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March 24, 2010

By Mail and PDF

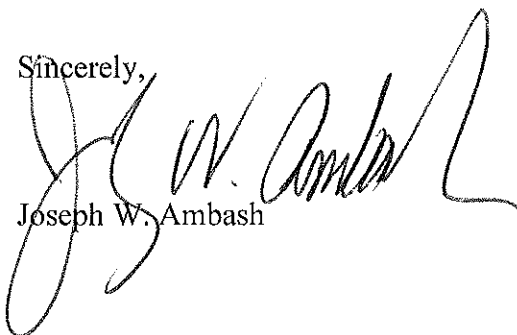
David Balter, Acting Chief Counsel  
Department of Industrial Relations  
Division of Labor Standards Enforcement  
455 Golden Gate Avenue, 9th Floor  
San Francisco, California 94102

Re: Request for DLSE Opinion Letter Regarding Educational Internship Program

Dear Mr. Balter:

I am writing to clarify that the name of the non-profit educational and youth workforce development organization on whose behalf I requested a legal opinion on March 9, 2010 is Year Up, Inc. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph W. Ambash", written over the typed name.

Joseph W. Ambash

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March 9, 2010

**BY OVERNIGHT MAIL AND PDF**

Robert R. Roginson, Chief Counsel  
Department of Industrial Relations  
Division of Labor Standards Enforcement  
455 Golden Gate Avenue, 9th Floor  
San Francisco, California 94102

RECEIVED  
DEPT. OF INDUSTRIAL RELATIONS  
MAR 15 2010  
DIVISION OF LABOR STANDARDS  
ENFORCEMENT - SAN FRANCISCO

Re: Request for DLSE Opinion Letter Regarding Educational Internship Program

Dear Mr. Roginson:

I am writing to request a legal opinion from the Division of Labor Standards Enforcement on behalf of our client, a non-profit educational and youth workforce development organization (the "Program"), regarding whether students who perform internships that are an integral part of our client's educational program are "employees" under the California Wage Orders.

Prior to making this request, we searched for relevant authority on the DLSE website, including the DLSE Enforcement Policies and Interpretations Manual as well as published DLSE opinion letters. Although there have been several prior DLSE opinion letters issued on the general subject of whether participants in internships and training programs are considered "employees," there are no opinion letters that contain the level of factual detail that we believe is essential to an understanding of our client's operations. Accordingly, we do not believe these letters are on point. We are seeking an opinion that, based on the facts and circumstances outlined in this letter, students performing internships under the auspices of the Program at participating employers in California are not considered "employees" under the California Wage Orders.

Please be advised that we are not seeking this opinion either in connection with anticipated or pending private litigation, or in connection with an investigation or litigation between a client or firm and the DLSE.

**I. Factual Background**

The Program is a 501(c)(3) educational and youth workforce development organization that serves 18-24 year olds, primarily from underserved communities, who have not progressed beyond a GED or high school diploma. The Program was founded in 2000 and began its first operations in Boston, Massachusetts at that time. The Program

currently operates in six states around the country, and in 2008 began serving young adults in the San Francisco Bay Area.

The Program is designed as an alternative pathway for “disconnected” young adults to enter livable-wage careers and postsecondary education. The mission of the organization is to “close the Opportunity Divide by providing urban young adults with the skills, experience, and support that will empower them to reach their potential through professional careers and higher education.” The educational curriculum of the Program is designed with the following goals in mind:

- (1) Providing young adults with technical skills in information technology
- (2) Developing professional skills for working in an office environment
- (3) Offering a support network for students through the Program’s social workers, instructors, advisors, mentors, and Learning Community
- (4) Instilling the importance of lifelong learning by giving students career development tools and assistance with applying to college

The Program is an 11-month, integrated 2-phase learning experience comprised of a Learning and Development phase and an Internship phase.

#### **(a) Recruitment and Selection for the Program**

The Program’s primary method of publicizing itself is word-of-mouth, which accounts for 60% of its applicants (as measured by survey). The second largest source of applicants is via presentations that the Program gives to high school students, which account for a further 20% of applicants.

The Program has also distributed flyers and run a radio ad (script attached as Exhibit 1) during time donated as an in-kind donation. Flyers (text attached as Exhibit 2) are distributed in high schools, churches, community centers, and to social services organizations. Additionally, the Program is sometimes featured on television and in newspaper and magazine stories about innovative social services and educational institutions. For example, the Program received significant media coverage when President Barack Obama visited one of the Program’s classrooms in 2009. This exposure collectively accounts for the remaining 20% of applicants.

Students are selected competitively for the Program on the basis of an application for admission, interviews, and learning assessments. The application for admission (attached as Exhibit 3) is designed to ensure that students who are admitted are motivated and driven, have the requisite educational background, and are from the population of underserved, disconnected young adults whom it is the Program’s core mission to serve. The application also ensures that students are not so overwhelmed by multiple challenges such as addiction, violence, or uncertain immigration status that they are unlikely to be

successful in the Program; in that case the Program refers such applicants to social services organizations better suited to address those applicants' needs.

As part of the application for admission, students complete a learning assessment where their basic computer, writing, and communication skills are evaluated. Students are also asked to write an essay about their previous learning experiences, reasons for further study, and personal and career goals.

### **(b) The Learning and Development Phase**

The first five (5) months of the Program, called the Learning and Development Phase ("L&D"), is an intensive session consisting of thirty-two (32) hours of college-level instruction per week. During L&D, students come to the Program's classrooms and learn in a classroom setting from instructors employed by the Program. The Program heavily invests in classroom learning at no cost to students, and during L&D students receive:

- (1) Free education (valued at approx. \$15,000)
- (2) An educational stipend of \$153/week
- (3) Nine (9) college credits through a dual-enrollment agreement with the City College of San Francisco ("CCSF")

The stipend serves two purposes. The first purpose is to help students cover living expenses while learning. The Program wishes to allow students to focus on their studies and provides the stipend so that students have the option to learn on a full-time basis. One effect of the economic opportunity divide is that individuals from more fortunate backgrounds are often able to focus exclusively on studying, while individuals from underserved communities must divide their attention between work and school. The stipend is thus consistent with the Program's core mission of closing the opportunity divide; the high-expectation, high-support model is a means to that end. The stipend in San Francisco is higher than at some of the other Program sites across the country to reflect the higher cost of living in San Francisco.

The stipend is used not just as a source of support, but also as a behavior modification tool. The student code of conduct, designated a "contract" for pedagogical purposes (attached as Exhibit 4), which all of the Program's students must sign as a condition of entry into the Program, operates on a points system, and students who lose points for violations of the code of conduct (termed "infractions") by coming in late, skipping class, dressing inappropriately, or behaving inappropriately, have their stipend amounts lowered. However, students have the opportunity to restore their points over time when they do not receive infractions (but the stipend cannot be increased above the original starting amount). Note that the point and infraction system operates from the very beginning of the L&D phase; indeed, some students have not reached the Internship phase of the Program because they have accumulated too many infractions.

During the L&D phase, the Program's students learn technical skills that they will have the opportunity to practice during their internships. More specifically, students learn how to configure networks; install, repair, and upgrade PCs and printers; image and configure desktops and laptops; and utilize basic diagnostic tools to troubleshoot desktop, laptop, and peripheral hardware issues, among other training. The classes are taught by instructors employed by the Program but they carry college credit due to the dual-enrollment agreement with CCSF.

In addition, students also learn "soft skills" around professional behavior and business etiquette as part of the formal L&D curriculum. Students take a class in business communications and learn public speaking, active listening, how to draft professional emails, and how to receive feedback and respond to criticism. Giving and receiving feedback is a core element of the Program's culture and immersive learning experience.

### **(c) The Internship**

The second six (6) months of the Program consists of hands-on, vocational training where students are able to apply the technical and professional skills they learned during L&D through internships with corporate partners ("Internship"). Students spend up to thirty-six (36) hours per week at their internship site, and an additional two (2) class hours per week in one of the Program's classroom for development and support. As a result of their participation in the internship, students receive an additional four (4) college credits at CCSF, for a total of thirteen (13) credits over the course of the entire Program. The Program currently places interns with five (5) corporate partners. The details of each of those internship programs are set forth later in this letter.

