Fair Work Ombudsman - Vocational Placements Fact Sheet

There are many legitimate learning programs and placements that give students and young workers an opportunity to get work experience. These vocational placements are linked directly to formalised training through universities, schools, TAFE colleges or other training institutions.

Vocational Placements
The *Fair Work Act 2009* (the FW Act) recognises formal work experience arrangements required as part of an authorised education or training course. These arrangements are referred to as vocational placements, and can give students valuable experience in a job or industry that they wouldn’t otherwise be able to receive.

When all of the criteria of a vocational placement are met, the student will not be considered an employee for the purposes of the FW Act and would therefore not be entitled to the minimum wage and other entitlements provided in the National Employment Standards, awards and agreements.

There may be obligations in legislation, such as those about work health and safety or discrimination that apply to students on vocational placements.

What is a Vocational Placement?
The FW Act specifies four elements, all of which must be satisfied in order to establish a vocational placement.

1. **There must be a placement.** This can be arranged by the educational or training institution, or a student may initiate the arrangement with an individual business directly, in line with the requirements of their course. Work that a student undertakes beyond what is specified may not fall within the vocational placement exemption. For example, a student who stays on to work after the completion of their placement, or who performs tasks beyond what the placement requires, is likely to be an employee in relation to that additional work.

2. **There must be no entitlement to pay for the work the student undertakes.** This includes wages or non-cash benefits, sometimes called payment-in-kind. An agreement to provide any remuneration will risk turning the placement into an employment relationship. However, reimbursing the person for actual expenses, or giving them a gratuity which is offered under no obligation will not affect the nature of the relationship.

3. **The placement must be done as a requirement of an education or training course.** The placement may be a required component of the course as a whole, or of an individual subject or module of the course. It doesn’t matter whether that subject is compulsory or an elective chosen by the student.

4. **The course must be one that is government approved.** The institution delivering the course must be authorised under an Australian, state or territory law or an administrative arrangement of the Commonwealth or a state or territory. Courses offered at universities, TAFE colleges and schools (whether public or private) will all satisfy this requirement, as will bodies authorised to offer training courses under state or territory legislation.
If the placement doesn’t meet all of the above criteria, the next step is to determine whether the person undertaking the arrangement is an employee. See our Unpaid Work fact sheet for more information.

**Example 1**
Katrina is in her 3rd year of a nursing degree. She’s required to complete a minimum of 4 weeks’ work experience with a registered hospital in her state in order to graduate. Katrina approaches her local hospital as they have a pre-existing relationship with her university and have regular student placements. The arrangement is authorised under state law, and Katrina understands the placement is a learning exercise and that she won’t be paid. As the arrangement meets the definition of a vocational placement under the FW Act, Katrina would not be entitled to receive remuneration.

**Example 2**
Jayne is in her final year of a mechanical engineering degree and has completed her formal class studies. As a requirement to graduate, Jayne has to organise professional engineering work experience at a business for 12 weeks. While Jayne has to organise the placement herself, the University provides strict criteria to assess an employer to ensure her vocational placement provides the relevant learning environment, and gives final signoff on the placement. As this meets the definition of a vocational placement, there is no lawful entitlement to minimum wages.

If the business decides to pay wages for Jayne’s work, it will not be a vocational placement and she must be paid in accordance with the FW Act.

**Example 3**
Mitchell is choosing his elective units for the following year’s study as part of his undergraduate degree. One of the electives is a 3 month placement organised by the university at a host business that provides a structured learning experience related to his degree. This placement counts as credit towards meeting his total course requirement. Because the elective forms part of his course, Mitchell’s placement would meet the definition of a vocational placement under the FW Act.

When work is undertaken by a student but is not a vocational placement, the student will be an employee and will be entitled to receive their relevant minimum entitlements.

Vocational placements don’t include:

- graduates who undertake work experience to improve their job prospects after the completion of a degree
- people no longer enrolled in an education or training course (even if they are still completing the vocational placement)
- students doing a work placements as part of a course of a university or other training institution that is based overseas, or as part of a course that is not registered in Australia
• students doing a work placement that they organise themselves, without it being a requirement of a course or subject
• students undertaking opportunities organised by an education or training institution that aren’t a requirement of their course (eg summer work experience)
• unregistered educational or training organisations placing individuals into businesses.

Example 4

Stuart recently finished a Bachelor of Journalism and is looking for work as a journalist. Stuart responds to an advertisement to write for his local paper on a full-time basis for 3 months as an ‘unpaid intern’ to gain experience and increase his chances of employment. Since Stuart had completed his degree and the placement was not required by his course, it isn’t a vocational placement under the FW Act. The paper advises Stuart that he will be given specific tasks and deadlines to complete and that he is expected to attend as per normal business hours. This suggests Stuart has been engaged as an employee and entitled to remuneration. It wouldn’t make any difference if Stuart was referred to the local paper by his former university lecturer rather than responding to an advertisement.

Further information

For information and resources to help you understand your rights and obligations on the topic of unpaid work, visit [www.fairwork.gov.au/unpaidwork](http://www.fairwork.gov.au/unpaidwork) or contact the Fair Work Infoline on 13 13 94.