

OFFICE OF THE GENERAL COUNSEL  
Division of Operations-Management

MEMORANDUM OM 14-64

May 27, 2014

TO: All Regional Directors, Officers-in-Charge,  
and Resident Officers

FROM: Anne Purcell, Associate General Counsel

SUBJECT: Volunteer Student Interns

The purpose of this memorandum is to provide guidance to the Headquarters and Field Offices concerning volunteer student interns<sup>1</sup> working at the National Labor Relations Board (NLRB).

The NLRB regularly accepts volunteer student interns, particularly law students, who perform unpaid internships at Headquarters and in Field Offices, pursuant to the Agency's Student Volunteer Service Program. See OM-98-30.<sup>2</sup> The statutory authority permitting this is contained in amendments to the Civil Service Reform Act of 1978 -- *Acceptance of Volunteer Service*, 5 U.S.C. Secn. 3111 (1978), enacted to serve as a limited exception to the prohibition against federal agencies accepting voluntary service. While students gain experience related to their studies and future employment, these positions are without compensation from the NLRB. The Comptroller General of the United States has found that volunteer student interns are not considered to be Federal employees for any purposes other than injury compensation under the Federal Employees' Compensation Act (FECA) or laws related to the Federal Tort Claims Act (FTCA). See 1981 WL 22512, 60 Comp.Gen. 456.

Although a volunteer student intern's service is not creditable for leave accrual or any other employee benefits, it is creditable for competitive examination purposes. Thus, participating schools, particularly those which award scholastic or service credit pursuant to school programs, often require the Agency to certify the period of time the student performed services. Therefore, volunteer service must be documented on an SF-50, and each employing office must also submit an SF-52 for each student, indicating the number of hours per week the student works, maintain a time and attendance report for each student, which is to be forwarded

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<sup>1</sup> This guidance is solely applicable to unpaid volunteer student interns. It is not applicable to paid student interns or student co-ops.

<sup>2</sup> All volunteer student interns must be brought on board with the proper documentation. Please contact Rodney Bruner, or his successor, in the Office of Human Resources for assistance or sign into the eRoom on Field New Hires and open up the folder on Student Volunteer Appointments (Unpaid) or click this link to find a number of folders with information on Student Volunteers: [eRoom on Student Volunteer Appointment](#). When student volunteers are departing the Agency, proper exiting procedures must be followed and relevant portions of [Form 4197 CERTIFICATION FOR RELEASE OF FINAL SALARY CHECK AND SEPARATION](#) must be completed.

to H.R. upon termination of the internship, and submit an SF-52 indicating “termination” upon the intern’s separation from the Agency.<sup>3</sup>

Since volunteer student interns are not employed by the NLRB, and there is no statutory authority to permit otherwise, they are not entitled to travel expenses incurred as a result of work performed away for the Headquarters and Field Offices. While the Federal Travel Regulations allow agencies to pay for an individual serving without pay as a “invitational traveler,” the Comptroller General has found that this is limited to persons regarded as experts, consultants, witnesses, attendants, other advisors and aides, and when those individuals have been called away from their homes at the request of an agency to perform a direct service for the government. See 60 Comp.Gen. at 458-59. Accordingly, these Regulations do not provide for reimbursement to our student volunteer interns. Nor are interns sponsored by the Peggy Browning Fund (PBF) eligible for reimbursement of travel expenses. Volunteer student interns are also not entitled to transportation expenses, per diem or subsistence.

Volunteer student interns are not authorized to drive GSA vehicles while working at the NLRB. However, they may travel in a GSA vehicle as a passenger with another Board agent driving the vehicle. In the event a volunteer student intern is injured while traveling as a passenger in a GSA vehicle, a Board agent’s personal vehicle or their vehicle, the intern may be entitled to FECA benefits as a result of their injury. FECA benefits may also be available if the intern was injured while taking public transportation or walking to the location of the investigation or election.

With respect to the FTCA, a volunteer intern may file a claim for damages for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the NLRB while acting within the scope of his office or employment. In the event a claim for damages is filed in the Headquarters or Region, the Division of Legal Counsel should be notified immediately.

It goes without saying that the work of student volunteer interns must be closely supervised to ensure that it is in conformance with all outstanding instructions. This includes rules obligating them not to disclose NLRB information without supervisory authorization, as well as those contained in the casehandling manuals, Rules and Regulations, and Standards of Conduct for Government Employees.

If you have any questions regarding the volunteer intern program please contact the Division of Legal Counsel for assistance.

/s/  
A.P.

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<sup>3</sup> Even if the school does not require this certification, we must have it for our records. We encourage the Region to submit the SF-50 as soon as it has an EOD so that Security can perform its security review and the intern can be brought on timely.