The student stipend is increased to \$250/week during the internship. This increase is necessary to cover increased travel and professional dress-related expenditures while on internships. The increase also encourages students to complete the L&D phase of the Program and begin their internships. The total amount of educational stipends received for the entire 11-month Program is approximately \$9,500. The stipend continues to be used as a behavior modification tool during the internship, although infractions are far less frequent and are usually limited to deductions for unexcused absences and tardiness. The stipend cannot go above the starting amount of \$250/week, and the Program's students do not receive overtime or bonuses for exemplary performance. Note that no corporate partner benefits in any way from a deduction in a student's stipend, nor is a corporate partner assessed if a stipend is increased.

Students are assigned by the Program to particular internship opportunities based on their abilities and interests; they are not interviewed or selected by the corporate partners. Corporate partners assign supervisors to train each student, and, in addition, students receive technical training from other IT professionals, sometimes by shadowing them and asking questions. Students also practice the soft skill set learned during L&D, and receive weekly feedback on their customer service and other business and professional skills.

To prepare corporate partner supervisors for participation in the Program, supervisors attend a Manager Orientation Session (presentation attached as Exhibit 5), which highlights that the Program is an educational training program. During the Session, supervisors are instructed to communicate any performance issues (such as tardiness or absences) to the Program's internship team. Any issues requiring a disciplinary response are handled by the Program's internship team, which consists of the Executive Director, the Manager of Corporate Partnerships and Alumni Services, and the Director of Program Growth and Quality. In addition to managing intern discipline, the Program surveys supervisors and visits corporate partners' places of business to ensure that students are participating in meaningful internships.

Throughout the Internship Phase, the Program continues to provide students with college and career readiness resources, including but not limited to advisors, business mentors, social workers, career counselors, and assistance with financial aid applications. First, each student is paired with an advisor drawn from the Program's paid faculty and staff, and each advisor has approximately 3-5 advisees. Advisors communicate with each advisee once per week, with anything from a 5-minute check-in call to an hour-long lunch. Advisors work with an on-site social worker employed directly by the Program to address any issues raised during these communications. Second, each student is also paired with one business mentor, drawn from volunteers in the general San Francisco business community who have at least 2 years of professional experience. Mentors are encouraged to communicate with mentees once per week and to meet face-to-face for coffee or lunch once per month for 20-60 minutes, where they coach mentees on internship and personal issues that arise. Third, the Program has a partnership with a social services organization called Springboard Forward, which provides 16 hours of career coaching over the course of the internship: 6 hours of career mapping in a classroom setting and 10 hours of 1:1 coaching outside the classroom. Fourth, the Program has a partnership with another social services organization called Single Stop, which assists the Program's students with financial aid applications. Finally, the Program employs a full-time on-site social worker to assist students with any issues that arise during the internship (responsibilities attached as Exhibit 6).

#### (d) College Credits

Under a dual-enrollment agreement with CCSF, the Program's students earn a total of thirteen (13) college credits. The Program has substantial latitude in designing the curriculum, but agrees to meet certain academic standards required by CCSF. Part of the Program's costs are fees paid by the Program to CCSF under the dual-enrollment agreement, under which successful Program students receive the credits.

The specific courses for which the Program's students get academic credit are as follows:

### **During L&D**

- CNIT 100. Introduction to Computers Using PCs (3 credits)
- CNIT 103. Computer Hardware (3 credits)
- CNIT 104. Operating Systems Technology (3 credits)
- Business Communications
- Professional Skills

### **During Internship**

- CNIT 105. Computer Technical Support (3 credits)
- CNIT 197. Internship and Work Experience (1 credit)

Upon successful completion of the internship phase of the Program, students receive a Computer Networking and Information Technology (CNIT) Computer Technician Certificate. Thus, while most of the credits are earned during L&D, the internship is critical not only because it enables students to apply their classroom learning to a real world setting, but also because it results in a marketable credential. This marketable credential is awarded to students only after they complete their internships. The CNIT Computer Technician Certificate is an academic certificate offered by CCSF, not only to the Program's graduates but also to its own students who receive on-site training arranged through CCSF. The certificate prepares students to take the Computer Technology Industry Certification (CompTIA) test for A+ industry certification as a next career step.

### **(e) Program Funding**

The Program's funding comes from a variety of sources. Approximately half of the Program's operating budget is funded by a mix of contributions from individuals, foundations, or corporations, as well as in-kind donations.

The other half of the operating budget is funded through internships. Corporate partners are asked to financially sponsor the interns they take on as well as train them. Accordingly, corporate partners, on average, contribute to the Program \$875 per week, per intern. This funding is critical to the intensive support and guidance students receive during L&D and for the tuition payment by the Program to CCSF. Corporate partners pay the same rate regardless of the level of the stipend that the intern is presently receiving. Reductions in stipend attributable to infractions have no effect on the sponsorship payment schedule from corporate partners.

## **II. Descriptions of Specific Corporate Partnerships**

The Program's interns should be classified as trainees for labor purposes. Whether individuals are to be classified as "trainees" generally depends upon a six-factor test utilized by the United States Department of Labor. The six factors are:

- (1) The training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school;
- (2) The training is for the benefit of the trainees or students;
- (3) The trainees or students do not displace regular employees, but work under their close supervision;
- (4) The employer that provides the training receives no immediate advantage from the activities of the trainees or students and, on occasion, the employer's operations may even be impeded;
- (5) The trainees or students are not necessarily entitled to a job at the conclusion of the training period; and
- (6) The employer and the trainees or students understand that the trainees or students are not entitled to wages for the time spent in training.

In our description of each corporate partner internship program, we will describe each specific relationship along each of these six dimensions.

California has long articulated an eleven-factor test, consisting of the foregoing six factors plus five additional factors specified in 104[1](e) of Wilcox, California Employment Law. We have been unable to identify any statute, case law, or regulation which serves as the source of those additional five factors, and we request clarification of the DLSE's basis for relying on them. Nonetheless, we believe that the Program satisfies those elements as well, as set forth below. These factors will not be discussed in the context of each individual internship, but the following discussion may be considered to be incorporated by reference into each of the internship profiles in this Section.

- (7) Any clinical training is part of an educational curriculum

This factor does not appear to apply because the Program's curriculum does not include "clinical training." The Program's internships are part of the Program's educational curriculum as described in this letter.

- (8) The trainees or students do not receive employee benefits

None of the Program's students ever receive employee benefits through their internships with corporate partners.<sup>1</sup>

- (9) The training is general, so as to qualify the trainees or students for work in any similar business, rather than designed specifically for a job with the employer offering the program. In other words, on completion of the program, the trainees or

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<sup>1</sup> The Program provides worker's compensation insurance to cover students. See DLSE Opinion Letter 2000.05.17 fn. 2, citing *Baragan v. Workers' Compensation Appeals Bd.*, 195 Cal. App. 3d 637 (1987).



students must not be fully trained to work specifically for only the employer offering the program.

The Program's internship training is intended to prepare students for a career in IT generally, and is not limited to the company at which the student interns. In fact, a majority of students do not end up working for the specific internship partner with which they interned, but instead find positions with other IT-related companies. Additionally, CCSF ensures that the internship program provides the general training necessary for receiving credit under CNIT 197, which is based on students meeting general technical standards not specific to any company.

- (10) The screening process for the program is not the same as for employment, and does not appear to be for that purpose, but involves only criteria relevant for admission to an independent educational program

The Program admits students without any input from internship partners, either with respect to individual students or with respect to the admissions process. The application for admission (see Exhibit 3) is designed solely to ensure that students who are admitted are motivated and driven, have the requisite educational background, and are from the population of underserved, disconnected young adults whom it is the Program's core mission to serve. The application also ensures that students are not so overwhelmed by multiple challenges such as addiction, violence, or uncertain immigration status that they are unlikely to be successful in the Program; in that case the Program refers such applicants to social services organizations better suited for those applicants' needs.

As part of the application for admission, students complete a learning assessment where their basic computer, writing, and communication skills are evaluated. Students are also asked to write an essay about their previous learning experiences, reasons for further study, and personal and career goals.

For the internship phase of the program, students are assigned by the Program to corporate partners. They are not interviewed by corporate partners.

