April 17, 2014

New York City Council Passes Law to Provide Employment Protections to Interns

On Tuesday, April 15, New York City Mayor Bill de Blasio signed a law to protect interns working in New York City from discrimination, harassment and retaliation by their employers. This new law takes effect on June 14.

The New York City Council introduced and passed the bill in March 2014 in response to a federal district court decision holding that New York State and City laws did not protect unpaid interns from sexual harassment, because they did not qualify as "employees." See *Wang. v. Phoenix Satellite Television U.S., Inc.*, 2013 U.S. Dist. Lexis 143627.

Once the new law takes effect, all protections afforded to employees under the New York City Human Rights Law ("NYCHRL") will also be afforded to interns. Specifically, interns will now be protected against unlawful discriminatory practices on the basis of their actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, alienage or citizenship status, or status as a victim of domestic violence, sex offenses or stalking. The new law also extends employers' obligations to provide reasonable accommodations for disabilities and religious observances to interns.

The new law defines "intern" as someone who performs work for an employer on a temporary basis whose work:

(a) provides training or supplements training given in an educational environment such that the employability of the individual performing the work may be enhanced;

(b) provides experience for the benefit of the individual performing the work; and

(c) is performed under the close supervision of existing staff.

A similar bill that would provide the same protections to unpaid interns under the New York State Human Rights Law is currently before the New York state legislature. The state bill was referred to the New York Committee on Governmental Operations in January 2014 and is still several steps away from reaching Governor Andrew Cuomo's desk.

With summer and its associated internships fast approaching, employers should ensure, through conducting training and monitoring workplace behavior, that interns receive the same protections as employees or they will now face liability for any discriminatory treatment under New York City law. As a reminder, employers may also be liable under the federal Fair Labor Standards Act and/or the New York Labor Law if they fail to pay at least minimum wage to interns who do not qualify under the strict criteria for the minimum wage and overtime exemptions that are applicable to interns under those laws.