

**LABOR AND  
EMPLOYMENT  
LAW UPDATES  
AND REMINDERS  
SEPTEMBER 2024**

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## **CHICAGO LABOR PEACE ORDINANCE**

- Also called the Human Service Workforce Advancement Agreement Ordinance.
- Applies to any nonprofit organization with 20 or more employees whose services are funded and/or administered by the Chicago Department of Public Health (DPH) or the Chicago Department of Family and Support Services (DFSS).
  - Hospitals are exempt; religious organizations are not exempt.
- Requires labor peace agreements between workers and Chicago-funded nonprofit organizations providing critical public health and social services to Chicago residents and communities.
  - Large human and social services providers who contract with the City of Chicago must agree to enter into labor peace agreements with unions that represent or seek to represent their employees.

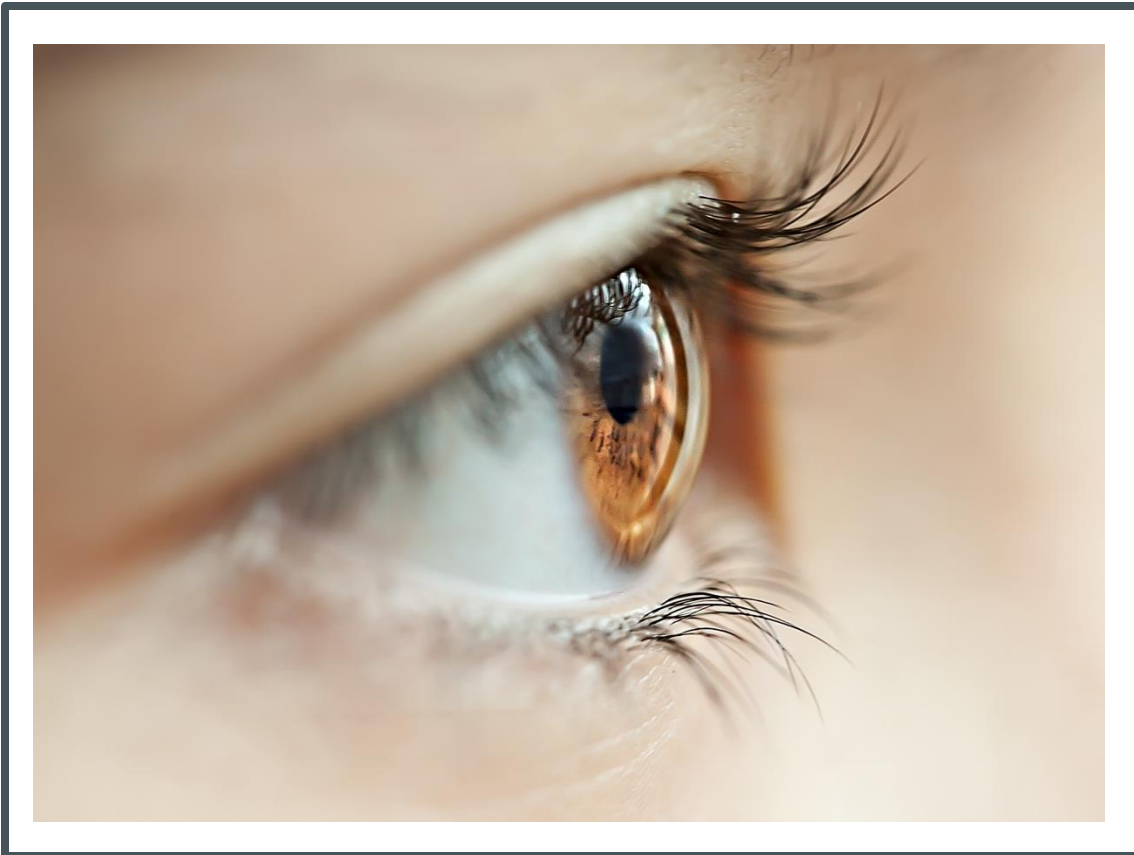
# POSITIVE WORK CULTURE - BELONGING



Employees feel they belong at work when we are:

- **Seen** for their unique contributions
- **Connected** to coworkers
- **Supported** in their daily work and career development
- **Proud** of the organization's values and purpose

# BELONGING – BEING SEEN FOR UNIQUE CONTRIBUTIONS



Being Seen for Our Unique Contributions



Every individual brings something unique -their skills, experiences, perspectives, or ideas - to the table.

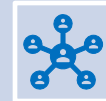


When we are recognized and valued for our distinct contributions, we feel acknowledged and appreciated.



This recognition fosters a sense of self-worth and belonging.

# BELONGING – STRONG CONNECTIONS TO CO-WORKERS



Connecting to Co-workers



creates a supportive network within the organization.



can be built through collaboration, shared experiences, and open communication.



This can create an agency where everyone feels included and supported.

