

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:

- summarize a short source accurately
- turn a statement into a question
- explain the difference between a claim and evidence

Objectives

Students will be able to:

- turn the factors of a legal test into clear questions
- mark each answer as supported by evidence or unknown
- explain why no single factor, including credit, decides the test

Objectives, continued

- write a summary of about 150 words with no legal verdict

Materials

- This chapter, one copy per student
- Evidence A, B and C
- Fact Sheet #71 from the U.S. Department of Labor, printed or on screen
- The case rubric, printed on the Check your work page

The task in this edition

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

Students make: Questions sheet plus 150-word summary

Pacing

Opener (page 282): 5 min. Short on time: 4 min. Read What happened aloud and go straight to the evidence.

Key terms (pages 283 and 284): 6 min. Short on time: skip. Define the primary beneficiary test and academic credit aloud in one minute.

Look at the evidence (page 288): 10 min. Short on time: 8 min. Students fill in only the boxes for Evidence A.

Pacing, continued

Look at the evidence (page 289): 5 min. Short on time: 3 min. Read Evidence C aloud; students fill in only its “What it shows” box.

Key idea (pages 290 and 291): 10 min. Short on time: 6 min. Read the second paragraph aloud. Skip the code of ethics.

Sort the evidence (page 292): 8 min. Short on time: skip.

Practice (page 293): 6 min. Short on time: skip.
Your task (page 294): 15 min. Short on time: 12 min. Write the three questions together, then let pairs mark the answers.

Your draft (page 295): 20 min. Short on time: 13 min. Students write the summary in class and revise it at home.

Check your work (pages 296 and 297): 8 min. Short on time: skip. Collect drafts and score them with the rubric yourself.

Questions to discuss (pages 298 and 299): 10 min. Short on time: 4 min. Use question 3 as an exit ticket.

Talk about this case at home (page 300): at home.

Periods: full chapter 103 minutes; one period 50 minutes.

Case 15 plan, continued

Standards

RI.9-10.1 Support an analysis with solid, complete evidence from the text, both for what it states and for what it implies.

W.9-10.2 Write an explanatory text that presents complex ideas and information clearly and accurately.

W.9-10.5 Strengthen writing by planning, revising, editing or rewriting, focusing on what matters most for the purpose and audience.

SL.9-10.1.c Move a discussion forward with questions that connect it to larger ideas, bring others in and test ideas and conclusions.

SL.9-10.1.d Respond to different views, sum up where people agree and disagree, and adjust your view when the evidence calls for it.

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 282):** Low
- **Key terms (pages 283 and 284):** Low
- **Look at the evidence (page 288):** Low
- **Look at the evidence (page 289):** Low
- **Key idea (pages 290 and 291):** Low
- **Sort the evidence (page 292):** Low
- **Practice (page 293):** Low
- **Check your work (pages 296 and 297):** 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

Try it at your school, continued

- 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 and go straight to the evidence.

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 6 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: 6 min.

✂ Short on time: skip this page. Skip this page. Define the primary beneficiary test and academic credit aloud in one minute.

💬 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 training, because the title says “Editing Intern” and the role offers college credit.

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 283. The notes for both pages are on the sheet for page 283.

Reading passage

An internship or an unpaid job?

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 5 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: The work behind the title

Rafa, 18, is a first-year commuter who helps at his family's shop after class. In April, a listing goes up on the campus job board: "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." Rafa reads it twice. The title says editing. The duties say inbox.

He writes to the studio. On Tuesday at 11:20 a.m., the reply arrives: "Since interns get college credit, it's totally legal for us not to pay. We'd love for you to start right after finals." Rafa pastes it into the group chat. Gia asks whether that is how it works. Rafa says he does not know yet and starts looking it up on the train.

At lunch, Gia, who fits café shifts around her own classes, asks the question that changes the conversation. Didn't the studio pay someone to run the inbox last year? Rafa says their assistant did it. Gia also counts what the summer would cost him: shifts at the shop, the commute and a whole summer with no pay. "Exposure," she points out, does not cover the train fare.

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

Stop and think. What does the gap between the job title and the duties tell Rafa?

