The New Test for Unpaid Interns and Students: Primary Beneficiary Test

Several Circuit Courts have used the “primary beneficiary test” to determine whether an intern or student is, in fact, an employee under the FLSA (Fair Labor Standards Act). In short, this test allows courts to examine the “economic reality” of the intern-employer relationship to determine which party is the “primary beneficiary” of the relationship. These courts have identified the following seven factors as part of the test:

1. The extent to which the intern and the employer clearly understand that there is no expectation of compensation. Any promise of compensation, express or implied, suggests that the intern is an employee—and vice versa.

2. The extent to which the internship provides training that would be similar to that which would be given in an educational environment, including the clinical and other hands-on training provided by educational institutions.

3. The extent to which the internship is tied to the intern’s formal education program by integrated coursework or the receipt of academic credit.

4. The extent to which the internship accommodates the intern’s academic commitments by corresponding to the academic calendar.

5. The extent to which the internship’s duration is limited to the period in which the internship provides the intern with beneficial learning.

6. The extent to which the intern’s work complements, rather than displaces, the work of paid employees while providing significant educational benefits to the intern.

7. The extent to which the intern and the employer understand that the internship is conducted without entitlement to a paid job at the conclusion of the internship.

The courts have described the “primary beneficiary test” as a flexible test, and no single factor is determinative. Whether an intern or student is an employee under the FLSA necessarily depends on the unique circumstances of each case. If analysis of these circumstances reveals that an intern or student is actually an employee, then he or she is entitled to both minimum wage and overtime pay under the FLSA.

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ECU Transitions to Handshake, a New Career Management System

Handshake will be the new career database system replacing ECU CareerNET during the Summer of 2018. Handshake is a combination of some of the best tools on the web today, taken from services like Instagram, Facebook, Twitter, and LinkedIn. It’s designed to help Career Services precisely target career information, internships, employment opportunities, and career related events to student’s specific major, degree types, and interests. Career Services is confident that this new system will enhance the reach of employment opportunities to ECU students and alumni by offering customizable experiences within a user friendly virtual environment.

The transition to Handshake represents a significant milestone in the continuing evolution of Career Services and the way in which we deliver services to our current students, alumni, employers, faculty and staff. ECU will be joining over 400 universities and colleges nationally and provide access to 200,000 employers within the Handshake network. The new system will immediately increase the percentage of job postings accessible to ECU students and alumni by over 450%. For more information on this transition click here.

2018 Spring Career Fair Summary

ECU’s all majors career fair was held on Wednesday, February 28, 2018 from 1:00pm and 4:00pm at the Greenville Convention Center. This event saw 186 employers and over 1,000 students in attendance.

Some results from this event include:
- 61% of the students spoke to 6 or more employers during the event.
- 96% of the students report that they are more confident after attending the fair.
- 91% of the students were somewhat to very willing in relocating.
- 76% of the employers spoke with 16 or more students.
- 43% of the employers were looking to hire for fulltime positions.

Student Quotes:
“I had gained lots of information on what I may do with my major and skills, as well as I was able to form connections that would help me obtain a job.”

Awesome career fair- I really enjoyed it. Also motivated me to be creative; innovative.”

“These events are great for finding job leads.”

Employer Quotes:
“One of the best job fairs I have attended at ECU! Got about 5 applicants that I would like to hire if not more! Thank you ECU!”

“Students were dressed professionally, and had resumes, and had done prior research on my company. They were very prepared, and not afraid to come talk to me. Thank you.”

“Thank you for the organized experience! It was rewarding to see and hear from eager, career minded students who seem prepared for the world before them. Many asked relevant questions, had prepared their professional documents, and were professionally (mentally and physically) prepared.”
Based on consistent student feedback, Career Services is making a conscience effort to diversify the employers we have at our all majors career fairs.

ECU Career Services, in partnership with the College of Engineering and Technology (CET), is proud to announce the first CET Career Fair. This event, on October 17th, 2018 from 9:00 AM—11:00 AM, is an academically focused event. An emphasis will be placed on full-time employment, internships and CO-OP opportunities, encouraging student participation at all academic levels.

The Fall Career Fair, open to all majors will occur that afternoon from 1:00 PM—4:00 PM. Both events will be held at the Greenville Convention Center. Career Services will expand its current efforts to include recruiters looking for full time employment, internships and graduate programs. This allows Career Services the ability to diversify the event while also bringing value to the larger scope of professional opportunities ECU students seek! Career Services is an extension of our student body and our mission is to adapt to the trends that best serve our student population. These areas of growth are a direct reflection of student feedback and our students will continue to be the driving force of our office.

Primary Beneficiary Test Continued...

On the other hand, if the analysis confirms that the intern or student is not an employee, then he or she is not entitled to either minimum wage or overtime pay under the FLSA. Click here for the full Fact Sheet.

What does this mean for employers of “for-profit” companies looking for unpaid interns?
This means that the Department of Labor has moved away from a rigid six-part test where all parts had to be met, to a “primary-beneficiary test” that relies on the totality of circumstances. In essence, if at least 51% of the benefits go to the intern then they may be considered the main beneficiary and may not need to be paid. It also means that employers should update their internship materials to remain in compliance by using the language of the seven factors in the primary-beneficiary test.