- (11) Advertisements for the program are couched clearly in terms of education or training, rather than employment, although the employer may indicate that qualified graduates will be considered for employment

The Program has created one radio advertisement (see Exhibit 1). In addition, the Program has distributed flyers (see Exhibit 2). The radio script describes the Program as "free and paid training and education in information technology," with the "paid" part described as an "educational stipend." It concludes by stating when "classes start."

The flyer describes the Program as a "free and paid full-time training program."

Neither the flyer nor the radio spot refer to the Program as a source of employment.

**(a) Company "A"**

The Program presently has fifteen (15) interns placed at Company "A," making Company "A" the largest sponsor of the Program's San Francisco interns. Company "A" is a financial services company.

- (1) The training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school

Each week, Company "A" provides each intern with up to thirty-six (36) hours of training, and the Program provides two (2) hours of classroom instruction in a class called "Internship Management," which interns attend along with the other interns from the other companies. Internship Management (syllabus attached as Exhibit 7) incorporates Springboard Forward career planning and is an extension of L&D, especially in the areas of professional skills and business communications.

The training at the internship is designed to put into practice and "learn through doing" skills initially taught during L&D. This includes both the hard skills of IT systems support and the soft skills of professional behavior and etiquette. At Company "A," students engage in the following activities:

- Perform troubleshooting duties on semi-routine hardware, software, and data network problems for individual users
- Install, repair, and provide preventative maintenance of PCs and related systems
- Perform hardware and software moves, adds, and changes
- Log, track, and verify resolution of software and specification defects
- Compose correspondence and emails
- Work under direct supervision following established procedures

As part of the verification procedures for CCSF to award credits, CCSF representatives make on-site visits to the Company "A" worksite. On these visits, which are similar to on-site visits CCSF makes to verify the training activities for its own non-Program students earning credit at other companies for CNIT 197, CCSF confirms that students are performing the types of technical activities required for CNIT 197 credit (Internship and Work Experience).

- (2) The training is for the benefit of the trainees or students

The Program's core purpose is to benefit its students and connect them to opportunity. The internship is a critical and integral part of the model designed to that end. Upon graduating from the Program, the Program's interns gain up to 13 hours of college credits, a marketable CNIT Computer Technician certificate from CCSF, and the

experience, connections, resume-building, and references they need to find livable-wage careers or get into college.

As a 501(c)(3) nonprofit, the Program itself does not reap a financial benefit from its operation of the Program.

Classroom instruction is generally not sufficient to prepare the Program's student population for office work. On their internship at Company "A," students put into practice and refine the technical skills they learned in L&D, such as computer systems technical support, installation, maintenance, and operations. Students get regular feedback, coaching, and mentoring from their supervisors, as well as from other IT professionals at Company "A."

Students at Company "A" also practice the soft skills that they learned in L&D, such as time and behavior management, interacting with colleagues, administrative aspects of employment such as filling out time sheets and reports, receiving feedback from supervisors, and composing professional emails.

The Program continues to provide students at Company "A" with additional college and career readiness resources during the internship, including but not limited to advisors, business mentors, guest speakers, social workers, career counselors, and assistance with financial aid applications. First, each student is paired with an advisor drawn from the Program's paid faculty and staff, and each advisor has approximately 3-5 advisees. Advisors communicate with each advisee once per week, with anything from a 5-minute check-in call to an hour-long lunch. Advisors work with an on-site social worker employed directly by the Program to address any issues raised during these communications. Second, each student is also paired with one business mentor, drawn from volunteers in the general San Francisco business community who have at least 2 years of professional experience. Mentors are encouraged to communicate with mentees once per week and to meet face-to-face for coffee or lunch once per month for 20-60 minutes, where they coach mentees on internship and personal issues that arise. Third, the Program has a partnership with a social services organization called Springboard Forward, which provides 16 hours of career coaching over the course of the internship: 6 hours of career mapping in a classroom setting and 10 hours of 1:1 coaching outside the classroom. Fourth, the Program has a partnership with another social services organization called Single Stop, which assists the Program's students with financial aid applications. Finally, the Program employs a full-time on-site social worker to assist students with any issues that arise during the internship (See Exhibit 6).

In short, the training students receive at the Program is comparable to, but more enhanced than the training a computer student receives when working towards the CNIT Computer Technician Certificate at CCSF.

The Program's track record demonstrates the success of the Program. Over 85% of its students are employed or enrolled in college within one year, earning an average wage of approximately \$35,000/year, usually in careers with prospects for further advancement. Compared to the prospects of students entering the program, these represent substantial improvements in quality of life and financial security.

- (3) The trainees or students do not displace regular employees, but work under their close supervision

Based on discussions with Company "A," no Company "A" employee has been replaced or laid off because of participation in the Program.

In general, each intern at Company "A" is assigned an individual supervisor. Specifically, there are 14 supervisors assigned to 15 interns, with only one supervisor taking on a second intern to train. Each supervisor spends about 2-4 hours per week directly training the Program's interns, except that the supervisor with two interns spends 4-8 hours per week. This attention to supervision obviously intrudes into the supervisors' normal work obligations, and is thus a burden on Company "A."

This is apart from the indirect training and mentoring that interns receive every day from Company "A" employees working in the type of position for which the intern is training. Part of Company "A" training involves the Program's interns shadowing regular employees.

Although interns perform services that may be parallel to the service provided by regular Company "A" employees, they displace no employees nor are they viewed in any way as employee substitutes. They are monitored, evaluated, reviewed, and considered as the students that they truly are.

- (4) The employer that provides the training receives no immediate advantage from the activities of the trainees or students and, on occasion, the employer's operations may even be impeded

Company "A" may receive incidental benefits from the tasks interns perform, especially towards the end of the internship when interns have had the greatest opportunity to practice their skills. But any advantage is outweighed by the burden Company "A" assumes as a corporate partner in the Program.

The Program believes that the primary motivation for Company "A" participating in the Program is for the purpose of being a good corporate citizen, doing good for the community, investing in youth workforce development, and inspiring employees and managers. A Company "A" representative has recently said that "[the Program] . . . allows us to be active in supporting our community." Another Company "A" representative has spoken of the "surprise and delight" of "watching the interns grow, and also watching

the supervisors grow in their appreciation and understanding.” Finally, a Company “A” manager sent the Program an unsolicited Thank You note (attached as Exhibit 8) reading, in part, “I have found this experience to be incredibly fulfilling for me professionally and personally.”

Company “A” has given the Program a license to use the Company “A” logo for the exclusive purpose of sponsorship. Company “A” may indirectly benefit from the goodwill generated through corporate social responsibility, but this type of long-term, speculative benefit should not be considered as an “immediate advantage” for the purposes of analyzing this factor.

There are countervailing impediments for Company “A” associated with participating in the Program, including (1) supervision costs and (2) sponsorship costs.

First, Company “A” incurs substantial supervision costs, discussed under factor (3) above. Time that supervisors spend training and mentoring interns is time taken away from and impeding their regular duties. In addition, regular employees are impeded by their role in training and mentoring interns. For example, when a regular employee is being shadowed by an intern who is asking questions and seeking guidance—as happens for each intern that is starting an internship—that employee’s productivity will be lowered.

One specific activity that occurs at Company “A” is that IT professionals who are full-time employees listen in and monitor in real time students’ initial attempts at providing technical support over the phone. At the conclusion of these calls, students receive feedback and coaching about ways to improve their technical and customer service skills.

In addition to the 2-4 hour per week, per intern, commitment from each supervisor for direct training, discussed under factor (3) above, each supervisor makes other commitments as a condition of participation in the Program. Each supervisor must attend a 1-hour Manager Orientation session, which for Company “A” takes place online and via conference call. During the orientation session, supervisors are trained about the Program, attendant expectations for interns, and procedures to follow for when issues arise. For example, to ensure that disciplinary measures are handled by the Program’s internship team rather than by the corporate partner, supervisors are trained to contact the Program’s internship team to report any issues (such as tardiness) so that the Program can address the issue directly with the student. The training is conducted in accordance with a 17-slide slideshow presentation (see Exhibit 5).

Further time commitments from supervisors include the following: (1) The Program’s internship team checks in with each supervisor in a biweekly call that typically lasts 5-25 minutes; (2) Each supervisor must complete a written survey twice per internship cohort that normally takes about 10 minutes per intern to fill out, and (3) the internship team makes an on-site visit 1-2 times per supervisor, per cohort, that normally lasts 25-45 minutes.