Pacing

Reading: about 5 min (617 words). Short on time: read it aloud together, pausing at each Stop and think.

Stop and think

1. **After "The story: The work behind the title":** What does the gap between the job title and the duties tell Rafa?
2. **After "Applying a test factor by factor":** Which factor does the paid assistant's job speak to, and which way does it point?
3. **After "The case that set the test":** Unpaid summers are easier for people who do not need a paycheck. Who might an unpaid internship leave out?

Applying a test factor by factor

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. If the intern is really an employee, the **Fair Labor Standards Act** applies. That is a federal law that sets minimum wage and overtime rules for most workers.

The Labor Department 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 asks whether the intern's work adds to paid employees' work or replaces it. The test is flexible, and no single factor decides it. Calling a position an internship does not decide it. Neither does college credit, or an intern agreeing to no pay.

The new skill is applying a written test one factor at a time. It builds on Case 12, where you set fact patterns beside a precedent. Match each factor to a fact, and mark what is missing. On replacing paid work, the evidence is strong: a paid assistant ran the inbox last year. On academic credit, the listing says credit is "available," but nobody knows yet whether Rafa's school will grant it. On training and supervision, there are no facts at all. Rafa's own summary is exact: credit is one factor out of seven, so what about the other six?

Case 11 gave you the word **compensation**, all the pay and benefits a worker receives. Here, the compensation is zero, and the cost to Rafa is real. His email to the studio can ask for the missing facts in writing: who trains him, what a normal week looks like, how many hours and whether this is the job the assistant did last year.

? **Stop and think.** Which factor does the paid assistant's job speak to, and which way does it point?

The case that set the test

Two unpaid interns on the 2010 film *Black Swan* sued Fox Searchlight, arguing that they should have been paid as employees. In 2015, a federal appeals court adopted the question of who is the primary beneficiary (LAist, July 2, 2015). The Department of Labor's Fact Sheet #71 now lists the seven factors (U.S. Department of Labor, updated January 2018).

Unpaid internships are still common. PBS NewsHour reported that nearly half of U.S. interns were unpaid in 2022 and asked who can afford to take those jobs (PBS NewsHour, August 26, 2023).

? **Stop and think.** Unpaid summers are easier for people who do not need a paycheck. Who might an unpaid internship leave out?

This page continues page 285. The notes for both pages are on the sheet for page 285.

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 285. The notes for both pages are on the sheet for page 285.

Look at the evidence

On your own Read each document, then fill in both boxes under it. About 10 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

➤ The role is unpaid, offers credit and names the customer inbox as the main duty.

What it leaves out

➤ Who trains and supervises the intern, the weekly hours and any editing work.

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 says college credit is why it does not have to pay Rafa.

What it leaves out

➤ Training, supervision, weekly hours and whether Rafa's school will grant credit.

Case 15 | Look at the evidence | Grades 9–10 educator edition

🕒 Pacing

Full chapter: 10 min.

✂ Short on time: 8 min. Students fill in only the boxes for Evidence A.

💬 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

➤ A paid assistant ran the inbox last year, so the role may replace paid work.

What it leaves out

➤ How many paid shifts at the family shop Rafa would give up.

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 9–10 educator edition

🕒 Pacing

Full chapter: 5 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.

📖 Support

- 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 ____.

➞ Before posting, the career office should ask about training, supervision, hours and whether the role replaces a paid assistant.

⌚ Pacing

Full chapter: 10 min.

✂ Short on time: 6 min. Read the second paragraph aloud. Skip the code of ethics.

💬 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 9–10 educator edition

This page continues page 290. The notes for both pages are on the sheet for page 290.

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 _____.

The person who would supervise Rafa. I would ask what he would learn each week and how they would give feedback.

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. It gathers the facts the test looks at. A treats one factor as the whole test, and C swaps one broad claim for another.

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

➤ Could you describe the training and who would supervise me?

Rewrite phrase 2

➤ I also work at my family's shop, so I need the schedule before I commit.