As you work with employers for your student interns, consider passing along the above link to the Department of Labor’s Fact Sheet or to the Wage and Hour Division website that can be found here as this information greatly impacts their organization.
Lynn Copeland joined the staff of ECU Career Services Employer Relations Team as the Recruiting Program Specialist in December 2017. While she began her studies at ECU in the School of Music as a voice major, she graduated from East Carolina University in 1991 with a degree in Mass Communications with a concentration in Sociology. She received “Best Story of the Year Award” as a student staff writer for The East Carolinian and was a member of the ECU Choral and Vocal Jazz Ensemble. Over twenty years of experience in telecommunications systems implementation, training and project management within a variety of industries has prepared her to meet the needs of employers recruiting ECU students. A native of eastern North Carolina, she has a vested interest in helping ECU and area businesses grow. Lynn and her husband Kirk, also an ECU alum, and their two children, Anna and Kabe reside in Greenville.

Crystal Waters has served East Carolina University since December 2017 as the Career Counselor for the College of Allied Health Sciences and the College of Nursing. Waters received her Bachelor of Arts in English Education from Elizabeth City State University and a Master of Education in Psychological Studies from Cambridge College. She is currently working diligently towards completing a Master of Science in Counselor Education from East Carolina University. Prior to joining the institution, Waters served as the Director of Student Services and Counselor with Martin Community College in Williamston, North Carolina. She has more than ten years of experience in education working with high school and college students. Crystal Waters has a strong passion for advocating for the underserved and underrepresented, educating healthcare professionals in the rural communities, feminist therapy, and delivering services that provides students with career planning resource materials and employment opportunities to meet the rapidly changing career needs for today’s global job market. She is an active member of the North Carolina Counselors Association, Martin County Community Partners, Elizabeth City State University Alumni Association, American Counselors Association, American Association of Blacks in Higher Education, North Carolina Housing Officers, and the National Academic Advising Association. In a most recent venture, Waters was chosen as the North Carolina Counselor Association Member at Large and the East Carolina University Creed Recipient which recognizes the efforts of individuals who continuously strive to respect and appreciate integrity, diversity, responsibility and citizenship.

Ashley Zitofsky grew up in Staten Island, New York and moved to Delaware in middle school where she went on to attend the University of Delaware, receiving her Bachelors in English with a Professional Writing concentration. Ashley is currently completing her Masters in Counselor Education with a concentration in Student Affairs and Higher Education at ECU. She’s served as president of Chi Sigma Iota Rho Omega chapter for the last two semesters and really enjoys the leadership and community interaction. She currently works as a Career Specialist and Liaison to the College of Education within Career Services. After graduating in May, Ashley hopes to continue working in Student Affairs within the higher education system. In her free time she loves to travel and is trying to make her way through Europe. In addition to traveling she likes to explore new places and restaurants with her fiancé.
First Mate
~ Student Highlight ~

Name: Adedayo Adeniyi
Hometown: Mushin, Lagos
Major: Bachelor of Science in Public Health, Pre-Health Concentration
Academic Year/Classification: Senior
Expected Graduation Date: May 2018

What are your career goals?
I have a strong passion for public health. Especially when it comes to the policy and management aspect of the field. My short-term career goal is to one day work for a health policy consulting firm in a metropolitan area. Hopefully, my work there will allow me to one day run for public office, senator or representative, with a strong focus on public health. We need more leadership in D.C. with strong public health backgrounds as healthcare continues to be at the forefront of political debates. My long-term career goal is a personal one. I plan to go back to Nigeria and help build up our public health infrastructure.

Tell us about your recent career accomplishment/success.
I am currently an employee at the Institute for Coastal Science and Policy (ICSP) at East Carolina University. I work as the environmental health research assistant. Last week I was blessed with an all-expense paid trip to the 39th annual Minority Health Conference (MHC) in Chapel Hill.

What services of the Career Services did you utilize?
Lucky for me, I was introduced to the many services that Career Services offers during my freshman year. I have utilized many of the virtual resources from the virtual interview app, InterviewStream, to the virtual resume review. The career fairs are my favorite events to attend as it’s a great opportunity to showcase yourself to future employees. Furthermore, the importance of sit-ins with your career counselor cannot be stated enough. Having someone there to give you career advice is very useful especially when you start to transition into the professional world.

What advice regarding career development do you have for your fellow ECU students?
Get a LinkedIn account! LinkedIn is basically a Facebook for business and business people. LinkedIn is your online Resume or C.V which showcases your abilities and recommendations. It expands your networks significantly and can create new work opportunities. It lets companies recruit and contact you faster and more accurately. It’s also important to know that everyone that you meet is a potential door to a new opportunity, whether it be personally or professionally. You want to build good bridges because you never know when a bridge you built 2 or 10 years ago was all you needed to land your dream job.
Points of Sail
~ Assessment Facts and Figures ~

2017-2018 Career Fairs
Post Assessment Surveys Results

- 96% of students feel more confident interacting with employers
- 43% of employers were looking to hire full-time positions
- 61% of students had conversations with 6 or more employers
- 92% of students discovered at least 1 employer of interest
- 76% of employers spoke with 16 or more students

3,292 Student Attendees
711 Organizations Recruiting
3,312 Professional Headshots

ECU Career Counselor Liaisons

Lee Brown - Director, COB Career Center (College of Business)
Carole Dempsey - Career Counselor (College of Health and Human Performance)
Ariel Goodman - Career Counselor (College of Engineering and Technology)
Sarah Lage - Career Counselor (Graduate School, Student-Athletes and Deciding Students)
John Stowe - Career Counselor (Thomas Harriot College of Arts and Science)
Crystal Waters - (College of Allied Health and College of Nursing)
Carol Woodruff - Career Counselor (College of Fine Arts and Communications)
Ashley Zitofsky - Career Specialist (College of Education)

Connect with ECU Career Services on Social Media Today!

Next edition of the Career Beacon will be released December 2018
Do you have suggestions for future content? Please contact Patrick Roberts at: robertsp@ecu.edu