The Unpaid Intern: Do they have any Legal Rights?

Mark Dodds, State University of New York, Cortland
Kristi Schoepfer, Winthrop University

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An internship as a practical experience is vital to many sport management curricula; colleges and universities often require sport management majors to complete an internship as the culminating experience. Specifically, 77% of sport management programs have an experiential learning requirement for graduation (Gargone, n.d.). Students who enroll in an internship experience often work over 400 hours with a host organization; in many cases, the intern is unpaid. (Schoepfer and Dodds, 2010). While an internship can provide many benefits to the sport management student, there is also potential that the unpaid internship relationship will create potential legal issues.

On October 3, 2013 the United States District Court for the Southern District of New York held an unpaid intern could not bring a sexual harassment claim because she was not considered an employee. In Wang v. Phoenix Satellite Television US, Inc., No. 13 Civ. 218 (PKC), (Oct. 3, 2013), Lihuan Wang alleged that Phoenix Satellite Television bureau chief, Zhengzhu Liu, subjected her to a hostile work environment, quid pro quo sexual harassment and retaliation. Ms. Wang contends that Mr. Liu tried to kiss her, grabbed her buttocks and propositioned her to take a trip to discuss future employment opportunities with Phoenix Satellite Television She brought the lawsuit under both state law and a city ordinance. Neither claim was upheld by the court.

The court analyzed section 8-107(1)(a) of the New York City Human Rights Law. It held that the law only applies in an employer-employee relationship. Here, there was no employment relationship because there was no compensation provided to Ms. Wang. Further, the court held that a Civil Rights Title VII claim would fail for the same reason. Lastly, the court noted that both the city and state legislatures had multiple opportunities to change the law to include unpaid internships but chose not to do so.

Although Wang is a case of first impression in New York State, other interns have been denied discrimination claims based on the unpaid status (O'Connor v. Davis, 1997; Lowery v. Klemm, 2006). Unpaid interns are commonly denied other protections such as worker's compensation, and insurance coverage through their host organizations.

Risks associated with the unpaid status are numerous; however, there are also risks present for the sport management program itself. Based on the holding from Nova Southeastern University v. Gross, 758 So. 2d 86 (Fla. 2000), sport management programs should take steps to protect student-interns from “unreasonable risk of harm” (Foster and Moorman, 2001), which may include exposure to legal issues such as sexual harassment, discrimination and personal injury.

This legal research investigates the holding of the Wang case, discusses the multiple legal risks faced by unpaid student interns, offers recommendations for student interns to protect themselves, and provides advices for sport management programs to shield themselves against potential legal liability.