owsartsandlabor@gmail.com; Subject: Intern Labor Rights
Arts & Labor, Intern Labor Rights, 347.766.7806

Call to Stop Publishing Classified Listings for Unpaid Internships at For-Profit Businesses

Dear New York Foundation for the Arts,

We are Arts & Labor, a working group founded in conjunction with the New York General Assembly for #occupywallstreet. We are artists and interns, writers and educators, art handlers and designers, administrators, curators, assistants, and students dedicated to exposing and rectifying economic inequalities and exploitative working conditions in our fields through direct action and educational initiatives.

We are writing to ask you to cease posting classified listings for unpaid interns at for-profit institutions on the "Jobs in the Arts" page of the NYFA website.

In 2010, the United States Department of Labor's Wage and Hour Division issued *Fact Sheet #71: Internship Programs Under the Fair Labor Standards Act*, "to help determine whether interns must be paid the minimum wage and overtime under the Fair Labor Standards Act for the services that they provide to 'for-profit' private sector employers." *Fact Sheet #71* includes a strict six-point test that must be satisfied **completely** before such an internship is considered legal, including:

- The internship must be similar to training that would be given in an educational environment;
- The internship experience must be for the benefit of the intern;
- The intern must not displace regular employees;
- The employer must derive no immediate advantage from the activities of the intern; in fact, its operations may actually be impeded on occasion.

Interns performing any kind of work that does not meet ALL of these criteria are legally considered employees and MUST be paid the minimum wage and overtime under the Fair Labor Standards Act.

From our collective experience as interns and professionals working in arts institutions, we know that the Department of Labor's criteria are rarely satisfied. Interns are often contracted to perform work that is not comparable with educational experience, and their labor saves employers an estimated $2 billion a year in wages.

While we applaud the work that NYFA does in advocating for the arts and for artists, we oppose the illegal practice of unpaid internships at for-profit institutions. Unpaid internships in today's job market often amount to nothing more than exploitation. **By posting classified listings for unpaid internships at for-profit businesses, you are facilitating that exploitation.**

Moreover, this system benefits people who already possess financial means and can afford to work for free, thus propagating social inequality in the art world, where pursuing one's passion

and affiliating oneself with a culturally prestigious entity becomes a socially sanctioned rationalization for highly precarious working conditions.

We call upon New York Foundation for the Arts to end its support of this exploitative practice by refusing to publish listings for unpaid internships at for-profit institutions and to begin the fight against precarious labor conditions in the arts by promoting internships that comply with minimum wage laws, as well as all other state and federal employment laws including health and safety protections and prohibitions on discrimination and sexual harassment.

Sincerely,

Arts & Labor

Similar letters have been sent to the following entities that post listings for unpaid internships at for-profit businesses: New York Foundation for the Arts (Jobs in the Arts), Association of American Publishers (bookjobs.com), playbill.org, mandy.com, internships.com and entertainmentcareers.net.

Press Releases announcing this and other similar letters have been sent to members of the press.
*****

Intern Rights in the News:

"Former Intern at 'Charlie Rose' Sues, Alleging Wage Law Violations," Steven Greenhouse
New York Times, March 14, 2012

"Fashion Week 2012: Unpaid Internships Questioned After Diana Wang's Harper's Bazaar Suit," Alice Hines
Huffington Post, February 14, 2012

"Do Unpaid Internships Exploit College Students?," Ross Perlin, David Lat, Alex Footman, Camille Olson, Raphael Pope-Sussman
New York Times, February 4, 2012

"Education Supplement: Unpaid Internships Aid Schools' Bottom Lines, But Do They Flout the Law?," Patrick Arden
Village Voice, January 4, 2012

"Not-So-Equal Protection—Reforming the Regulation of Student Internships," Kathryn Anne Edwards and Alexander Hertel-Fernandez
Economic Policy Institute website, April 9, 2010

"The Employment Law Rights of Student Interns," David C. Yamada
Connecticut Law Review, Vol. 3, pp. 215-59, 2002

"Lowery v. Klemm: A Failed Attempt at Providing Unpaid Interns and Volunteers with Adequate Employment Protections," James J. LaRocca
Public Interest Law Journal, Vol. 16, pp. 131-44, 2006