# BELONGING – BEING SUPPORTED



Support in Daily Work and Career Development



receiving guidance from a mentor



access to the resources needed to perform the job

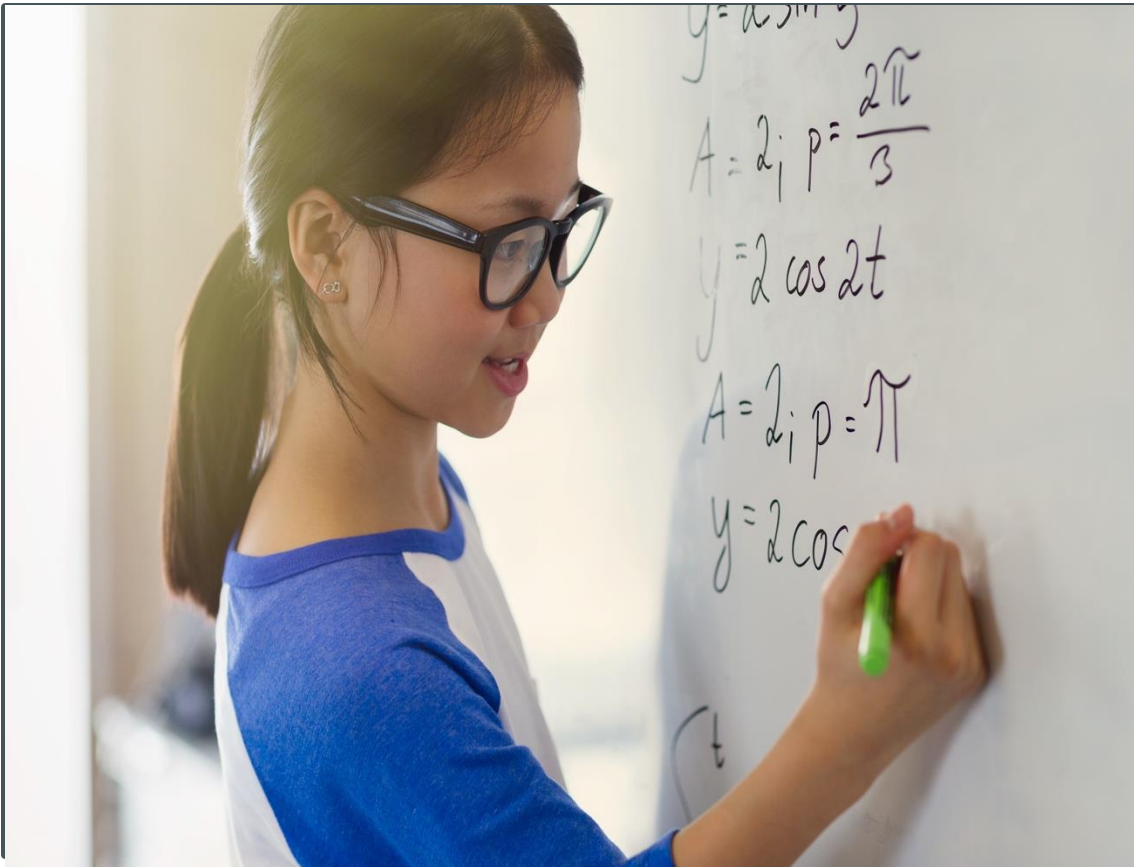


being encouraged to pursue professional development opportunities.



When team members feel supported, they are more likely to thrive and grow within the agency.

# BELONGING – PRIDE IN AGENCY VALUES AND PURPOSE



## Pride in the Agency's Values and Purpose

When we align with our agency's values and believe in its mission, we take pride in being part of something larger than ourselves.

This sense of pride strengthens our emotional connection to the agency and enhances our overall sense of belonging.

# NEW LEAVE LAWS





# PAID LEAVE LAW OVERVIEW

## Illinois Paid Leave for All Workers Act (“PLAWA”)

- Effective on January 1, 2024
- Employees can begin using as of March 30, 2024
- Does not apply to Chicago or Cook County.

## Cook County Paid Leave Ordinance

- Effective on December 31, 2023
- Does not apply to Chicago, but applies to all Cook County (even if previously opted out of the Earned Sick Leave Ordinance)

## Chicago Paid Leave and Paid Sick and Safe Leave

- Effective on July 1, 2024
- Applies to Chicago only.

# **ILLINOIS PAID LEAVE FOR ALL WORKERS ACT**

On January 1, 2024, the Act went into effect. This Act provides paid leave for nearly all employees in Illinois.

Provides 40 hours of paid leave each year for any reason, to be taken at a minimum in 2-hour increments.