Thus, taking all these obligations into account and using the midpoint of each range for calculation, the 14 supervisors at Company "A" spend a total of about 1,249 hours of manager time for the current cohort because of participation in the Program. The Program does not measure the additional time that lower-level Company "A" employees spend on an ongoing basis training and mentoring the Program's interns.

Second, Company "A" is asked to sponsor interns with a contribution to the Program. This sponsorship normally totals over \$22,000 per intern over the duration of the internship (or a \$330,000 sponsorship contribution for this year's cohort of 15 interns) and is primarily used to pay both (1) the direct costs of the L&D program that trains students, and (2) the fees owed to CCSF for college credits under the Program's dual-enrollment agreement. Without these contributions and sponsorships from corporate partners, the L&D training and the college credits would not be possible, since the sponsorships are the largest single source of the Program's funding. The agreement to sponsor interns is a burden and economic impediment affecting the operations of Company "A," the costs of which accrue for the benefit of students.

- (5) The trainees or students are not necessarily entitled to a job at the conclusion of the training period

Each of the Program's students interning at Company "A" has signed a half-page Internship Contract Acceptance Form (see Exhibit 9, Last Page) that states: "I understand my internship is a training experience and that I will not be entitled to a position at the corporation where I train."

The Sponsor Agreement that Company "A" has signed with the Program states that "interns are not necessarily entitled to a job . . . at the conclusion of the training period."

For the past two cohorts, Company "A" has taken on twenty-seven (27) interns and has ended up hiring eight (8) of them as regular employees after the conclusion of the internship.

- (6) The employer and the trainees or students understand that the trainees or students are not entitled to wages for the time spent in training

The Internship Contract Acceptance Form (see Exhibit 9) that each of the Program's interns at Company "A" has signed states: "I understand that I will be placed at a corporation for an unpaid internship as part of my educational experience at [the Program]."

The Sponsor Agreement that Company "A" has signed with the Program also states that "trainees are not entitled to wages for time spent in training," and "[Company "A"] shall have no obligation to pay any amounts to [the Program] or others as a result of the Program except [the specified sponsorship fees]."

For the duration of the relationship with Company "A," none of the Program's interns has ever received any wage, commission, salary, or bonus for the time spent in training during the internship.

**(b) Company "B"**

The Program presently has eight (8) interns placed with Company "B." Company "B" is a health insurance company.

- (1) The training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school

Each week, Company "B" provides each intern with up to thirty-six (36) hours of training, and the Program provides two (2) hours of classroom instruction in a class called "Internship Management," which interns attend along with the other interns from the other companies. Internship Management (see Exhibit 7) incorporates Springboard Forward career planning and is an extension of L&D, especially in the areas of professional skills and business communications.

The training at the internship is designed to put into practice and "learn through doing" skills initially taught during L&D. This includes both the hard skills of IT systems support and the soft skills of professional behavior and etiquette. At Company "B," students engage in the following activities:

- Operate Microsoft Word, Excel, PowerPoint, Project, and other applications
- Read Excel training manual during downtime
- Install, repair, and provide preventative maintenance of PCs and related systems
- Build and image PCs
- Practice written, verbal, and interpersonal communications skills including through one-on-one coaching

As part of the verification procedures for CCSF to award credits, CCSF representatives make on-site visits to the Company "B" worksite. On these visits, which are similar to on-site visits CCSF makes to verify the training activities for its own non-Program students earning credit at other companies for CNIT 197, CCSF confirms that students are performing the types of technical activities required for CNIT 197 credit (Internship and Work Experience).

- (2) The training is for the benefit of the trainees or students

The Program's core purpose is to benefit its students and connect them to opportunity. The internship is a critical and integral part of the model designed to that end. Upon graduating from the Program, the Program's interns gain up to 13 hours of college

credits, a marketable CNIT Computer Technician certificate from CCSF, and the experience, connections, resume-building, and references they need to find livable-wage careers or get into college.

As a 501(c)(3) nonprofit, the Program itself does not reap a financial benefit from its operation of the Program.

Classroom instruction is generally not sufficient to prepare the Program's student population for office work. On their internship at Company "B," students put into practice and refine the technical skills they learned in L&D, such as computer systems technical support, computer systems installation and maintenance, and operation of computer systems. Students get regular feedback, coaching, and mentoring from their supervisors, as well as from other IT professionals at Company "B."

Students at Company "B" also practice the soft skills that they learned in L&D, such as time and behavior management, interacting with colleagues, administrative aspects of employment such as filling out time sheets and reports, receiving feedback from supervisors, and composing professional emails.

The Program continues to provide students at Company "B" with additional college and career readiness resources during the internship, including but not limited to advisors, business mentors, guest speakers, social workers, career counselors, and assistance with financial aid applications. First, each student is paired with an advisor drawn from the Program's paid faculty and staff, and each advisor has approximately 3-5 advisees. Advisors communicate with each advisee once per week, with anything from a 5-minute check-in call to an hour-long lunch. Advisors work with an on-site social worker employed directly by the Program to address any issues raised during these communications. Second, each student is also paired with one business mentor, drawn from volunteers in the general San Francisco business community who have at least 2 years of professional experience. Third, the Program has a partnership with a social services organization called Springboard Forward, which provides 16 hours of career coaching over the course of the internship: 6 hours of career mapping in a classroom setting and 10 hours of 1:1 coaching outside the classroom. Fourth, the Program has a partnership with another social services organization called Single Stop, which assists the Program's students with financial aid applications. Finally, the Program employs a full-time on-site social worker to assist students with any issues that arise during the internship (see Exhibit 6).

In short, the training students receive at the Program is comparable to, but more enhanced than the training a computer student receives when working towards the CNIT Computer Technician Certificate at CCSF.

The Program's track record demonstrates the success of the Program. Over 85% of its students are employed or enrolled in college within one year, earning an average wage of approximately \$35,000/year, usually in careers with prospects for further advancement.



Compared to the prospects of students entering the Program, these represent substantial improvements in quality of life and financial security.

- (3) The trainees or students do not displace regular employees, but work under their close supervision

Based on discussions with Company "B," no Company "B" employee has been replaced or laid off because of participation in the Program.

In general, each intern at Company "B" is assigned an individual supervisor. Specifically, there are 7 supervisors assigned to 8 interns. One student has two supervisors assigned to him, three students are paired 1:1 with a supervisor, and 4 students are served by 2 supervisors who each have taken on two interns. Each supervisor spends about 1-2 hours per week, per intern, directly training the Program's interns. This attention to supervision obviously intrudes into the supervisors' normal work obligations, and is thus a burden on Company "B."

This is apart from the indirect training and mentoring that interns receive every day from Company "B" employees working in the type of position for which the intern is training. Part of Company "B" training involves the Program's interns shadowing regular employees.

Although interns perform services that may be parallel to the services provided by regular Company "B" employees, they displace no employees nor are they viewed in any way as employee substitutes. They are monitored, evaluated, reviewed, and considered as the students that they truly are.

- (4) The employer that provides the training receives no immediate advantage from the activities of the trainees or students and, on occasion, the employer's operations may even be impeded

Company "B" may receive incidental benefits from the tasks interns perform while practicing their skills, especially towards the end of the internship when interns have had the greatest opportunity to refine their skills. But any advantage is outweighed by the burden Company "B" assumes as a corporate partner in the Program.

The Program believes that the primary motivation for Company "B" participating in the Program is for the purpose of being a good corporate citizen, doing good for the community, investing in youth workforce development, and inspiring employees and managers. A Company "B" representative has said, "The gift of support and mentoring to these young adults from our [Company "B"] IT workforce perspective is awesome . . . [W]e're getting the opportunity to help develop professionals from the very beginning of their careers." The representative also described the Program's interns as "the most enthusiastic and motivated young adults I have met in a long time."

Company "B" may indirectly benefit from the goodwill generated through corporate social responsibility, but this type of long-term, speculative benefit should not be considered as an "immediate advantage" for the purposes of analyzing this factor.

There are countervailing impediments for Company "B" associated with participating in the Program: (1) supervision costs and (2) sponsorship costs.

