cool-down ready.

Talk about this case at home (page 309): at home.

Periods: full chapter 102 minutes; one period 60 minutes.

Standards

RI.11-12.1 Back up an analysis with the strongest evidence from the text, including where the text leaves things uncertain.

W.11-12.2 Write an explanatory text that conveys complex ideas clearly and accurately.

W.11-12.5 Strengthen writing by planning, revising, editing or rewriting, focusing on what matters most for the purpose and audience.

SL.11-12.1.c Keep a discussion moving with questions that probe reasoning and evidence, and make sure the full range of views is heard.

Case 15 plan, continued

Standards, continued

- SL.11-12.1.d** Respond to different views, pull together what each side says, resolve conflicts where possible and name what still needs research.
- D2.Civ.12.9-12** Analyze how people use and challenge laws at different levels to address public issues. In this case: Students analyze how workers use the FLSA to address unpaid work.
- D2.Civ.13.9-12** Evaluate public policies by their intended and unintended outcomes and consequences. In this case: Students evaluate the unintended effects of unpaid internships on who gets opportunities.
- D2.Civ.6.9-12** Critique the relationships among governments, civil society and markets. In this case: Students critique the relationship between labor markets and government rules.

Codes of ethics

- **NACE Principles for Ethical Professional Practice:** 4. Comply with laws
- **ABA Model Rules of Professional Conduct:** Rule 4.1 Truthfulness in Statements to Others
- **ABA Model Rules of Professional Conduct:** Rule 4.3 Dealing with Unrepresented Person

Heat map

- **Opener (page 290):** Low

Heat map, continued

- **Key terms (pages 291 and 292):** Low
- **Look at the evidence (page 296):** Low
- **Look at the evidence (page 297):** Low
- **Key idea (pages 298 and 299):** Low
- **Sort the evidence (page 300):** Low
- **Practice (page 301):** Low
- **Check your work (pages 305 and 306):** Low

Try it at your school

Ask what the work is before you accept it.

- Before accepting any internship, ask for duties, hours, supervision and pay in writing
- Take the offer to your school counselor or college career center
- Check your state labor department’s page on minimum wage and youth work
- Compare the offer with your other commitments before deciding

Who to ask: School counselor, college career center, work-permit officer where your state uses them, state labor department

Safety: If you’re under 18, federal and state rules limit hours and certain jobs. Involve a trusted adult before accepting any work arrangement.

Sources

- U.S. Court of Appeals for the Second Circuit, via Justia, “Glatt v. Fox Searchlight Pictures,” 2016
- U.S. Department of Labor, Wage and Hour Division, “Fact Sheet #71: Internship Programs Under the Fair Labor Standards Act,” No date listed

Case 15: Is Rafa's unpaid internship really a job?

A studio offers Rafa an unpaid summer internship running its customer inbox and says college credit makes it legal.

On your own Read What happened and underline what Rafa would do all summer. About 5 minutes.



Nexo, one of the crew's companions, points to where a meeting and a work shift overlap on a calendar. Rafa's internship would take time from his shifts at the family shop.

Your role: You're the one who checks each factor of the test before Rafa says yes. **New skill:** Apply a legal test factor by factor.

What happened

Rafa, 18, is a first-year college student who commutes to class and helps at his family's shop. In April, a studio posted a listing on the campus job board for a "Summer Editing Intern." The internship is unpaid. The listing says the intern will run the customer inbox all summer. Rafa reads it twice, looking for the editing.

On Tuesday at 11:20 a.m., the studio answers Rafa's message. The email says college credit makes it "totally legal" not to pay him. It also asks him to start right after finals.

At lunch, Rafa talks it over with Gia, who fits café shifts around her classes. Gia asks whether the studio paid someone to run the inbox last year. Rafa says the studio's assistant ran it. Taking the internship would also cost Rafa paid shifts at the shop. He has not said yes yet.

Your question: Is the internship mainly training for Rafa or unpaid work for the studio, and what should he ask before he decides?

Pacing

Full chapter: 5 min.

Short on time: 4 min. Read What happened aloud.

Say this

"The job title says "Editing Intern." What would you expect to do all summer?" — Collect two or three answers, then read the listing.

Watch for

Misconception: Students trust the job title. **Listen for:** "It says editing, so he'll learn editing." **Then:** Ask them to find "editing" in the list of duties. It appears only in the title.