⌚ 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 9–10

Your task

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

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

Time: 50 minutes

- 1 Read the seven factors on Fact Sheet #71 from the Department of Labor.
- 2 Write one question each about training, credit and paid work in the planner.
- 3 Write questions for the other four factors on lined paper.
- 4 Mark each answer the studio gave as supported or unknown.
- 5 Write a summary of about 150 words on the Your draft page.
- 6 Check that your summary leaves out any legal verdict.

Prefer typing? Scan to open the online workspace.

Training question

Who will train and supervise me each week?

The studio's answer

Unknown. The studio has not said.

Credit question

Is the role tied to my coursework or credit?

The studio's answer

Supported: "College credit available."

Paid-work question

Did a paid employee do this work before?

The studio's answer

Not answered. Rafa says the studio's assistant ran it.

Case 15 | Your task | Grades 9–10 educator edition

Pacing

Full chapter: 15 min.

✂ Short on time: 12 min. Write the three questions together, then let pairs mark the answers.

Say this

"A factor is a question the test asks. How would Rafa ask it in an email?" — Model the training question together.

Watch for

Misconception: Students mark unanswered questions as "no." **Listen for:** "They didn't say, so they don't train." **Then:** The studio has not answered yet. Write "unknown" and add the question to Rafa's list.

Support

- Questions-sheet template
- Model question for factor 1
- Model question for the training factor: "Who will train me, and how?"

Standards

Common Core: RI.9-10.1; W.9-10.2; W.9-10.5; SL.9-10.1.c; SL.9-10.1.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.

Answer key

A strong response:

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

Your draft

On your own Write your first draft in the boxes, using your planner from the page before. About 20 minutes.

Your summary, about 150 words

Using the factors on Fact Sheet #71, Rafa's internship looks more like a job than training. The studio says the role is unpaid and offers college credit, so two factors point toward an internship. But the listing says Rafa would run the customer inbox all summer. A paid assistant did that job last year, so the paid-work factor points toward a job. We don't know about training or supervision, because the studio did not answer those questions. Credit is only one factor, and no single factor decides the test, so the studio's answer doesn't settle it. Rafa should ask for a written learning plan, a supervisor's name and the weekly hours. He should also check with his school about credit before he decides.

Pacing

Full chapter: 20 min.

✂ Short on time: 13 min. Students write the summary in class and revise it at home.

Say this

“Your summary reports what the evidence shows and what is unknown. Where does each sentence belong?” — Students mark known facts K and unknowns U.

Watch for

Misconception: Summaries adopt the studio's claim.

Listen for: “Credit is a factor, so it's probably legal.”

Then: Point to the Reasoning row. Ask what the paid-assistant evidence says.

Answer key

What to notice in the sample:

1. Counts evidence on the studio's side too.
2. Ties specific evidence to one factor.
3. Marks unknowns as unknown.
4. Explains the flexible test instead of giving a verdict.

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 8 minutes.

Does each question match one factor?	☒ Yes ☐ No
Did you mark each answer as supported or unknown?	☒ Yes ☐ No
Does your summary explain why no single factor decides the test?	☒ Yes ☐ No
Did you leave out a legal verdict?	☒ 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: 8 min.

 Short on time: skip this page. Collect drafts and score them with the rubric 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 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.

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 cut “so the internship is probably legal,” because credit is one factor and the other evidence points the other way.

Notes

This image shows a single page 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 296. The notes for both pages are on the sheet for page 296.

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 written learning plan, a named supervisor who gives feedback and hours set aside for editing, not only the inbox.

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

➤ Students who need summer pay, like Rafa, who helps at his family's shop. They may have to turn the internship down.

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

➤ No. Credit is one of seven factors, and no single factor decides the test. The inbox work a paid assistant did still points toward a job.

My take

My claim: ____.

➤ Rafa should ask for the learning plan, supervision and hours in writing before he decides.

The best evidence is ____, because ____.

➤ The chat, because a paid assistant ran the same inbox last year.

⌚ Pacing

Full chapter: 10 min.

✂ Short on time: 4 min. Use question 3 as an exit ticket.

💬 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 ____.

🔑 College credit shows the studio cares about his education.

I would change my mind if ____.

- ✦ The studio showed a written plan with real editing training.

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 298.

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 9–10 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.