

Employment and Volunteering

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Overview

While the issue of volunteering may seem simple- “I’m not getting paid, so that means I am volunteering”- it is actually a complex area where immigration regulations and labor laws intersect. If you are interested in volunteering, you must be aware of the relevant regulations so that you do not violate any laws and participate in unauthorized employment.

If you are an international student in F-1 or J-1 status, please remember that **any off campus employment for F-1 or J-1 students must be authorized!** Without proper work authorization, off campus employment would be considered a violation of your F-1 or J-1 requirements. The consequences would most likely include loss of legal immigration status in the U.S., possible deportation by the U.S. Department of Homeland Security, and great difficulty in any future attempts to acquire a visa to enter the U.S.

According to U.S. immigration regulations, 8 Code of Federal Regulations 214.1(e): "A nonimmigrant who is permitted to engage in employment may engage only in such employment as has been authorized. Any unauthorized employment by a nonimmigrant constitutes a failure to maintain status..."

Employment or Volunteering

What is the difference between an employee and a volunteer? A common misconception is that the only difference is employees get paid and volunteers do not.

According to U.S. labor laws, there is more to distinguish between employees and volunteers than whether an individual receives a regular paycheck. **Work that is unpaid may still be considered employment for F-1 or J-1 status holders.**

What is an employee? The definition of an employee used in the context of immigration regulations is as follows: “An individual who provides services or labor for an employer for wages or other remuneration”. Please note that the term “remuneration” is very broad and includes a variety of non-monetary benefits, such as free housing, food, gifts, etc.

What is a volunteer? According to the Department of Labor, a volunteer is: an “individual who performs hours of service... for civic, charitable, or humanitarian reasons, without promise, expectation or receipt of compensation for services rendered.”

To be considered a volunteer, the work performed by the individual must meet the following criteria:

- No expectation of compensation
- The volunteer cannot displace a genuine employee,
- The services provided by the volunteer should not be the same services for which he or she was previously paid and/or expects to be hired and paid for in the future
- Services are performed for a non-profit organization for public service, religious or humanitarian objective.
- Work at a for-profit entity is considered employment and must be for pay. The only exception is made for training programs where the trainee functions, to some degree, like an employee, but is under close supervision and provides no significant measurable work for the employer. The trainee must not take the place of a paid employee. For example, students who are considered student interns may engage in unpaid internships at for-profit organizations.

Volunteering or Unpaid Internship

Please note that there is a difference between volunteering and engaging in an unpaid internship.

As explained above, **volunteering refers to donating time with an organization whose primary purpose is charitable or humanitarian in nature, without remuneration or any other type of compensation.** F-1 and J-1 students are free to engage in volunteer work as long as it meets the above criteria. For example, it would be okay to volunteer at a local homeless shelter, charitable food pantry, or American Red Cross.

Unpaid internships, on the other hand, do not usually qualify as “volunteer” activity. **Internships, both paid and unpaid, are primarily offered by the private sector and related to the intern’s major field of study.** For more information on the subject of unpaid internships, please see “[CPT for Unpaid Internships](#) [1]”

U.S. Department of Labor Rules for Volunteering

U.S. Department of Labor is concerned both with the protection of jobs for United States citizens, and with the prevention of exploitation of workers. They have created laws to ensure that employment that should be paid is not done for free. While both you and the employer may be happy with an unpaid arrangement (for example, you may be eager to work even on an unpaid basis in a company in order to gain job experience), this may be considered an unfair arrangement in cases where the work is normally performed by a paid person and both the company and the employee are benefitting from the employment.

To determine whether an individual is a true volunteer engaged in “ordinary volunteerism,” the Department of Labor considers a number of factors. No single factor is determinative. The factors include:

- Is the entity that will benefit/receive services from the volunteer a nonprofit organization?
- Is the activity less than a full-time occupation?

- Are the services offered freely and without pressure or coercion?
- Are the services of the kind typically associated with volunteer work?
- Have regular employees been displaced to accommodate the volunteer?
- Does the worker receive (or expect) any benefit from the entity to which it is providing services?

University of Michigan Policy for Volunteering

The University of Michigan volunteering policy is based on the U.S. Department of Labor and Department of Homeland Security guidelines. [Office of the Vice-President and General Counsel](#) [2] has the following definition of a university volunteer:

“The individual receives no compensation for his/her services or is paid only expenses, reasonable benefits, or a nominal fee to perform the services for which he/she volunteered. Foreign nationals on non-immigrant visas may only accept reimbursement for actual expenses and may NOT be paid reasonable benefits or a nominal fee (as this may be considered performing services or labor for remuneration and would be considered employment).

“The individual is not coerced or pressured in any way into volunteering the services; and

“If already employed by the University ... , the volunteer services are not the same type of services which the individual is employed to perform for the University. [Foreign nationals on non-immigrant visas are not allowed to ‘temporarily’ volunteer in the position for which they were employed by the University.]”

If you are thinking about volunteering for the University of Michigan, it is very important that both you and your prospective supervisor are familiar with the university volunteering policies.

Source URL: <https://internationalcenter.umich.edu/students/employment-volunteer>

Links

[1] <https://internationalcenter.umich.edu/students/f1-students/cpt#unpaid>

[2] <https://ogc.umich.edu/frequently-asked-questions/volunteers/>