

LAW OFFICE OF LORI A. GOLDSTEIN, LLC

CLIENT BULLETIN SUMMER 2019



Gamechangers: New Employment Laws

As Labor Day approaches, employers are preparing for several new laws that will significantly change the workplace as we know it. **Forbidden salary questions** at hire and **state-mandated minimum wage, retirement plans** and sexual **harassment training** are some of the new employer obligations and workers' rights to be aware of.

Illinois Becomes Salary Transparency State

A broad **nationwide effort** is underway to **promote equal pay and avoid perpetuating** decades of unequal pay based on legally protected categories. The high-profile U.S. Women's Soccer Team's discrimination suit set for trial next May describes "institutionalized gender discrimination" that has "existed for years."

Several states restrict employers from asking potential hires about past earnings and many companies have voluntarily adopted salary transparency policies. **Large employers** with 100+ employees are now required to **report pay data to the government**, categorized by gender and other categories. The new "Component 2 EEO-1" form must be completed for years 2017 and 2018 by September 30, 2019.

On **September 29, 2019**, an amendment to the Illinois Equal Pay Act will impose new rules for Illinois employers (private and state/local public employers with **4 or more employees**, employment agencies, and agents, such as recruiters):

- **No inquiries** about an applicant's **wage/salary information** from any current or former employer.
- No requirement that prior wage/ salary "satisfy minimum or maximum criteria."
- **No offers conditioned** on disclosing salary history.
- Employer can provide information regarding the benefits of a position and discuss an applicant's expectations regarding compensation.
- Employers **can't prohibit employees from disclosing/discussing** with each other their wages, salary, benefits or other compensation.

Individuals will have 5 years to bring claims. Damages and penalties include the underpayment of wages plus interest, compensatory damages if employer acted with malice or reckless indifference, special damages up to \$10,000, a civil penalty up to \$5,000 for each violation for each employee affected, punitive damages, injunctive relief, and attorneys' fees and costs.

Next Steps:

- Review job applications and delete wage and salary history questions
- Review and revise recruiting, interviewing and hiring policies and practices, consider auditing potential pay disparities, and train interviewers on proper questions and handling of voluntary disclosures
- Make sure policies and employment, confidentiality and non-compete agreements do not restrict an employee's ability to discuss compensation
- Consider auditing pay practices for disparities

Minimum Wage Increases

- Chicago: \$13 (7/1/19)
- Cook County (opt-in towns): \$12 (7/1/19)
- Illinois: **State-wide** for employers with 4 or more employees not covered by Chicago/Cook): \$9.25 minimum (\$5.55 for tipped employees) on 1/1/20 and \$10 (\$6 tipped employees) on 7/1/20 (increasing to **\$15 by 2025.**)

Mandated Retirement Plans

- Illinois employers with **25 or more employees by 11/1/19** (those with 100+ by 7/1/19)
- Must provide employees with a qualified retirement plan
- First state-created mandatory, state-run retirement savings program for private employees
- **Employees own their accounts** and can **transport** from job to job.
- Exempt: employers in business less than 2 years or who have an established plan
- Illinois Secure Choice program (a Roth IRA) or another qualified retirement plan
- Employer withholds % of employee pay as the contribution (employee can opt out)
- No employer contributions
- Must **distribute informational materials** to all employees
- Fines and penalties of \$250/employee first year and \$500/employee each subsequent year.

Changes to Harassment and Discrimination Landscape

Illinois employers will face increased risk next year when the new **Workplace Transparency Act** amends the Illinois Human Rights Act (IHRA.)

Changes January 1, 2020:

- IHRA will also **protect nonemployees, such as contractors** and consultants
- **No confidentiality/nondisclosure** and **non-disparagement** clauses for harassment or discrimination claims without specific **conditions**. Includes 21 days for worker to consider the agreement before signing and 7 days to revoke.
- No arbitration of discrimination/harassment claims
- Discrimination/harassment claims based on "perceived" characteristic to cover all protected categories, not just disability
- Required **annual sexual harassment prevention training**

Changes July 1, 2020:

- The IHRA will expand to **cover ALL employers** (not just those with 15+ employees) for **anti-discrimination, harassment and retaliation obligations**.
- Employers and state contractors must **annually disclose to the state statistics** on their settlements, adverse judgments and administrative rulings on harassment and discrimination claims.

Next Steps:

- **Review and update** employment contracts, separation agreements, arbitration agreements, and policies on discrimination and harassment.
- **Evaluate** your current sexual harassment training program or create and establish one.
- Be ready to comply with the mandatory reporting requirements.

Kinder, Gentler Employers?

The Business Roundtable, a group representing the country's most powerful CEOs, recently released a statement redefining "the purpose of a corporation." Rather than focusing mainly on shareholders' interests, companies should also **focus on investing in employees, delivering value to customers, and using more sustainable practices** to protect the environment. Almost 200 CEOs signed the statement, including those from Apple, AT&T, and Bank of America.

Announcements

- ✓ **Lunch and Learn** Please join me for a workshop on *Sexual Harassment in the Workplace* from 11:30-1:30 p.m. on September 17 at Fastest Labs of Northwest Chicago, 1701 Howard St, Unit G, Elk Grove Village. Click here for free registration:
<https://www.eventbrite.com/e/sexual-harassment-in-the-workplace-tickets-70318595813>
- ✓ **Career Resource Center is here for you!** I am a proud CRC Board member, a nonprofit celebrating almost 30 years of success. We are here for newly RIF'd employees, graduates, individuals returning to the workforce, those seeking a change of employment or career, and employees who need a boost in their career transition search. Stop by for a tour, try out a workshop, or join for a year. Volunteers and donors always welcome too!
careerresourcecenter.org
- ✓ **I represent employers and employees** in legal workplace matters, compliance, contracts, training, and dispute resolution. I can often answer a question quickly.

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