



**International Student Services
Office of Admissions and Records**

VOLUNTEERING VS. EMPLOYMENT

US federal immigration regulations define an employee as someone who performs services “for wages or other remuneration” [8 CFR 274a.1(f)]: “An individual who provides services or labor for an employer for wages or other remuneration.” Remuneration can include such innocuous things as reimbursements, food (coffee, doughnuts, pizza, and so on). The guidance here is taken from the US Fair Labor Standards Act of 1938, as amended.

The US Department of Labor looks to Section 3(e)(4) for guidance for determining what constitutes a volunteer, even though it addresses volunteers only in the context of public agencies. Essentially, the following general guidelines apply:

1. Are the services performed for civic, charitable or humanitarian purposes?
2. 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?
3. Are the activities predominately for the individual’s own benefit?
4. 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?
5. Is there no expectation of compensation either now or in the future for these services?
6. Do the activities take place during the individual’s regular working hours or scheduled overtime hours?
7. Is the volunteer time insubstantial in relation to the individual’s regular hours?

The Department of Labor provides the following guidance for religious, charitable, and nonprofit organizations, schools, institutions, and volunteer workers in Section 10b3 of their Field Operations Handbook (10/20/93):

In many cases the nature of religious, charitable and similar nonprofit organizations and schools is such that individuals may volunteer their services in one capacity or another, usually on a part-time basis, not as employees or in contemplation of pay for services rendered.

For example, members of civic organizations may help out in a shelter workshop; women’s organizations may send members or students into hospitals or nursing homes to provide personal services for the sick or the elderly; mothers may assist in a school library or cafeteria as a public duty to maintain effective services for their children; or fathers may drive a school bus to carry a football team or band on a trip. Similarly, individuals may volunteer to perform such tasks as driving vehicles or folding bandages for the Red Cross; working with children with disabilities or disadvantaged youth, helping in youth programs as camp counselors, scoutmasters, or den mothers, providing child care assistance for needy working mothers, soliciting contributions or participating in benefit programs for such organizations and volunteering other services needed to carry out their charitable, educational, or religious programs. The fact that services are performed under such circumstances is not sufficient to create an employee-employer relationship.

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