

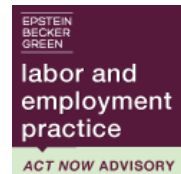
Client Advisories

Act Now Advisory: Illinois Extends Sexual Harassment Protection to Unpaid Interns

9/9/2014

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The Governor of Illinois has signed into law a bill (the "Amendment") that amends the Illinois Human Rights Act to prohibit sexual harassment against unpaid interns. The Amendment becomes effective on January 1, 2015.



Under the Amendment, an "unpaid intern" is defined as a person who performs work for an employer when the employer is not committed to hiring the person at the conclusion of the internship and both parties agree that the intern is not entitled to wages for the work performed. In addition, (1) the work performed must supplement the intern's education in a way that may enhance the intern's employability; (2) the work must provide experience for the benefit of the intern; (3) the intern cannot displace regular employees; (4) the work must be performed under close supervision; and (5) the work cannot provide any immediate advantage to the employer and may, in fact, at times impede operations.

Employers should keep in mind that a person treated as an intern who does not meet these requirements may well be considered an employee, who, therefore, will be entitled to the full protection of the Illinois Human Rights Act.

Employer Liability

The Illinois Human Rights Act provides that an employer is responsible for acts of sexual harassment committed by non-managerial employees only if it becomes aware of the conduct and fails to take reasonable corrective measures. Employers are generally liable for acts of harassment committed by managerial and supervisory personnel, whether or not they know about them. Illinois law also permits sexual harassment claims to be made against individual supervisors.

What Employers Should Do Now

Once the Amendment becomes effective, Illinois employers should:

- be aware that anti-harassment protections will apply to interns;
- provide interns, even if unpaid, with workplace policies addressing workplace harassment, including complaint procedures; and
- train managers and employees that, like employees, interns should not be subjected to harassment.

Illinois employers should also be aware that Governor Quinn signed into law an amendment to the Illinois Human Rights Act that requires "reasonable accommodation" of pregnant employees and reinstatement after maternity leave.

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If you have questions about these new laws or any other developments in the labor and employment area in Illinois, please contact:

Peter A. Steinmeyer
Chicago
312/499-1417
psteinmeyer@ebglaw.com

Julie Badel
Chicago
312/499-1418
jbadel@ebglaw.com

Zachary C. Jackson
Chicago
312/499-1462
zjackson@ebglaw.com

Mark M. Trapp
Chicago
312/499-1425
mtrapp@ebglaw.com

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