

Congress of the United States
Washington, DC 20515

September 28, 2021

The Honorable Marty Walsh
Secretary of Labor
U.S. Department of Labor
200 Constitution Ave., NW
Washington, DC 20210

Dear Secretary Walsh:

We thank you for the Department of Labor's renewed commitment to helping America's workers. We particularly appreciate the renewed focus on helping workers from underserved communities find pathways to high-quality, well-paying jobs. With that in mind, we are writing to request more information on resources currently allocated by the Department of Labor to ensure oversight of the internship economy.

Paid internships help create a more robust and diverse workforce, particularly for students of color, who often struggle to choose between a paycheck and internship program. Unpaid internships frequently act as barriers for individuals from working-class backgrounds to enter the workforce. It is for this reason that President Biden recently signed an Executive Order directing all federal agencies to reduce their reliance on unpaid internships.¹ The Executive Order specifically emphasizes the need to "improve outreach to and recruitment of individuals from underserved communities for internship, fellowship, and apprenticeship programs," a recognition that unpaid internships can serve as a barrier to participation for working class youth. Additionally, unpaid internships have minimal legal protections. Currently, established laws and protections only extend to individuals categorized as "employees," with compensation often viewed as the litmus test. As a result, unpaid interns have limited legal protections and can be at risk of abusive workplaces.

Unpaid internships are not only an issue in the federal government, but across many other sectors. In 2012, USA Today estimated there were approximately 1.5 million internships in the U.S. each year, half of which were unpaid.² USA Today estimates were based on incomplete data and are now a decade old. Because the Bureau of Labor and Statistics traditionally does not track internships, many go unaccounted for in federal data and unregulated.

Even with the limited data on internships available, indicators suggest graduating without internship experience is not an option for young people in many sectors of the economy. According to a National Society of Experiential Education study, less than 3% of college

¹ Biden, Joe. "Executive Order on Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce." *The White House*, The United States Government, 25 June 2021, www.whitehouse.gov/briefing-room/presidential-actions/2021/06/25/executive-order-on-diversity-equity-inclusion-and-accessibility-in-the-federal-workforce/.

² Davidson, Paul. "Fewer Unpaid Internships to Be Offered." *USA Today*, 7 Mar. 2012, [usatoday30.usatoday.com/money/workplace/story/2012-03-07/summer-internships-paid-unpaid/53404886/1](https://www.usatoday.com/story/money/workplace/2012-03-07/summer-internships-paid-unpaid/53404886/1).

graduates had participated in an internship in 1981.³ By 1992, 17% of graduating students had participated in an internship.⁴ In 2019, that number had risen to almost 62%.⁵ Internships are viewed as a necessity towards career advancement and without federal data on unpaid internships, the risk of upholding and exacerbating inequity increases.

We also encourage the Department to:

1. Collect data on internship pay to allow for better accountability.
2. Provide clarity on whether there are any plans to change the “Primary Beneficiary Test” guidance updated by the Department of Labor during the Trump administration.⁶ The “Primary Beneficiary Test” significantly rolled back protections previously established in the Department of Labor’s six-factor test to determine whether an intern should be paid, which was created in *Walling v. Portland Terminal Co.*, 330 U.S. 148 (1947).
3. Investigate opportunities for the Wage and Hour Division (WHD) to better monitor violations of unpaid internship under the Primary Beneficiary Test, by creating a new Field Assistance Bulletin.
4. Proactively engage with current interns, and those seeking internships, through a “Know Your Rights as Interns” campaign, specifically targeted to youth-focused groups and higher education institutions. Interns ought to be educated on their rights and workplace protections, particularly around resources offered by WHD to report workplace violations, as they undertake these new positions. As the future workers of our federal government and our country, interns should feel empowered and supported with the information and capacity to speak up should issues arise.

Each of these points outlined would go a long way in addressing some of the challenges currently facing the intern economy. The Department of Labor has an opportunity to act on these critical issues affecting young people across this country. We look forward to engaging with you further on this matter.

Sincerely,



Tony Cárdenas
Member of Congress

³ Gilbertson, Dawn. “Glamorous Internships with a Catch: There's No Pay.” *The New York Times*, The New York Times, 19 Oct. 1997, www.nytimes.com/1997/10/19/business/earning-it-glamorous-internships-with-a-catch-there-s-no-pay.html.

⁴ Greenhouse, Steven. “The Unpaid INTERN, Legal or Not.” *The New York Times*, The New York Times, 3 Apr. 2010, www.nytimes.com/2010/04/03/business/03intern.html

⁵ Waxman, Olivia B. “Intern History: How Internships Replaced Entry-Level Jobs.” *Time*, Time, 25 July 2018, time.com/5342599/history-of-interns-internships/.

⁶ Greenfield, Rebecca. “Unpaid Internships Are Back, with the Labor Department's Blessing.” *Los Angeles Times*, Los Angeles Times, 13 Jan. 2018, www.latimes.com/business/la-fi-unpaid-internships-20180112-story.html.

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Karen Bass
Member of Congress

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Cori Bush
Member of Congress

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Salud Carbajal
Member of Congress

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André Carson
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Jesús G. “Chuy” García
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Nikema Williams
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