

## Unpaid Interns Now Afforded Same Discrimination Protections as Employees Under the New York City Human Rights Law

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On March 26, 2014, the New York City Council passed [an amendment](#) to the New York City Human Rights Law (“NYCHRL”), giving unpaid interns the same anti-discrimination protections under the law as is available to employees. The amendment will become effective on the earlier of (a) June 24, 2014, or (b) 60 days after Mayor Bill de Blasio signs it, if the amendment is signed before April 25, 2014. The NYCHRL protects individuals from discrimination in employment on the basis of race, color, creed, age, national origin, alienage or citizenship status, gender (including gender identity and sexual harassment), sexual orientation, disability, marital status, partnership status, unemployment status, and status as a victim of domestic violence, stalking, or sex offenses.

Currently, unpaid interns do not have any rights under the NYCHRL, as demonstrated in a recent case in the U.S. District Court for the Southern District of New York, *Wang v. Phoenix Satellite Television US, Inc.*, Case No. 1:13-cv-00218-PKC (S.D.N.Y. 2013). In *Wang*, the court held that an unpaid graduate intern could not maintain a sexual harassment claim under the NYCHRL because she was not an “employee,” as defined by the law. The City Council cited this case as a catalyst for amending the NYCHRL to include protections for interns.

### Coverage

The NYCHRL applies to employers, including employment agencies, with four or more employees (including independent contractors who are “natural persons” and not themselves employers). Under the amended NYCHRL, the term “intern” means an individual who performs work for an employer on a temporary basis and whose work:

- provides training or supplements training given in an educational environment such that the employability of the individual performing the work may be enhanced,
- provides experience for the benefit of the individual performing the work, and

- is performed under the close supervision of existing staff.

### **What Employers Should Do Now**

- Be aware that anti-harassment, anti-discrimination, and anti-retaliation protections apply to interns.
- Provide interns, even if unpaid, with workplace policies addressing workplace harassment, discrimination, and retaliation, including complaint procedures.
- Train managers and employees that, like employees, interns should not be subjected to harassment, discrimination, or retaliation.

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