First, Company "B" incurs substantial supervision costs, discussed under factor (3) above. Time that supervisors spend training and mentoring interns is time taken away from and impeding their regular duties. In addition, regular employees are impeded by their role in training and mentoring interns. For example, when a regular employee is being shadowed by an intern who is asking questions and seeking guidance—as happens for each intern that is starting an internship—that employee's productivity will be lowered.

Company "B" supervisors serve the Program's interns in a variety of ways. For example, one supervisor met with an intern one-on-one to coach the intern in communications skills, and assigned the intern to work with a company "B" employee to make templates to track the intern's growth areas. Another supervisor assigned an intern to shadow a regular employee for a week, during which time the intern took notes and asked questions.

In addition to the 1-2 hour per week, per intern, commitment from each supervisor for direct training, discussed under factor (3) above, each supervisor makes other commitments as a condition for participation in the Program. Each supervisor must attend a 1-hour Manager Orientation session, which for Company "B" takes place in one of the Program's classrooms. During the orientation session, supervisors are trained about the Program, attendant expectations for interns, and procedures to follow for when issues arise. For example, to ensure that disciplinary measures are handled by the Program's internship team rather than by the corporate partner, supervisors are trained to contact the Program's internship team to report any issues (such as tardiness) so that the Program's internship team can address the issue directly with the student. The training is conducted in accordance with a 17-slide slideshow presentation (see Exhibit 5).

Further time commitments from supervisors include the following: (1) The Program's internship team checks in with each supervisor in a biweekly call that typically lasts 5-25 minutes; (2) Each supervisor must complete a written survey twice per internship cohort that normally takes about 10 minutes per intern to fill out, and (3) the internship team makes an on-site visit 1-2 times per supervisor, per cohort, that normally lasts 25-45 minutes.

Thus, taking all these obligations into account and using the midpoint of each range for calculation, the 7 supervisors at Company "B" spend a total of about 350 hours of manager time for the current cohort because of participation in the Program. The Program

does not measure the additional time that lower-level Company "B" employees spend on an ongoing basis training and mentoring the Program's interns.

Second, Company "B" is asked to sponsor interns with a contribution to the Program. This sponsorship normally totals over \$22,000 per intern over the duration of the internship (or a \$176,000 sponsorship contribution for this year's cohort of 8 interns) and is primarily used to pay both (1) the direct costs of the L&D program that trains students, and (2) the fees owed to CCSF for college credits under the Program's dual-enrollment agreement. Without these contributions and sponsorships from corporate partners, the L&D training and the college credits would not be possible, since the sponsorships are the largest single source of the Program's funding. The agreement to sponsor interns is a burden and economic impediment affecting the operations of Company "B," the costs of which accrue for the benefit of students.

- (5) The trainees or students are not necessarily entitled to a job at the conclusion of the training period

Each of the Program's students interning at Company "B" has signed a half-page Internship Contract Acceptance Form (see Exhibit 9) that states: "I understand my internship is a training experience and that I will not be entitled to a position at the corporation where I train."

The Sponsor Agreement that Company "B" has signed with the Program (generic contract attached as Exhibit 10) states that "interns are not necessarily entitled to a job . . . at the conclusion of the training period."

For the past two cohorts, Company "B" has taken on six (6) interns but has not hired any of them as regular employees after the conclusion of the internship.

- (6) The employer and the trainees or students understand that the trainees or students are not entitled to wages for the time spent in training

The Internship Contract Acceptance Form (see Exhibit 9) that each of the Program's interns at Company "B" has signed states: "I understand that I will be placed at a corporation for an unpaid internship as part of my educational experience at [the Program]."

The Sponsor Agreement that Company "B" has signed with the Program (see Exhibit 10) also states that "trainees are not entitled to wages for time spent in training."

For the duration of the relationship with Company "B," none of the Program's interns has ever received any wage, commission, salary, or bonus for the time spent in training during the internship.

**(c) Company "C"**

The Program presently has five (5) interns placed with Company "C." Company "C" is a business software company.

- (1) The training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school

Each week, Company "C" provides each intern with up to thirty-six (36) hours of training, and the Program provides two (2) hours of classroom instruction in a class called "Internship Management," which interns attend along with the other interns from the other companies. Internship Management (see as Exhibit 7) incorporates Springboard Forward career planning and is an extension of L&D, especially in the areas of professional skills and business communications.

The training at the internship is designed to put into practice and "learn through doing" skills initially taught during L&D. This includes both the hard skills of IT systems support and the soft skills of professional behavior and etiquette.

As a business software company, activities at Company "C" are more centered around software development and testing rather than hardware installation. Students whom the Program has observed to be particularly interested in software aspects of IT training during L&D are sometimes selected by the Program to complete their internship at Company "C." At Company "C," students engage in the following activities:

- Research and practice assignments in Microsoft Project
- Troubleshoot software problems faced by employees of Company "C"
- Handle Help Desk tickets
- Design, build, and maintain websites
- Practice business communications with presentation in front of supervisor

The software developed by Company "C" is widely used in multiple industries, including at Company "C" for their own business operations. While students do have inescapable exposure to the development and deployment of Company "C" proprietary software, and sometimes become quite adept at using it, those skills are transferable and will be especially valuable at other companies apart from Company "C" because of the wide deployment of Company "C" software.

As part of the verification procedures for CCSF to award credits, CCSF representatives make on-site visits to the Company "C" worksite. On these visits, which are similar to on-site visits CCSF makes to verify the training activities for its own non-Program students earning credit at other companies for CNIT 197, CCSF confirms that students are performing the types of technical activities required for CNIT 197 credit (Internship and Work Experience).

(2) The training is for the benefit of the trainees or students

The Program's core purpose is to benefit its students and connect them to opportunity. The internship is a critical and integral part of the model designed to that end. Upon graduating from the Program, the Program's interns gain up to 13 hours of college credits, a marketable CNIT Computer Technician certificate from CCSF, and the experience, connections, resume-building, and references they need to find livable-wage careers or get into college.

As a 501(c)(3) nonprofit, the Program itself does not reap a financial benefit from its operation of the Program.

Classroom instruction is generally not sufficient to prepare the Program's student population for office work. On their internship at Company "C," students put into practice and refine the technical skills they learned in L&D, such as computer systems technical support, computer systems installation and maintenance, and operation of computer systems. Students get regular feedback, coaching, and mentoring from their supervisors, as well as from other IT professionals at Company "C."

Students at Company "C" also practice the soft skills that they learned in L&D, such as time and behavior management, interacting with colleagues, administrative aspects of employment such as filling out time sheets and reports, receiving feedback from supervisors, and composing professional emails.

The Program continues to provide students at Company "C" with additional college and career readiness resources during the internship, including but not limited to advisors, business mentors, guest speakers, social workers, career counselors, and assistance with financial aid applications. First, each student is paired with an advisor drawn from the Program's paid faculty and staff, and each advisor has approximately 3-5 advisees. Advisors communicate with each advisee once per week, with anything from a 5-minute check-in call to an hour-long lunch. Advisors work with an on-site social worker employed directly by the Program to address any issues raised during these communications. Second, each student is also paired with one business mentor, drawn from volunteers in the general San Francisco business community who have at least 2 years of professional experience. Third, the Program has a partnership with a social services organization called Springboard Forward, which provides 16 hours of career coaching over the course of the internship: 6 hours of career mapping in a classroom setting and 10 hours of 1:1 coaching outside the classroom. Fourth, the Program has a partnership with another social services organization called Single Stop, which assists the Program's students with financial aid applications. Finally, the Program employs a full-time on-site social worker to assist students with any issues that arise during the internship (see Exhibit 6).

In short, the training students receive at the Program is comparable to, but more enhanced than the training a computer student receives when working towards the CNIT Computer Technician Certificate at CCSF.

The Program's track record demonstrates the success of the Program. Over 85% of its students are employed or enrolled in college within one year, earning an average wage of approximately \$35,000/year, usually in careers with prospects for further advancement. Compared to the prospects of students entering the Program, these represent substantial improvements in quality of life and financial security.

- (3) The trainees or students do not displace regular employees, but work under their close supervision

Based on discussions with Company "C," no Company "C" employee has been replaced or laid off because of participation in the Program.

