

## Unpaid interns, volunteers now protected from abuse

By Holly Culhane, Contributing Columnist



Federal and state labor regulators, including those in California, have long scrutinized the use of unpaid interns and volunteers. Now California has joined New York, Oregon and the District of Columbia in protecting interns and volunteers from discrimination and harassment.

Federal and California laws require the use of unpaid interns only in training arrangements that comply with specific guidelines, which can be found at [www.dol.gov](http://www.dol.gov) and [www.jobs.ca.gov](http://www.jobs.ca.gov). But now in California, unpaid interns and volunteers no longer can be considered free labor that can be used and sometimes abused as a company and its managers see fit.

California lawmakers recently passed and Gov. Jerry Brown signed into law a bill that extends civil rights protections specifically to unpaid interns and volunteers. Beginning in January, unpaid interns and volunteers will be protected from workplace discrimination and harassment.

Most of us would have thought this would have been a “no brainer,” particularly in light of recent federal and state laws that have been extended to protect workers in an increasing number of protected classes, which are defined by gender, sexual orientation, age, race, religion, etc.

But a recent federal court ruling in New York uncovered a loophole in federal law and most states’ laws that left unpaid interns and volunteers open to abuse.

The case involved a Syracuse University student who contended she was sexually harassed, kissed and groped by a supervisor at her media company internship. She alleged that the supervisor retaliated against her when she rebuffed his advances.

A New York federal judge ruled that Title VII of the 1964 Civil Rights Act, which protects employees from workplace discrimination, including sexual harassment, does not apply to unpaid interns because they are not “employees.” In California, a state judge recently ruled that California’s Fair Employment and Housing Act does not apply to “volunteers.”

Introducing the 2014 bill which extends the California act to unpaid interns and volunteers, Bay Area Assemblywoman Nancy Skinner noted that the recent Great Recession forced an increasing number of young people to rely on unpaid work experience, such as internships and volunteer positions, to build their resumes to compete for jobs.

“No one should give up their basic civil rights just because they are willing to forgo pay for the experience,” Skinner told her legislative colleagues. “Interns and volunteers deserve a safe, fair workplace and the same legal protections against discrimination and harassment as everyone else.”

A 2008 survey by the National Association of Colleges and Employees revealed that half of all graduating students had held internships while in college. Intern Bridge, a consulting firm, reported in 2012 that an overwhelming majority of these unpaid internships were held by women.

Based on this new law, beginning in January, California employers should:

--Expand their policies prohibiting discrimination and harassment to include unpaid interns and volunteers. The new law also requires employers to reasonably accommodate the bona fide religious beliefs of unpaid interns.

--Inform interns and volunteers of their rights and the procedure for reporting harassment or discrimination in the workplace.

--Include the treatment of unpaid interns and volunteers in any required supervisory training that covers discrimination, sexual harassment and abusive behavior.

--Recognize that employers may be held liable if volunteers or unpaid interns engage in harassing conduct.

The benefits for a company to have unpaid interns and volunteers are many. They include nurturing future industry professionals and "test driving" potential employees. But, as demonstrated by the ramifications that lead to this new law, internship and volunteer programs must be thoughtfully and carefully administered.

***This article written by Holly Culhane first appeared online and in The Bakersfield Californian on Wednesday, January 7, 2015. Holly Culhane is president of the Bakersfield-based human resources consulting firm P.A.S. Associates. She can be contacted through her website [www.pasassociates.com](http://www.pasassociates.com) and through the [PAS Facebook](#) page or by phone at 631-2165.***

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