Support

- Read What happened aloud while students follow along.

Heat check

Low.

Key terms

On your own Read each key term and its example, then write your first guess in the box. About 5 minutes.

Primary beneficiary test The primary beneficiary test is how the U.S. Department of Labor decides whether an intern at a for-profit company is an employee.

En español: prueba del beneficiario principal

In this case: The studio gets its customer inbox answered all summer. Rafa asks what he would learn and who would train him.

Fair Labor Standards Act The Fair Labor Standards Act is a federal law that sets minimum wage and overtime rules for most workers.

En español: Ley de Normas Justas de Trabajo

In this case: If Rafa counts as an employee under this law, the studio must pay him at least the minimum wage.

Academic credit Academic credit is credit toward a degree that a school gives for approved work, such as an internship.

En español: créditos académicos

In this case: The studio says credit makes the unpaid role “totally legal.” Credit is one factor out of seven.

Who is involved

Rafa

Offered an unpaid summer internship

“The listing says ‘Summer Editing Intern.’ Then it says I’d run the customer inbox all summer. I read it twice looking for the editing.”

Gia

Talking the offer over with Rafa

“I almost said ‘take it, it’ll look good.’ Easy for me to say. I’m not the one giving up a summer.”

Pacing

Full chapter: 5 min.

 Short on time: skip this page.

Say this

“Write your first guess now. You will check it against the evidence later.” — First guesses stay private unless a student wants to share.

Watch for

Misconception: Students think the test asks whether Rafa likes the job. **Listen for:** “He benefits if he enjoys it.” **Then:** Reread the term. The test asks who mainly benefits: the intern’s learning or the employer’s work.

Support

- Give factor cards with an icon and one line each: training, credit, school calendar, length, paid work.
- **Cognates:** academic (académico), credit (crédito), employee (empleado), supervision (supervisión), beneficiary (beneficiario), factor (factor), minimum (mínimo), experience (experiencia).

Heat check

 Low.

Answer key

Any first guess is fine. Students return to it on the My take page.

Your first guess

Before you look at the evidence, is Rafa's offer more like training or more like a job?

My first guess is ___, because ___.

➤ My first guess is a job, because running an inbox all summer sounds like regular work.

Notes

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

This page continues page 291. The notes for both pages are on the sheet for page 291.

Reading passage

Seven factors and a summer

On your own Read the passage. At each Stop and think box, pause and answer the question in your head or with a partner. About 6 minutes.

Words to know

- **Primary beneficiary test:** The primary beneficiary test is how the U.S. Department of Labor decides whether an intern at a for-profit company is an employee.
- **Fair Labor Standards Act:** The Fair Labor Standards Act is a federal law that sets minimum wage and overtime rules for most workers.
- **Academic credit:** Academic credit is credit toward a degree that a school gives for approved work, such as an internship.
- **Compensation:** Compensation is all the pay and benefits a worker receives, including hourly rates, bonuses and overtime.

The story: Totally legal?

Rafa is 18, a first-year college student who commutes and helps at his family's shop. In April, a studio lists a "Summer Editing Intern (unpaid)" position on the campus job board. The copy is upbeat: a fast-paced studio, great exposure to the industry, college credit available. The duties are narrower. The intern will run the customer inbox all summer and help with client files. Rafa reads the listing twice, looking for the editing, and does not find it.

When he writes to ask, the studio's reply on Tuesday at 11:20 a.m. offers a legal conclusion. Since interns get college credit, it says, it is "totally legal" not to pay him. It also asks him to start right after finals.

Rafa does what the crew has learned to do. He checks. On the train, he finds that college credit is one factor among seven. At lunch with Gia, the facts get sharper. Gia asks whether the studio paid someone to do the inbox last year, and Rafa confirms that its assistant did. Gia counts the cost: shifts at the shop, the commute and a summer without pay. She also catches herself. She almost told him to take it because it would look good, and she realizes that is easy to say when she is not the one giving up the summer. When Rafa asks whether she can tell him it is illegal, she says no. She does not know that. She can tell him which questions the studio has not answered yet.

Your role is to check each factor of the test before Rafa says yes.

Pacing

Reading: about 6 min (752 words). Short on time: read it aloud together, pausing at each Stop and think.