There is one supervisor at Company "C" who supervises all five interns. This supervisor spends 1-2 hours in one-on-one training with each of the Program's interns, or 5-10 hours per week. Activities during the training time include listening to student presentations, suggesting changes, reviewing projects, and giving feedback. This supervisor also delegates mentoring and training duties to other employees. This attention to supervision obviously intrudes into the supervisor's normal work obligations, and is thus a burden on Company "C."

This is apart from the indirect training and mentoring that interns receive every day from Company "C" employees working in the type of position for which the intern is training. Part of Company "C" training involves the Program's interns shadowing regular employees.

Although interns perform services that may be parallel to the services provided by regular Company "C" employees, they displace no employees nor are they viewed in any way as employee substitutes. They are monitored, evaluated, reviewed, and considered as the students that they truly are.

- (4) The employer that provides the training receives no immediate advantage from the activities of the trainees or students and, on occasion, the employer's operations may even be impeded

Company "C" may receive incidental benefits from the tasks interns perform while practicing their skills, especially towards the end of the internship when interns have had the greatest opportunity to refine their skills. But any advantage is outweighed by the burden Company "C" assumes as a corporate partner in the Program.

The Program believes that the primary motivation for Company "C" participating in the Program is for the purpose of being a good corporate citizen, doing good for the community, investing in youth workforce development, and inspiring employees and managers. A Company "C" representative has said, "[The Program's interns add value because] they help us see the world in a different way, and through that lens, they are helping this organization become a better and stronger organization overall. It's been a fantastic program for us. . . . Every city should be giving young adults the opportunity that [the Program] is giving to individuals in communities like San Francisco."

Company "C" may indirectly benefit from the goodwill generated through corporate social responsibility, but this type of long-term, speculative benefit should not be considered as an "immediate advantage" for the purposes of analyzing this factor.

There are countervailing impediments for Company "C" associated with participating in the Program: (1) supervision costs and (2) sponsorship costs.

First, Company "C" incurs substantial supervision costs, discussed under factor (3) above. Time that the Company "C" supervisor spends training and mentoring interns is time taken away from and impeding her regular duties. In addition, regular employees are impeded by their role in training and mentoring interns. For example, when a regular employee is being shadowed by an intern who is asking questions and seeking guidance—as happens for each intern that is starting an internship—that employee's productivity will be lowered.

Company "C" assigns one dedicated supervisor to manage the relationship with the Program. This supervisor spends a substantial portion of her time training the Program's interns, and in addition delegates duties to other employees, often assigning mentors for interns to work with on specific projects.

In addition to the 1-2 hour per week, per intern, commitment from the Company "C" supervisor, discussed under factor (3) above, the supervisor makes other commitments as a condition for participation in the Program. The supervisor must attend a 1-hour Manager Orientation session, which for Company "C" takes place at a third-party site. During the orientation session, the supervisor is trained about the Program, attendant expectations for interns, and procedures to follow for when issues arise. For example, to ensure that disciplinary measures are handled by the Program's internship team rather than by the corporate partner, the supervisor is trained to contact the Program's internship team to report any issues (such as tardiness) so that the Program can address the issue directly with the student. The training is conducted in accordance with a 17-slide slideshow presentation (see Exhibit 5).

Further time commitments from the supervisor includes the following: (1) The Program's internship team checks in with each supervisor in a biweekly call that typically lasts 5-25 minutes; (2) The supervisor must complete a written survey twice per internship

cohort that normally takes about 10 minutes per intern to fill out, and (3) the internship team makes an on-site visit 1-2 times per cohort that normally lasts 25-45 minutes.

Thus, taking all these obligations into account and using the midpoint of each range for calculation, the supervisor at Company "C" spends a total of about 200 hours of manager time for the current cohort because of participation in the Program. The Program does not measure the additional time that lower-level Company "C" employees spend on an ongoing basis training and mentoring the Program's interns.

Second, Company "C" is asked to sponsor interns with a contribution to the Program. This sponsorship normally totals over \$22,000 per intern over the duration of the internship (or a \$110,000 sponsorship contribution for this year's cohort of 5 interns) and is primarily used to pay both (1) the direct costs of the L&D program that trains students, and (2) the fees owed to CCSF for college credits under the Program's dual-enrollment agreement. Without these contributions and sponsorships from corporate partners, the L&D training and the college credits would not be possible, since the sponsorships are the largest single source of the Program's funding. The agreement to sponsor interns is a burden and economic impediment affecting the operations of Company "C," the costs of which accrue for the benefit of students.

- (5) The trainees or students are not necessarily entitled to a job at the conclusion of the training period

Each of the Program's students interning at Company "C" has signed a half-page Internship Contract Acceptance Form (see Exhibit 9) that states: "I understand my internship is a training experience and that I will not be entitled to a position at the corporation where I train."

The Sponsor Agreement that Company "C" has signed with the Program (See Exhibit 10) states that "interns are not necessarily entitled to a job . . . at the conclusion of the training period."

For the past two cohorts, Company "C" has taken on nine (9) interns and has ended up hiring two (2) of them as regular employees after the conclusion of the internship.

- (6) The employer and the trainees or students understand that the trainees or students are not entitled to wages for the time spent in training

The Internship Contract Acceptance Form (see Exhibit 9) that each of the Program's interns at Company "C" has signed states: "I understand that I will be placed at a corporation for an unpaid internship as part of my educational experience at [the Program]."

The Sponsor Agreement that Company "C" has signed with the Program (see Exhibit 10) also states that "trainees are not entitled to wages for time spent in training."



For the duration of the relationship with Company "C," none of the Program's interns has ever received any wage, commission, salary, or bonus for the time spent in training during the internship.

**(d) Company "D"**

The Program presently has four (4) interns placed with Company "D." Company "D" is an academic medical hospital.

- (1) The training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school

Each week, Company "D" provides each intern with up to thirty-six (36) hours of training, and the Program provides two (2) hours of classroom instruction in a class called "Internship Management," which interns attend along with the other interns from the other companies. Internship Management (see Exhibit 7) incorporates Springboard Forward career planning and is an extension of L&D, especially in the areas of professional skills and business communications.

The training at the internship is designed to put into practice and "learn through doing" skills initially taught during L&D. This includes both the hard skills of IT systems support and the soft skills of professional behavior and etiquette. At Company "D," students engage in the following activities:

- Building computers and deploying them in the field
- Imaging desktops and laptops prior to deployment
- Troubleshooting, correcting, and notifying vendor of warranty issues for equipment already in the field
- Installing and testing equipment
- Learning about different hospital IT systems
- Learning HTML and SEO programming
- Learning to use Excel, Access, Word, and Outlook
- Practicing verbal communications, interpersonal, and customer service skills

As part of the verification procedures for CCSF to award credits, CCSF representatives make on-site visits to the Company "D" worksite. On these visits, which are similar to on-site visits CCSF makes to verify the training activities for its own non-Program students earning credit at other companies for CNIT 197, CCSF confirms that students are performing the types of technical activities required for CNIT 197 credit (Internship and Work Experience).

- (2) The training is for the benefit of the trainees or students

The Program's core purpose is to benefit its students and connect them to opportunity. The internship is a critical and integral part of the model designed to that end. Upon graduating from the Program, the Program's interns gain up to 13 hours of college credits, a marketable CNIT Computer Technician certificate from CCSF, and the experience, connections, resume-building, and references they need to find livable-wage careers or get into college.

As a 501(c)(3) nonprofit, the Program itself does not reap a financial benefit from its operation of the Program.

Classroom instruction is generally not sufficient to prepare the Program's student population for office work. On their internship at Company "D," students put into practice and refine the technical skills they learned in L&D, such as computer systems technical support, computer systems installation and maintenance, and operation of computer systems. Students get regular feedback, coaching, and mentoring from their supervisors, as well as from other IT professionals at Company "D."

Students at Company "D" also practice the soft skills that they learned in L&D, such as time and behavior management, interacting with colleagues, administrative aspects of employment such as filling out time sheets and reports, receiving feedback from supervisors, and composing professional emails.

