

Volunteering for a Research Learning Experience Legal Considerations for Sponsors

The Department of Labor (DOL) draws a distinction between:

- True volunteer activities, which are traditionally done by non-paid persons out of their own sense of altruism and for their own pleasure or fulfillment and;
- Work which is usually done by a paid employee, but for which a particular worker is not paid or is not properly compensated as part of an agreement between the "employer" and the "employee."

Why does it matter if I want to offer someone an opportunity to volunteer their time with UK HealthCare? They will be receiving valuable research experience.

Congress has passed a number of laws dealing with labor rules and the employment of individuals. One of these laws, the Fair Labor Standards Act (FLSA), guides and directs how the Department of Labor (DOL) and employers must view and treat those who provide labor or services.

From the DOL perspective, both to protect U.S. and foreign workers from abuse and to protect U.S. jobs, the FLSA says that if a person provides a normal service for which a person would normally be employed, the activity is work/employment, and the employer must pay the person. There are exceptions for *bona fide* training programs where the trainee functions, to some degree, like an employee, but this is under close supervision and provides no significant measurable work for the employer. Also, a volunteer or trainee must not take the place of a paid employee.

I think I understand, but could you provide some examples?

All opportunities are unique and shall be reviewed individually for eligibility. But, below are some examples that may help put this into perspective.

- **NOT A RESEARCH VOLUNTEER:** A person works unpaid as a laboratory technician and performs services 30-40 hours per week for which a person would normally be paid. Such activities are not considered volunteer, but take on the character of employment.
- **RESEARCH VOLUNTEER:** A student assisting with research activities on a part-time basis to acquire experience for medical school applications. The student performs activities alongside researchers, but does not do the work of an employee nor displace an employee.

I believe my Research Learner qualifies as a volunteer or trainee. Can I invite them to participate in a research opportunity?

The Office of Observation and Learning Experience (OLE) in collaboration with the Office of Legal Counsel shall determine volunteer eligibility for research learners within the UK HealthCare Enterprise. Contact OLE to acquire a brief questionnaire for completion prior to extending an invitation to a research learner. They will also help answer additional questions you may have.