



*This article presents general guidelines for Georgia nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.*

## **THE “VOLUNTEER” STIPEND: GOOD IDEA OR UNNECESSARY RISK?**

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Many nonprofit organizations are driven by their mission – things like improving education, helping persons with disabilities, alleviating poverty – all of which are noble causes. To express their appreciation, some nonprofit organizations want to provide their volunteers or interns with stipends. As well-intentioned as this practice might be, it could put your organization at risk. This article will highlight a potential risk involved with providing stipends to volunteers or interns, and less risky alternatives for your nonprofit to show appreciation.

Volunteers and interns provide a vital function to nonprofits. The U.S. Department of Labor (the “DOL”) is the government agency that ensures that workers are compensated as required under federal law, and therefore they weigh in on the classification of workers as paid (employees) versus unpaid (volunteers). The DOL recognizes the generosity and public benefits of volunteering. Generally, the DOL allows individuals to volunteer for nonprofit organizations; however, such individuals cannot volunteer in the commercial activities of the nonprofit, such as a gift shop. Further, paid employees of a nonprofit organization cannot volunteer to provide the same type of services to their nonprofit organization that they are employed to provide.

The DOL states:

A volunteer generally will not be considered an employee for [federal wage and hour law] purposes if the individual volunteers freely for public service, religious or humanitarian objectives, and **without contemplation or receipt of compensation**. Typically, such volunteers serve on a part-time basis and do not displace regular employed workers or perform work that would otherwise be performed by regular employees.

Merely labeling someone a “volunteer” is not enough to make the individual a “volunteer.” Instead, several factors are relevant to this analysis, including whether there is any compensation involved or expectation of compensation.

Given the analysis above, the risk of paying compensation, including a stipend, to a volunteer is that it might convert the individual into an employee in the eyes of the law. For example, if the stipend is linked in any way to production or hours worked, such payments would be considered wages under federal wage and hour law. If a nonprofit pays a stipend to an individual and that individual is no longer deemed to be a volunteer, the organization could be at risk for failing to

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pay minimum wage for the work that was done, and any overtime owed. The nonprofit could also owe the IRS money for unpaid taxes, penalties and interest related to the individual.

Volunteers and interns provide a vital function to nonprofits. There are numerous ways a nonprofit organization can show its appreciation to its volunteers or interns, such as taking them out to lunch or offering verbal recognition, praise or a plaque or other small, non-monetary memento. Nonprofits can also reimburse volunteers and interns for their expenses related to volunteering, such as parking fees, as long as they have the proper documentation. Given the risk discussed above, nonprofit organizations should think carefully before offering stipends to volunteers or unpaid interns. For questions and guidance, reach out to your PBPA staff attorney or consult a trusted employment law attorney.