The Program continues to provide students at Company "D" with additional college and career readiness resources during the internship, including but not limited to advisors, business mentors, guest speakers, social workers, career counselors, and assistance with financial aid applications. First, each student is paired with an advisor drawn from the Program's paid faculty and staff, and each advisor has approximately 3-5 advisees. Advisors communicate with each advisee once per week, with anything from a 5-minute check-in call to an hour-long lunch. Advisors work with an on-site social worker employed directly by the Program to address any issues raised during these communications. Second, each student is also paired with one business mentor, drawn from volunteers in the general San Francisco business community who have at least 2 years of professional experience. Third, the Program has a partnership with a social services organization called Springboard Forward, which provides 16 hours of career coaching over the course of the internship: 6 hours of career mapping in a classroom setting and 10 hours of 1:1 coaching outside the classroom. Fourth, the Program has a partnership with another social services organization called Single Stop, which assists the Program's students with financial aid applications. Finally, the Program employs a full-time on-site social worker to assist students with any issues that arise during the internship (see Exhibit 6).

In short, the training students receive at the Program is comparable to, but more enhanced than the training a computer student receives when working towards the CNIT Computer Technician Certificate at CCSF.

The Program's track record demonstrates the success of the Program. Over 85% of its students are employed or enrolled in college within one year, earning an average wage of approximately \$35,000/year, usually in careers with prospects for further advancement. Compared to the prospects of students entering the Program, these represent substantial improvements in quality of life and financial security.

- (3) The trainees or students do not displace regular employees, but work under their close supervision

Based on discussions with Company "D," no Company "D" employee has been replaced or laid off because of participation in the Program.

Each intern at Company "D" is assigned one supervisor, such that there are four supervisors in 1:1 supervisory relationships with interns. However, each intern typically rotates among supervisors over the course of the internship. Each supervisor spends 10-15 hours per week supervising interns. Unlike at Companies "A," "B," and "C," interns at Company "D" are not on large teams where other employees can step in and train; hence it is up to the supervisor to train and so the hours per supervisor are higher for Company "D." This attention to supervision obviously intrudes into the supervisors' normal work obligations, and is thus a burden on Company "D."

Although interns perform services that may be parallel to the services provided by regular Company "D" employees, they displace no employees nor are they viewed in any way as employee substitutes. They are monitored, evaluated, reviewed, and considered as the students that they truly are.

- (4) The employer that provides the training receives no immediate advantage from the activities of the trainees or students and, on occasion, the employer's operations may even be impeded

Company "D" may receive incidental benefits from the tasks interns perform while practicing their skills, especially towards the end of the internship when interns have had the greatest opportunity to refine their skills. But any advantage is outweighed by the burden Company "D" assumes as a corporate partner in the Program.

The Program believes that the primary motivation for Company "D" participating in the Program is for the purpose of being a good corporate citizen, doing good for the community, investing in youth workforce development, and inspiring employees and managers.

Company "D" may indirectly benefit from the goodwill generated through corporate social responsibility, but this type of long-term, speculative benefit should not be considered as an "immediate advantage" for the purposes of analyzing this factor.

There are countervailing impediments for Company "D" associated with participating in the Program: (1) supervision costs and (2) sponsorship costs.

First, Company "D" incurs substantial supervision costs, discussed under factor (3) above. Time that Company "D" supervisors spend training and mentoring interns is time taken away from and impeding their regular duties. Company "D" supervisors take an extensive role working directly with interns in IT-related capacities, showing interns how to build equipment, image it, deploy it into the field, and troubleshoot.

In addition to the 10-15 hour per week, per intern, commitment from each supervisor for direct training, discussed under factor (3) above, each supervisor makes other commitments as a condition for participation in the Program. Each supervisor must attend a 1-hour Manager Orientation session, which for Company "D" takes place at the Company "D" place of business. During the orientation session, supervisors are trained about the Program, attendant expectations for interns, and procedures to follow for when issues arise. For example, to ensure that disciplinary measures are handled by the Program's internship team rather than by the corporate partner, supervisors are trained to contact the Program's internship team to report any issues (such as tardiness) so that the Program can address the issue directly with the student. The training is conducted in accordance with a 17-slide slideshow presentation (see Exhibit 5).

Further time commitments from supervisors include the following: (1) The Program's internship team checks in with each supervisor in a biweekly call that typically lasts 5-25 minutes; (2) Each supervisor must complete a written survey twice per internship cohort that normally takes about 10 minutes per intern to fill out, and (3) the internship team makes an on-site visit 1-2 times per supervisor, per cohort, that normally lasts 25-45 minutes.

Thus, taking all these obligations into account and using the midpoint of each range for calculation, the 4 supervisors at Company "D" spend a total of about 1,320 hours of manager time for the current cohort because of participation in the Program. Despite the close involvement of Company "D" supervisors with interns, other lower-level Company "D" employees are also active in training interns and the Program does not measure this additional commitment.

Second, Company "D" is asked to sponsor interns with a contribution to the Program. This sponsorship normally totals over \$22,000 per intern over the duration of the internship (or an \$88,000 sponsorship contribution for this year's cohort of 4 interns) and is primarily used to pay both (1) the direct costs of the L&D program that trains students, and (2) the fees owed to CCSF for college credits under the Program's dual-enrollment agreement. Without these contributions and sponsorships from corporate partners, the L&D training and the college credits would not be possible, since the sponsorships are the largest single source of the Program's funding. The agreement to sponsor interns is a

burden and economic impediment affecting the operations of Company "D", the costs of which accrue for the benefit of students.

- (5) The trainees or students are not necessarily entitled to a job at the conclusion of the training period

Each of the Program's students interning at Company "D" has signed a half-page Internship Contract Acceptance Form (see Exhibit 9) that states: "I understand my internship is a training experience and that I will not be entitled to a position at the corporation where I train."

The Sponsor Agreement that Company "D" has signed with the Program (see Exhibit 10) states that "interns are not necessarily entitled to a job . . . at the conclusion of the training period."

For the past two cohorts, Company "D" has taken on four (4) interns but has not hired any of them as regular employees after the conclusion of the internship.

- (6) The employer and the trainees or students understand that the trainees or students are not entitled to wages for the time spent in training

The Internship Contract Acceptance Form (see Exhibit 9) that each of the Program's interns at Company "D" has signed states: "I understand that I will be placed at a corporation for an unpaid internship as part of my educational experience at [the Program]."

The Sponsor Agreement that Company "D" has signed with the Program (see Exhibit 10) also states that "trainees are not entitled to wages for time spent in training."

For the duration of the relationship with Company "D," none of the Program's interns has ever received any wage, commission, salary, or bonus for the time spent in training during the internship.

**(e) Company "E"**

The Program presently has one (1) intern placed with Company "E." Company "E" is a nonprofit subsidiary that develops a popular free software package. This is the first year that the Program has had a relationship with Company "E," and so the relationship with Company "E" is not as fully developed as with the other Companies.

- (1) The training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school

Each week, Company "E" provides the intern with up to thirty-six (36) hours of training, and the Program provides two (2) hours of classroom instruction in a class called

“Internship Management,” which the intern attends along with the other interns from the other companies. Internship Management (see Exhibit 7) incorporates Springboard Forward career planning and is an extension of L&D, especially in the areas of professional skills and business communications.

The training at the internship is designed to put into practice and “learn through doing” skills initially taught during L&D. This includes both the hard skills of IT systems support and the soft skills of professional behavior and etiquette. Although there has not yet been much activity at Company “E” for the one student who is currently partway through the internship, that student has so far engaged in the following specific activities:

- Racking up 1U IX server reference machines to the server closet
- Diagnosing problems with the IPMI card to enable remotely connecting to the server
- Replacing memory modules for employees experiencing trouble with their work machine
- Restoring connectivity to machines
- Working on project to image Mac Minis for the build department
- Configuring a new printer to interface with the network
- Deploying laptop power adapters in conference rooms

As part of the verification procedures for CCSF to award credits, CCSF representatives make on-site visits to the Company “E” worksite. On these visits, which are similar to on-site visits CCSF makes to verify the training activities for its own non-Program students earning credit at other companies for CNIT 197, CCSF confirms that the student is performing the types of technical activities required for CNIT 197 credit (Internship and Work Experience).

(2) The training is for the benefit of the trainees or students

The Program’s core purpose is to benefit its students and connect them to opportunity. The internship is a critical and integral part of the model designed to that end. Upon graduating from the Program, the Program’s interns gain up to 13 hours of college credits, a marketable CNIT Computer Technician certificate from CCSF, and the experience, connections, resume-building, and references they need to find livable-wage careers or get into college.