Stop and think

1. **After "The story: Totally legal?":** Gia says she cannot tell Rafa the internship is illegal. Why is that the more accurate answer?
2. **After "Reasoning with a multi-factor test":** Which factor has the strongest evidence, and which has none? What does that imbalance mean?
3. **After "The courts, the data and the profession":** If Rafa's school grants credit, does that settle whether the studio should pay him? Why or why not?

❓ **Stop and think.** Gia says she cannot tell Rafa the internship is illegal. Why is that the more accurate answer?

Reasoning with a multi-factor test

The **primary beneficiary test** is how the U.S. Department of Labor decides whether an intern at a for-profit company is an employee. It asks whether the intern or the employer mainly benefits from an unpaid internship. An intern who is an employee must be paid under the **Fair Labor Standards Act**, a federal law that sets minimum wage and overtime rules for most workers. The seven factors include training, links to coursework or **academic credit**, the academic calendar and the length of the learning period. Academic credit is credit toward a degree that a school gives for approved work, such as an internship. Another factor is whether the intern's work complements paid employees' work or displaces it.

The new skill is applying a legal test factor by factor. It extends Case 12, where you compared fact patterns to a precedent, and Case 11, where you compared two situations on the same terms. Gia's question about last year is a Case 11 comparison. The inbox used to be a paid job. That fact bears directly on displacement.

Laid out factor by factor, the evidence is uneven. Displacement: a paid assistant did this work last year. Academic credit: listed as available, but Rafa's school has not confirmed it. Training and supervision: no information. Calendar and duration: the studio wants him to start after finals and stay all summer, but gives no hours. A careful reader concludes that the studio's claim is unsupported, not that the internship is illegal. The test is flexible, no single factor decides it and the facts that would decide it are missing. The test also has limits. It applies to for-profit employers, and state rules may differ.

Case 11's term **compensation**, all the pay and benefits a worker receives, completes the picture. The offer pays nothing and costs Rafa paid shifts. His email will ask for the missing facts in writing, politely: who trains him, what a normal week looks like, the weekly hours and whether this is the assistant's old job.

❓ **Stop and think.** Which factor has the strongest evidence, and which has none? What does that imbalance mean?

The courts, the data and the profession

The primary beneficiary test grew out of litigation. Two unpaid interns on the 2010 film *Black Swan* sued Fox Searchlight. The appeals court opinion lists their tasks, which included answering phones, taking lunch orders, making coffee, photocopying and filing (U.S. Court of Appeals for the Second Circuit, 2016). In 2015, the court held that the question is who is the primary beneficiary, and that is the test the Labor Department uses now (LAist, July 2, 2015; U.S.

This page continues page 293. The notes for both pages are on the sheet for page 293.

The courts, the data and the profession, continued

Department of Labor, Fact Sheet #71, updated January 2018).

The stakes are about access as well as law. PBS NewsHour reported that nearly half of U.S. interns were unpaid in 2022 (PBS NewsHour, August 26, 2023). NACE survey data show inequity in who gets paid internships (National Association of Colleges and Employers, August 8, 2023). NACE's own ethics principles ask members to comply with "local, state, and federal" laws (NACE Principles for Ethical Professional Practice, 2025).

? **Stop and think.** If Rafa's school grants credit, does that settle whether the studio should pay him? Why or why not?

Sources

Real source | U.S. Court of Appeals for the Second Circuit, via Justia | 2016

Glatt v. Fox Searchlight Pictures

Real source | LAist (AirTalk) | July 2, 2015

Appeals court reverses 'Black Swan' interns' victory over Fox

Real source | U.S. Department of Labor, Wage and Hour Division | January 2018

Fact Sheet #71: Internship Programs Under the Fair Labor Standards Act

Real source | PBS NewsHour (YouTube) | August 26, 2023

Why unpaid internships still exist despite hardships for young workers

Real source | National Association of Colleges and Employers | August 8, 2023

The Class of 2023: Inequity Continues to Underpin Internship Participation and Pay Status

Real source | National Association of Colleges and Employers (NACE) | 2025

NACE Principles for Ethical Professional Practice

Notes

This page continues page 293. The notes for both pages are on the sheet for page 293.

Look at the evidence

On your own Read each document, then fill in both boxes under it. About 8 minutes.

Evidence A | Job listing

Studio listing on the campus job board, 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."

Look closely: Which words describe learning? Which words describe work?

What it shows

➤ An "editing" title over a duty list led by the inbox, plus credit and "exposure."

What it leaves out

➤ Training, supervision, hours and what editing, if any, the intern would do.

