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New Prohibitions on Discrimination for Unpaid Interns

On June 19, 2015, the governor signed into law a series of protections for unpaid interns. The new law, Public Act No. 15-56 [<http://www.cga.ct.gov/2015/ACT/PA/2015PA-00056-R00SB-00428-PA.htm>], extends the prohibitions on discrimination and harassment from the Connecticut Fair Employment Practices Act (“CFEPA”) to unpaid interns. (Paid interns are considered employees and were already covered by CFEPA.) Effective October 1, 2015, employers are prohibited from discriminating against unpaid interns on the basis of an intern’s race, color, religion, age, sex, gender identity, sexual orientation, marital status, national origin, ancestry, or disability. In addition, employers may not retaliate against an intern who has opposed or filed a complaint about a discriminatory practice. Finally, employers may not sexually harass current or prospective interns.

The new law uses a broad definition of “employer.” The prohibitions apply to any entity conducting business in Connecticut, including state and local governments.

Although this statute is new, its requirements and restrictions have been central tenets of employment law for years. Both CFEPA and Title VII of the Civil Rights Act of 1964 prohibit employers from harassing or discriminating against their employees. P.A. 15 56 simply codifies the principle that unpaid interns should be afforded the same protections enjoyed by paid employees.

Aside from the new prohibitions, employers can glean three important lessons from the new law. First, interns are often supervised by low-level employees and non-managers. These individuals might not regularly supervise other employees and therefore might not have gone through the mandatory sexual harassment prevention training required by state law. Although P.A. 15-56 does not explicitly extend the training requirement to these individuals, employers should consider providing harassment and discrimination prevention training to anyone who oversees interns.

Second, the new law’s definition of “intern” is instructive. The definition closely parallels the test developed by the U.S. Department of Labor’s Wage and Hour Division for determining



whether an internship must be paid under the Fair Labor Standards Act. The USDOL's test considers six factors including whether the intern and employer expect it to be paid, whether the work performed supplements the intern's training and education and provides experience for the intern's benefit, and whether the intern's work displaces any regular employees. The new law's similarity to this test suggests that the General Assembly approves of the USDOL's test for defining interns in the wage and hour context as well.

Lastly, the new law serves as a reminder that employers must be sure that their unpaid internship programs comply with state and federal wage and hour law. Therefore, the new law is a good excuse for employers to review their policies and practices now that we are in the intern season.

Questions or Assistance:

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