As a 501(c)(3) nonprofit, the Program itself does not reap a financial benefit from its operation of the Program.

Classroom instruction is generally not sufficient to prepare the Program’s student population for office work. On his internship at Company “E,” the student puts into practice and refines the technical skills he learned in L&D, such as computer systems technical support, computer systems installation and maintenance, and operation of

computer systems. The student gets regular feedback, coaching, and mentoring from his supervisor, as well as from other IT professionals at Company "E."

Upon completion of the internship at Company "E," the student will receive a CNIT Computer Technician Certificate from CCSF. This marketable credential is awarded to the student only after he has completed his training at Company "E."

The student at Company "E" also practices the soft skills that he learned in L&D, such as time and behavior management, interacting with colleagues, administrative aspects of employment such as filling out time sheets and reports, receiving feedback from supervisors, and composing professional emails.

The Program continues to provide the student at Company "E" with additional college and career readiness resources during the internship, including but not limited to advisors, business mentors, guest speakers, social workers, career counselors, and assistance with financial aid applications. First, the student is paired with an advisor drawn from the Program's paid faculty and staff, and each advisor has approximately 3-5 advisees. Advisors communicate with each advisee once per week, with anything from a 5-minute check-in call to an hour-long lunch. Advisors work with an on-site social worker employed directly by the Program to address any issues raised during these communications. Second, the student is also paired with one business mentor, drawn from volunteers in the general San Francisco business community who have at least 2 years of professional experience. Third, the Program has a partnership with a social services organization called Springboard Forward, which provides 16 hours of career coaching over the course of the internship: 6 hours of career mapping in a classroom setting and 10 hours of 1:1 coaching outside the classroom. Fourth, the Program has a partnership with another social services organization called Single Stop, which assists the student with financial aid applications. Finally, the Program employs a full-time on-site social worker to assist the student with any issues that arise during the internship (see Exhibit 6).

In short, the training students receive at the Program is comparable to, but more enhanced than the training a computer student receives when working towards the CNIT Computer Technician Certificate at CCSF.

The Program's track record demonstrates the success of the Program. Over 85% of its students are employed or enrolled in college within one year, earning an average wage of approximately \$35,000/year, usually in careers with prospects for further advancement. Compared to the prospects of students entering the program, these represent substantial improvements in quality of life and financial security.

- (3) The trainees or students do not displace regular employees, but work under their close supervision

Based on discussions with Company "E," no Company "E" employee has been replaced or laid off because of participation in the Program.

The intern at Company "E" has a direct supervisor who provides 1-2 hours of training and feedback per week. This attention to supervision obviously intrudes into the supervisors' normal work obligations, and is thus a burden on Company "E."

In addition, the Company "E" intern has separately been assigned a mentor who is an employee in the IT department. The intern shadows the mentor for 2 hours per week and receives additional training and support from the mentor and from other employees in the IT department.

Although the intern performs services that may be parallel to the services provided by regular Company "E" employees, he displaces no employees nor is he viewed in any way as an employee substitute. He is monitored, evaluated, reviewed, and considered as the student that he truly is.

- (4) The employer that provides the training receives no immediate advantage from the activities of the trainees or students and, on occasion, the employer's operations may even be impeded

Company "E" may receive incidental benefits from the tasks the intern performs while practicing his skills, especially towards the end of the internship when the intern has had the greatest opportunity to refine his skills. But any advantage is outweighed by the burden Company "E" assumes as a corporate partner in the Program.

The Program believes that the primary motivation for Company "E" participating in the Program is for the purpose of being a good corporate citizen, doing good for the community, investing in youth workforce development, and inspiring employees and managers.

Company "E" may indirectly benefit from the goodwill generated through corporate social responsibility, but this type of long-term, speculative benefit should not be considered as an "immediate advantage" for the purposes of analyzing this factor.

There are countervailing impediments for Company "E" associated with participating in the Program: (1) supervision costs and (2) sponsorship costs.

First, Company "E" incurs substantial supervision costs, discussed under factor (3) above. Time that the Company "E" supervisor and the assigned employee mentor spend training and mentoring the intern is time taken away from and impeding their regular duties. Specific activities that the supervisor and mentor engage in at Company "E" include training the intern, giving the intern feedback on accomplished projects, and allowing the intern to shadow, ask questions, and seek guidance.



In addition to the commitment from the supervisor and mentor for direct training, discussed under factor (3) above, the supervisor makes other commitments as a condition for participation in the Program. The supervisor must attend a 1-hour Manager Orientation session, which for Company "E" takes place at the Company "E" place of business. During the orientation session, the supervisor is trained about the Program, attendant expectations for the intern, and procedures to follow for when issues arise. For example, to ensure that disciplinary measures are handled by the Program's internship team rather than by the corporate partner, the supervisor is trained to contact the Program's internship team to report any issues (such as tardiness) so that the Program can address the issue directly with the student. The training is conducted in accordance with a 17-slide slideshow presentation (see Exhibit 5).

Further time commitments from supervisors include the following: (1) The Program's internship team checks in with each supervisor in a biweekly call that typically lasts 5-25 minutes; (2) The supervisor must complete a written survey twice per internship cohort that normally takes about 10 minutes per intern to fill out, and (3) the internship team makes an on-site visit 1-2 times per supervisor, per cohort, that normally lasts 25-45 minutes.

Thus, taking all these obligations into account and using the midpoint of each range for calculation, the supervisor and mentor at Company "E" spend a total of at least 96 hours of employee time because of participation in the Program. The Program does not measure the additional time that lower-level Company "E" employees spend on an ongoing basis training and mentoring the Program's interns, nor does the Program measure the day-to-day training received from the mentor apart from the 2 hours per week that the intern spends shadowing.

Second, Company "E" is asked to sponsor interns with a contribution to the Program. This sponsorship normally totals over \$22,000 per intern over the duration of the internship (or a \$22,000 sponsorship contribution for this year's cohort of 1 intern) and is primarily used to pay both (1) the direct costs of the L&D program that trains students, and (2) the fees owed to CCSF for college credits under the Program's dual-enrollment agreement. Without these contributions and sponsorships from corporate partners, the L&D training and the college credits would not be possible, since the sponsorships are the largest single source of the Program's funding. The agreement to sponsor interns is a burden and economic impediment affecting the operations of Company "E," the costs of which accrue for the benefit of students.

- (5) The trainees or students are not necessarily entitled to a job at the conclusion of the training period

The Program's student interning at Company "E" has signed a half-page Internship Contract Acceptance Form (see Exhibit 9) that states: "I understand my internship is a

training experience and that I will not be entitled to a position at the corporation where I train.”

The Sponsor Agreement that Company “E” has signed with the Program (see Exhibit 10) states that “interns are not necessarily entitled to a job . . . at the conclusion of the training period.”

The Program has not had a prior relationship with Company “E” and so has no historical data on wages, salaries, commissions, or bonuses (or lack thereof) to report.

- (6) The employer and the trainees or students understand that the trainees or students are not entitled to wages for the time spent in training

The Internship Contract Acceptance Form (see Exhibit 9) that the Program’s intern at Company “E” has signed states: “I understand that I will be placed at a corporation for an unpaid internship as part of my educational experience at [the Program].”

The Sponsor Agreement that Company “E” has signed with the Program (see Exhibit 10) also states that “trainees are not entitled to wages for time spent in training.”

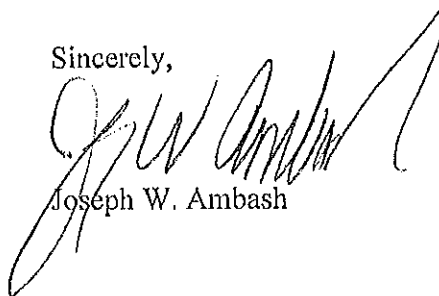
The Program has not had a prior relationship with Company “E” and so has no historical data on post-internship hiring.

### Conclusion

We believe that, based on the facts and circumstances outlined in detail in this letter, the DLSE should conclude that our client’s students, who perform internships at participating employer partners as part of our client’s educational program, are not “employees” under the California Wage Orders.

Thank you very much for your attention to this matter. Please contact me if you have any question.

Sincerely,



Joseph W. Ambash