

EMPLOYER LAW BLOG

Illinois Extends Sexual Harassment Protection to Unpaid Interns

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Public Act 98-1037 will take effect January 1, 2015. The Act amends the Illinois Human Rights Act (775 ILCS 5). Illinois has joined the emerging trend providing protection against sexual harassment for unpaid interns who, on January 1, will be covered under the definition of “employee” for purposes of the Act’s prohibition against sexual harassment.

An unpaid intern is defined as a person who performs work for an employer in circumstances under which the employer is not committed to hiring the person at the conclusion of the internship and both parties agree that the person is not entitled to wages for the work performed.

Further, the work performed must supplement training provided in an educational environment that may enhance the employability of the intern; provide experience for the benefit of the person providing the work; does not displace regular employees; is performed under close supervision of staff; and provides no immediate advantage to the employer providing the training and may occasionally impede the operations of the employer.

Interns who do not meet the definition as delineated above also may still be considered as employees and covered by the Act.

Employers should remember that they are in most cases strictly liable for acts of harassment committed by managerial and supervisory employees. Employers are liable for sexual harassment committed by non-managerial employees only if they become aware of the conduct and fail to take reasonable corrective measures.

Employers should consider revising their workplace policies in order to provide that unpaid interns as defined by the Act will, after January 1, 2015, be covered by anti-harassment policies and procedures as well as educate managers and employees that interns will be protected.

By John L. Gilbert

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