Evidence B | Email

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."

Look closely: Is credit one factor or the whole test? What does the email skip?

What it shows

➤ The studio treats one factor, credit, as if it settles the whole test.

What it leaves out

➤ The other factors, and whether Rafa's school would grant credit at all.

Case 15 | Look at the evidence | Grades 11–12 educator edition

🕒 Pacing

Full chapter: 8 min.

✂ Short on time: 8 min.

💬 Say this

"Underline every task in the listing. Now circle the ones where Rafa learns." — Pause and ask what that tells them.

👁 Watch for

Misconception: Students call the studio's email a lie. **Listen for:** "They're lying to him." **Then:** The email makes a claim. Ask which document could test it. Nobody knows what the studio believes.

📖 Support

- Read the listing aloud and offer it on its own half-page.
- Reduce the factors to three: training, credit and paid work.
- **Cognates:** academic (académico), credit (crédito), employee (empleado), supervision (supervisión), beneficiary (beneficiario), factor (factor), minimum (mínimo), experience (experiencia).

🔗 Stretch

- Ask which factors the studio's email addresses and which it skips.

🔥 Heat check

■□□ Low.

Look at the evidence, continued

Evidence C | Chat

Gia and Rafa, 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?

Look closely: Who ran the customer inbox last year? Was that person paid?

What it shows

➤ The intern would do work a paid assistant did last year: the displacement factor.

What it leaves out

➤ The size of Rafa's cost: how many paid shop shifts he would lose.

What is still missing from the evidence?

➤ 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.

Notes

Case 15 | Look at the evidence

| Grades 11–12 educator edition

🕒 Pacing

Full chapter: 4 min.

✂ Short on time: 3 min. Read Evidence C aloud; students fill in only its "What it shows" box.

💬 Say this

"Underline every task in the listing. Now circle the ones where Rafa learns." — Pause and ask what that tells them.

👁 Watch for

Misconception: Students call the studio's email a lie. **Listen for:** "They're lying to him." **Then:** The email makes a claim. Ask which document could test it. Nobody knows what the studio believes.

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- Read the listing aloud and offer it on its own half-page.
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➡ Stretch

- Ask which factors the studio's email addresses and which it skips.

🔥 Heat check

■□□ Low.

Key idea: the primary beneficiary test

On your own Read the key idea and the code of ethics, then answer the question in the box. About 10 minutes.

A job title does not show how the work is arranged. The **primary beneficiary test** is how the U.S. Department of Labor decides whether an intern at a for-profit company is an employee. It asks whether the intern or the employer mainly benefits from an unpaid internship. An intern who counts as an employee must be paid under the **Fair Labor Standards Act**. The Fair Labor Standards Act is a federal law that sets minimum wage and overtime rules for most workers.

The Department of Labor's Fact Sheet #71 lists seven factors. They include training, links to coursework or **academic credit**, the school calendar and how long the learning lasts. Academic credit is credit toward a degree that a school gives for approved work, such as an internship. Another factor is whether the intern's work adds to paid employees' work or replaces it. The test is flexible, and no single factor decides it.

So the studio's email does not settle the question. Calling a job an internship does not decide it. Neither does college credit, or an intern agreeing to work for no pay. The test also has limits. It applies to for-profit employers, and state rules may differ. To apply the test, you need facts about the duties, training, supervision and hours.

Professional standards

Real source | National Association of Colleges and Employers (NACE)

NACE Principles for Ethical Professional Practice: 4. Comply with laws

"Comply with laws ... associated with local, state, and federal entities"

In plain words: Career offices and employer recruiters who belong to NACE agree to follow federal, state and local laws.

Question: The campus job board lists the internship. What should the career office ask the studio about the seven DOL factors?

Your answer

Before posting, the career office should ask ____, because ____.

➡ Before posting, the career office should ask how the role meets each factor, because the listing names credit but no training or supervision.

⌚ Pacing

Full chapter: 10 min.

✂ Short on time: 8 min. Skip the In the news section.

💬 Say this

"The studio says one factor settles the test. What does the key idea say about a single factor?" — Wait for "no single factor decides it."

"The NACE principle asks career offices to follow the law. What should the office ask the studio?" — List answers on the board.

👁 Watch for

Misconception: Students think the NACE principles bind the studio. **Listen for:** "The studio broke the NACE code." **Then:** Say: "NACE's principles guide its members, career offices and employer recruiters. A code of ethics is not a law."

