

Carnegie Mellon University

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Volunteering vs. Employment

US federal immigration regulations define *an employee* as *someone who performs services “for wages or other remuneration.”* Remuneration can include monetary reimbursements or food, gift cards, housing, etc. The guide is the US Fair Labor Standards Act (FLSA).

The US Department of Labor uses Section 3(e)(4) of the FLSA to determine what constitutes a volunteer. The following guidelines apply:

- Are the services performed for civic, charitable or humanitarian purposes?
- Are the services entirely voluntary, with no direct or indirect pressure by the employer, with no promise of advancement and no penalty for not volunteering?
- Are the activities predominately for the individual’s own benefit?
- Does the individual impair the employment opportunities of others by performing work that would otherwise be performed by regular, paid employees?
- *Does the volunteer provide services that are the same as services provided by a paid employee?*
- Is there no expectation of compensation either now or in the future for these services?
- Do the activities take place during the individual’s regular working hours or scheduled overtime hours?
- Is the volunteer time insubstantial in relation to the individual’s regular hours?

If the answer to *any* of the above questions is yes, then the activity is not considered to be a volunteer opportunity and compensation is required per US labor law. F-1 and J-1 students must obtain work permission such as Curricular Practical Training (CPT), Optional Practical Training (OPT) or Academic Training (AT) **before** engaging in any type of off-campus employment.

The US Department of Labor recognizes some activities for religious, charitable, and nonprofit organizations, schools and institutions as volunteer opportunities and thus allows individuals to volunteer their services in some capacity, usually on a part-time basis, but not as employees or with the expectation of pay for services rendered. For example:

- Members of civic organizations may help out in a shelter or workshop
- Civic organizations may send members or students into hospitals or nursing homes to provide personal services for the sick or the elderly
- Parents may assist in a school library or cafeteria as a public duty to maintain services for their children
- Parents may drive a school bus to carry a football team or band on a trip
- Individuals may volunteer for tasks such as driving vehicles or folding bandages for the Red Cross
- Individuals working with children with disabilities or disadvantaged youth
- Individuals helping in youth programs as camp counselors, scoutmasters, or den mothers
- Individuals providing child care assistance for needy working mothers
- Individuals soliciting contributions or participating in benefit programs for such organizations
- Individuals volunteering other services needed to carry out charitable, educational, or religious programs.

The activities outlined above, performed under such circumstances, do not create an employee-employer relationship. Therefore, F-1 and J-1 students may participate without off-campus work authorization.

However, for immigration purposes, US immigration authorities **MAY** consider any position, if normally occupied by a paid employee or worker, as "employment," even if uncompensated. Therefore, it is always recommended that if possible, the F-1 or J-1 student obtain work permission such as Curricular Practical Training (CPT), Optional Practical Training (OPT) or Academic Training (AT) **before** engaging in any type of off campus work. Further information on these work permissions can be found on the OIE website at www.cmu.edu/oie. You may also schedule an appointment with your OIE Advisor to discuss this issue. To schedule an appointment, call 412-268-5231.