The Fair Labor Standards Act (FLSA) provides regulatory guidance for internships and volunteers at public sector organizations such as Texas A&M Forest Service (TAMFS). The following information was developed to assist departments on the topics of unpaid interns and volunteers.

1. **Definition of Unpaid Interns and Volunteers**

The US Department of Labor (DOL) has created laws to ensure that activities that qualify as employment should be compensated according to FLSA. While both an individual and employer may be happy with an unpaid arrangement (for example, someone eager to work even on an unpaid basis in a company 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 institution, and the employee are benefitting from the employment.

Unpaid Interns

To determine whether an unpaid internship is allowable, the DOL considers a number of factors listed in [the “primary beneficial test."](https://www.dol.gov/agencies/whd/fact-sheets/71-flsa-internships) No single factor is determinative.

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 broad and includes a variety of non-monetary benefits, such as free housing, food, gifts, etc.

Unpaid internships do not usually qualify as “volunteer” activity. Internships, both paid and unpaid, are primarily related to the intern’s major field of study.

Volunteers

According to the DOL, 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.”

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 civic, charitable, or humanitarian in nature, without remuneration or any other type of compensation.

1. **Points of Emphasis**

* Employees may not volunteer to do their own jobs nor any activities closely related to their own jobs.
* Clear understanding of no expectation of compensation (express or implied)
* Volunteers will not be covered under Workers Compensation Insurance
* Understanding this does not imply a paid job is offered at conclusion.
* Foreign National Students may not be allowed to volunteer.

1. **Minor as a Volunteer**

The child labor provisions of the FLSA are designed to protect the educational opportunities of youths and prohibit their employment in jobs under conditions detrimental to their health and well-being.

If a department would like to have a minor as a volunteer, please contact the Employee Services Office for more detailed instructions and see TAMFS Agency Rule [24.01.06F1 *Programs for Minors*](https://tfsfinance.tamu.edu/modules/finance/admin/rules/240106F1%20Programs%20for%20Minors.docx). Prior to contacting Employee Services, please answer the following questions.

* What is the age of the minor?
* What duties are to be performed?
* How long will the minor be working?
* What supervision will be given to the minor?
* What hours and/or schedule will the minor be working?

1. **Forms/Paperwork Required**

The following forms are required before any volunteer is allowed to participate in a Texas A&M Forest Service event.

* [Background check Request Form-AG 473](https://agrilifeas.tamu.edu/documents/ag-473.pdf/)
* [Agreement for Waiver, Indemnification, Assumption of Risk and Medical Treatment](https://www.tamus.edu/assets/files/legal/pdf/Waiver-Indemnification-and-Medical-Treatment-Authorization-Form-(COVID).pdf)
* [TAMUS Intern/Volunteer Waiver Form-TAMUS Form 206](http://www.tamus.edu/assets/files/hr/forms/206.pdf)

All three forms must be received by Employee Services two weeks prior to the event taking place to allow time to run the background check. If the event involves minors, contact Employee Services for more details. All forms will be kept to the TAMFS Records Retention Schedule.

CONTACT: [Employee Services Department Head](mailto:employeeservices@tfs.tamu.edu), (979) 314-5744