📖 Support

- Read the code quotation aloud. Point out the label: it is a real source, quoted word for word, with a gap marked "...".

🔗 Stretch

- Try the ABA Rule 4.1 question: what does Fact Sheet #71 say about whether one factor, credit, decides the test?

🔥 Heat check

■□□ Low.

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

Notes

Case 15 | Key idea | Grades 11–12 educator edition

This page continues page 298. The notes for both pages are on the sheet for page 298.

Sort the evidence

On your own Match each piece of evidence to the claim it supports or challenges, and mark what is still unknown. About 8 minutes.

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 College credit makes the unpaid internship legal.	Claim 2 The role looks more like a job than training.
1 DOL: credit is one of seven factors, and no single factor decides	Challenges	Neither
2 The listing: Rafa runs the customer inbox all summer	Neither	Supports
3 A paid assistant ran the inbox last year	Neither	Supports
4 The role is openly unpaid and offers credit (factors 1 and 3)	Neither	Challenges

Still open

- Is there a learning plan, and who supervises?

Whose perspective is missing?

Whose view is missing from these documents? What would you ask them?

The view that is missing is _____. I would ask _____.

Ch Rafa’s school. I would ask whether it would grant credit for this role, since the studio’s whole argument rests on credit.

Pacing

Full chapter: 8 min.

Short on time: skip this page.

Say this

“Some evidence points toward a job and some toward training. Find one of each.” — Model the first row with the listing.

Watch for

Misconception: Students ignore the evidence that points toward an internship. **Listen for:** “Every single fact says it’s a job.” **Then:** Point to the unpaid label and the credit offer. A fair analysis counts evidence on both sides.

Support

- Let students write S, C or ? in each box before they write sentences.

Heat check

Low.

Practice: choose a response

On your own Choose what Rafa should do next and explain why, then fix the two marked lines. About 6 minutes.

The studio's unpaid internship has Rafa running its customer inbox all summer, the job a paid assistant did last year. The studio says college credit makes it legal. What should Rafa do next?

- ☐ A Accept the studio's answer, since college credit settles the question.
- ☒ B Ask for the learning plan, supervision, schedule and how the role relates to paid employees' work.
- ☐ C Tell the studio that unpaid internships are against the law.

Why I chose it

➤ B. A lets one factor decide a flexible test, and C claims a rule the test does not contain. B asks for the facts each factor needs.

Improve a draft

A student's first draft

Hi, thanks so much for the offer! I'm really excited about this opportunity and I know it will look great on my résumé. I just wanted to ask ① if this is legal since it's unpaid? My friend said unpaid internships aren't allowed. Also how many hours is it? ② I can start whenever you need me. I really want to get into editing and this seems like a good way in. Let me know! Thank you again for thinking of me, Rafa

Rewrite each marked phrase so it says only what the evidence supports.

Rewrite phrase 1

➤ Is there a written learning plan, and how much of a normal week is the customer inbox?

Rewrite phrase 2

➤ I'll confirm a start date once I know the hours, the weeks and the supervision.

Pacing

Full chapter: 6 min.

✂ Short on time: skip this page.

Say this

"Rafa has the studio's email open. What should he do next?" — Hold a vote before any discussion.

Watch for

Misconception: Students choose to tell the studio the internship is illegal. **Listen for:** "Unpaid internships are against the law." **Then:** Ask where the evidence says that. The test depends on facts, so ask what facts Rafa needs first.

Support

- Read the three options aloud before students choose.

Heat check

■□□ Low.

Answer key

A revised version: Hi, thank you for the offer. Before I decide, could you help me understand the arrangement? What would a normal week look like, and how much of it is the customer inbox? Who would supervise and give feedback, and is there a written learning plan? How many hours per week, and for how many weeks? Does the role cover work a paid staff member did before? You mentioned college credit; I'm checking with my school about that. I also work at my family's shop, so I need to know the schedule before committing. Thanks, Rafa

Other notes on the draft:

- "I know it will look great on my résumé" Repeats the listing's pitch. What do you want to learn?

Grades 11–12

Your task

On your own Read the steps and fill in the planner boxes before you start your draft. About 15 minutes.

Write Rafa a decision memo weighing the offer's benefits, costs and legal questions.

Use: All case sources including DOL Fact Sheet 71.

