

HOW TO FILE A COMPLAINT

If you believe that you have been subjected to discrimination at your unpaid internship based upon your age, race, creed, color, national origin, sexual orientation, military status, sex, disability, genetic predisposition or carrier status, marital status, or domestic violence victim status, you can file a complaint with the New York State Division of Human Rights.

A complaint must be filed with the Division within one year of the alleged discriminatory act. Interns are protected with regard to harassment and other forms of unlawful discrimination occurring on or after July 22, 2014. You may also file a complaint directly in court, but may not file both with the Division and in court.

For more information or to file a complaint, you may contact the regional office nearest to your home or workplace, or visit our website at: WWW.DHR.NY.GOV.

SOME EXAMPLES:

At the law firm where I intern, employees make sexual comments and tell dirty jokes, which make me uncomfortable. Some of the comments are about me and the other interns, and I find it hard to do my work. What can I do?

Conduct that creates an intimidating or offensive work environment for an intern is unlawful. You can report the harassment through the employer's human resources department and consider filing a complaint with the Division of Human Rights or in court.

I'm changing careers and applied for an internship in the tech industry. However, when I went for an interview, the recruiter told me that I might be too mature to fit in with the other interns. Is this unlawful?

The Human Rights Law provides that interns may not be discriminated against on the basis of age.

I saw an ad for an internship which states that they are seeking a candidate with an "all-American look." Is this permissible?

It is unlawful for a business to print or circulate any statement, advertisement or publication, or that expresses directly or indirectly, any limitation, specification or discrimination based on race, national origin, disability, sexual orientation or any other protected basis.



Division of
Human Rights

Protections for INTERNS in the Workplace

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Protections for Unpaid Interns in the Workplace

The New York State Human Rights Law was amended, effective July 22, 2014, to protect unpaid interns from harassment and other forms of unlawful discrimination in the workplace.

Interns are now protected against discrimination based upon age, race, creed, color, national origin, sexual orientation, military status, sex, disability, genetic predisposition or carrier status, marital status, or domestic violence victim status.

Further, interns who oppose discrimination or file complaints of discrimination are protected from retaliation.

If an individual is denominated an “intern” but paid, that person will likely be considered a regular employee under the Human Rights Law.

The Law applies to all employers with four or more employees.

Who is an Intern?

As used in the Human Rights Law, “intern” means a person who performs work for an employer for the purpose of training under the following circumstances:

- a. the employer is not committed to hire the person performing the work at the conclusion of the training period;

- b. the employer and the person performing the work agree that the person performing the work is not entitled to wages for the work performed; and

- c. the work performed:

- (1) provides or supplements training that may enhance the employability of the intern;
- (2) provides experience for the benefit of the person performing the work;
- (3) does not displace regular employees; and
- (4) is performed under the close supervision of existing staff.

Protected Areas Under the Law

Unpaid interns are protected with regard to the following areas:

- selection, retention and the terms, conditions and privileges of the internship;
- discrimination in receiving, classifying, disposing or otherwise acting upon applications for internships;
- advertising and inquires, making it unlawful to “print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application or employment as an intern or to make any inquiry in connection with prospective employment, which expresses directly or indirectly, any limitation, specification or discrimination”;
- retaliation for opposing discrimination;
- pregnancy discrimination.

Interns and Sexual Harassment

Sexual harassment is prohibited as a form of sex discrimination under the New York State Human Rights Law.

Interns are specifically protected where an employer engages in unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:

- submission to such conduct is made (either explicitly or implicitly) a term or condition of the intern’s employment;
- submission to, or rejection, of such conduct by the intern is used as a basis for decisions affecting such intern; or
- such conduct has the purpose or effect of interfering with the intern’s work performance, by creating an intimidating, hostile or offensive working environment.

Other Harassment Prohibited

The Human Rights Law forbids harassment on any covered basis. Specifically, it is an unlawful discriminatory practice to subject an intern to harassment based upon age, race, creed, color, national origin, sexual orientation, military status, sex, disability, genetic predisposition or carrier status, marital status or domestic violence victim status, where such conduct has the purpose or effect of interfering with the intern’s work performance by creating an intimidating, hostile or offensive working environment.