You'll make: Memo, 400–500 words

Time: 60 minutes

- 1 Reread Evidence A, B and C. Note what each says about work, learning and cost.
- 2 List the benefits of the offer in the planner.
- 3 Set up the cost of lost paid shifts at the shop, with blanks for unknown numbers.
- 4 Note one limit of the federal test in the planner.
- 5 Draft the benefits, costs and limits sections of your memo on the Your draft page.
- 6 Finish a memo of 400 to 500 words that leaves the choice with Rafa.

Prefer typing? Scan to open the online workspace.

Benefits of the offer

➤ Possible college credit and contact with a studio. No editing training is named yet.

The cost of an unpaid summer

Lost pay = ___ shifts a week × ___ hours × \$___ an hour × ___ weeks

➤ Lost pay = shifts a week × hours a shift × Rafa's hourly pay × weeks.
Rafa fills in his numbers.

Case 15 | Your task | Grades 11–12 educator edition

⌚ Pacing

Full chapter: 15 min.

✂ Short on time: 12 min. Set up the cost line together on the board.

💬 Say this

“The case gives no numbers for Rafa's shifts. How can a memo still show the cost?” — Model the formula with blanks on the board.

👁 Watch for

Misconception: Students invent numbers for Rafa's pay.

Listen for: “Let's just guess what he earns.” **Then:** Keep the blanks. Rafa can fill in his own numbers; the memo shows how to count the cost.

📎 Support

- Memo template
- Cost calculator for lost paid hours

➦ Stretch

- Include opportunity cost and note that nonprofit and public-sector rules may differ from for-profit ones.

📋 Standards

Common Core: RI.11–12.1; W.11–12.2; W.11–12.5; SL.11–12.1.c; SL.11–12.1.d.

C3 Framework: D2.Civ.12.9–12; D2.Civ.13.9–12; D2.Civ.6.9–12.

The Case plan sheet gives each code in plain words.

Your task, continued

One limit of the federal test

🔑 It applies to for-profit employers, and state rules may differ.

Notes

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

This page continues page 302.

Key Answer key

A strong response:

- Accurately applies factors
- Quantifies opportunity cost
- Notes limits of the federal test
- Leaves the choice with Rafa

Your draft

On your own Write your first draft in the boxes, using your planner from the page before. About 25 minutes.

First draft: the offer and its benefits

👉 To: Rafa. Re: the studio's summer offer. The studio offers an unpaid "Summer Editing Intern" role with college credit available. Credit and industry contact are real benefits. The listing names no editing training, though, and its main duty is the customer inbox.

First draft: costs and legal questions

👉 The main cost is a summer without pay. You would give up paid shifts at the shop, and the commute adds its own cost. Lost pay equals shifts a week times hours times your hourly rate times the number of weeks. The legal question is who mainly benefits. A paid assistant ran the inbox last year, which points toward a job.

First draft: limits and the choice

👉 The federal test applies to for-profit employers, and state rules may differ. No single factor decides it. Before you choose, ask for a learning plan, a supervisor and the hours in writing. The decision is yours.

⌚ Pacing

Full chapter: 25 min.

✂ Short on time: 20 min. Students draft the benefits and costs sections in class and finish at home.

💬 Say this

"A memo helps someone decide. Does yours tell Rafa what to do, or help him choose?" — Ask for one sentence that hands the choice back to Rafa.

👁 Watch for

Misconception: The memo decides for Rafa. **Listen for:** "Rafa should turn it down." **Then:** Point to the success list: the memo leaves the choice with Rafa.

👉 Answer key

What to notice in the sample:

1. Treats the offer fairly before weighing its costs.
2. Sets up the opportunity cost without inventing numbers.
3. States the limit of the test.
4. Leaves the choice with Rafa.

Check your work

On your own Answer the Check your work questions, mark your level in each rubric row and write one change you made. About 6 minutes.

Does your memo apply the factors accurately?	☒ Yes ☐ No
Does it set up the cost of lost paid hours?	☒ Yes ☐ No
Does it name the limits of the federal test?	☒ Yes ☐ No
Does it leave the choice with Rafa?	☒ Yes ☐ No

How your work is scored

Mark one box in each row.

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

Pacing

Full chapter: 6 min.

 Short on time: skip this page. Collect memos and score them yourself.

Say this

“Mark your level in each row. Then change one question so it asks for a fact.” — Circulate and ask which factor each question connects to.

Watch for

Misconception: Students soften the tone but keep the legal question. **Listen for:** “I made it more polite.” **Then:** Point to the Revision row. Tone alone is level 2; replace the legal question with factor questions.

Heat check

 **Low.**

Answer key

How to assess: The memo is scored for accurate application of the factors, a quantified opportunity cost, the limits of the federal test and a recommendation that leaves the choice with Rafa.

Proficient looks like:

- **Evidence:** Asks about several factors.
- **Reasoning:** Gathers facts before deciding.
- **Audience & purpose:** Specific, respectful questions.
- **Revision:** Replaces rumor with factor-based questions.

Check your work, continued

One change I made after feedback

I changed ___ because ___.

➤ I changed “you should say no” to “the decision is yours,” because the memo weighs the choice for Rafa and does not make it.

Notes

This image shows a single sheet of white paper with horizontal blue lines, resembling notebook paper. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

This page continues page 305. The notes for both pages are on the sheet for page 305.

Questions to discuss

On your own Write a short answer to each question, then complete each sentence frame. About 10 minutes.

- 1 What would count as evidence that the promised training is happening?

➤ A learning plan tied to coursework, a supervisor's name and a weekly schedule that shows learning time beside inbox work.

- 2 Unpaid summers are easier for people who do not need a paycheck. Who might an unpaid internship leave out?

➤ People who need income, work for family or pay to commute. PBS NewsHour reported that nearly half of U.S. interns were unpaid in 2022.

- 3 If Rafa's school grants credit, does that settle whether the studio should pay him? Why or why not?

➤ No. The test is flexible, and credit is one factor among seven. The displacement evidence still weighs toward a job, and the training is unknown.

My take

My claim: ____.

➤ Rafa should hold off on a start date until the studio answers questions tied to the factors.

The best evidence is ____, because ____.

➤ The listing, because its main duty is the inbox a paid assistant ran last year.

Case 15 | Questions to discuss | Grades 11–12 educator edition

🕒 Pacing

Full chapter: 10 min.

✂ Short on time: 5 min. Use question 2 as an exit ticket, with its cool-down ready.

💬 Say this

"Answer with a detail from the evidence, not a story about a job you or your family had." — Post the question numbers and collect one answer per question.

🔗 Stretch

- Compare what the offer costs Rafa with what it would cost a student who does not need summer pay.
- Going further: Read Fact Sheet #71 from the Department of Labor. For each of the seven factors, mark whether Rafa's offer points toward training, toward a job or is still unknown.
- Going further: Suppose the studio answers, "We'll give college credit." What problem does that solve for the studio? What problem does it leave for Rafa?
- Going further: Make a two-column worksheet that compares what the listing promises with a normal week of duties. Ask a classmate to fill it in, and see which gaps they find.
- Going further: Before you accept any internship, ask for the duties, hours, supervision and pay in writing. Take the offer to your school counselor or college career center. If you are under 18, involve a trusted adult before you agree to any work.
- Look up whether your state has its own internship or minimum-wage rules
- Compare the for-profit test with guidance for volunteering at nonprofits

My take, continued

Someone who disagrees might say ____.

- An unpaid role could still open doors that a paid job would not.

The limit of the evidence is ____.

☐ No document shows the training, the hours or whether the school grants credit.

I would change my mind if ____.

➤ The studio shared a learning plan tied to his coursework and a named supervisor.

Notes

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

This page continues page 307.

Heat check

■ ■ □ **Question 2: Medium.** Students may bring up their own family's money or compare classmates' situations.

Cool-down: Keep answers about groups and about Rafa.
Say: “Nobody needs to share their own family’s situation.”

Talk about this case at home

Case 15: Is Rafa's unpaid internship really a job?

In this case, a college student is offered an unpaid summer internship, and the studio says college credit makes that legal. Your student compared the offer with a federal test and wrote questions to ask before saying yes.

Questions to talk about

- 1 What questions would you ask before accepting an unpaid internship?
- 2 How can someone tell whether a role is mostly learning or mostly work?
- 3 Who can help a student check a job or internship offer?

Nobody needs to share personal stories or private information to talk about this case.



See the case online.

Case 15 | Talk about this case at home | Grades 11–12 educator edition

Pacing

At home: this page takes no class time.

Say this

“Share this page at home, or read it with an adult you trust.”
— Nobody needs to share a personal story to complete it.