## ILLINOIS PAID LEAVE FOR ALL WORKERS ACT (cont'd)

- Employers must allow full-time and part-time employees to earn and use up to 40 hours of paid leave during a 12-month period
  - ❖ Employees must be allowed to earn paid leave at a rate of at least 1 hour for every 40 hours worked
  - ❖ Only hours worked count for accrual; unpaid leave and PTO time does not accrue leave time
  - ❖ Employers can instead front-load 40 hours of leave at the beginning of the 12-month period
- **What is Paid Leave?**
  - ❖ Leave that is taken for any reason or no reason at all and may not have to be paid out upon separation. However, “vacation” or leave credited to a general paid time off bucket is subject to payout under the Illinois Wage Payment and Collection Act
  - ❖ Employees do not need to submit documentation or proof to support the leave.
- Employers must allow employees to begin using paid leave 90 days following the beginning of their employment or 90 days following the effective date of the Act, whichever is later
- Employers with existing paid leave policies that provide for at least 40 hours of paid leave need not provide any more so long as employees can use the paid leave for any reason.

# ILLINOIS PAID LEAVE FOR ALL WORKERS ACT (cont'd)

## ➤ Rate of Pay

- ❖ Regular hourly rate
- ❖ Tipped/Commissioned employees – at least the full minimum wage in the jurisdiction they work (\$14 per hour in Illinois).

## ➤ Blackout Dates

- ❖ An employer can deny an employee use of paid leave
- ❖ Employers can adopt a reasonable policy that outlines the reasons they can deny paid leave requests due to operational necessity, including holidays, busy periods, or peak seasons
- ❖ Policy must be in writing and communicated to employees

## ➤ Paid Leave for No-Call, No-Show Absences?

- ❖ Employer can prohibit this by adopting a reasonable policy regarding notification for unforeseen absence and how they will handle no-call no-show absences, but employers cannot require the employee to disclose reason for absence.

# ILLINOIS PAID LEAVE FOR ALL WORKERS ACT (cont'd)

## ➤ Cannot

- ❖ An employer cannot ask an employee for the reason of their paid leave request.
- ❖ An employer cannot ask an employee for documentation relating to their paid leave request.
- ❖ An employer cannot require an employee to find a replacement before they can use their paid leave time.
- ❖ It is unlawful for an employer to consider the use of paid leave as a negative factor in any employment action.

## ➤ Increments

- ❖ Employers may set increments for use of paid leave at no greater than 2 hours

# ILLINOIS PAID LEAVE FOR ALL WORKERS ACT (cont'd)

## ➤ Exemptions

❖ The Act has limited and specific exemptions:

- Independent contractors, generally
- Certain railroad and airline employees
- Some short-term, temporary employees of institutions of higher education
- College/university students who are employed part-time by their school or short term-temporary employees of institutions of higher education
- Employees covered by a collective bargaining agreement with an employer that provides delivery, pickup, and transportation services
- Employees of school districts organized under the School Code
- Employees of park districts organized under the Park District Code

# ILLINOIS PAID LEAVE FOR ALL WORKERS ACT (cont'd)

- Applies to employees who work through a temporary staffing agency. The staffing agency is required to provide the paid leave to its employees
- Employers may set the 12-month period they will use for paid leave
- Employers must allow employees to carry-over any unused paid leave at the end of the 12-month period, unless they front-load paid leave. Employers are not required to allow use of more than 40 hours of paid leave in a 12-month period. 40-hour cap.
- Employers may set notice procedures for paid leave:
  - ❖ If the need for paid leave is reasonably foreseeable, employers can require employees to give up to seven days' notice
  - ❖ If the need for paid leave is not reasonably foreseeable, employers can require employees give notice as soon as is practicable
- Unused paid leave need not be paid out upon termination. However, any unused leave must be immediately reinstated if the employee is re-employed within 12 months from termination
- The paid leave requirements do not change the terms of a CBA in effect as of January 1, 2024. Thereafter, the paid leave requirements of the Act can be waived in a CBA, but only if the waiver is explicitly set forth and is clear and unambiguous

# ILLINOIS PAID LEAVE FOR ALL WORKERS ACT (cont'd)

## ➤ Remote Workers

- ❖ Illinois workplace protections apply to employees who primarily work in Illinois for a company that does business in Illinois
- ❖ Therefore, if an employee primarily works in Illinois, then the employee is likely entitled to paid leave

➤ If an employee works less hours than anticipated or quits before the end of the year, an employer is not allowed to make the employee pay back the employer for frontloaded unused paid leave

## ➤ Overtime-Exempt Employees

- ❖ Employees who are exempt from overtime under the FLSA shall be deemed to work 40 hours in each workweek even if they regularly work 40 or more hours in a workweek. If they work less than 40 hours in a week, their paid time accrues based on the numbers of hours in their regularly workweek.



# ILLINOIS PAID LEAVE FOR ALL WORKERS ACT (cont'd)

## ➤ Unlimited PTO Policy

- ❖ Might be compliant with the Act---fact specific analysis.
- ❖ Factors:
  - Whether employee did, or had, the ability to take 40 hours of paid leave in a year for any reason
  - Whether employees were paid the regular rate of pay for the time they took off
  - Other factors may be used (but are not disclosed)

## ➤ IDOL Complaint

- ❖ Employees can file a complaint with IDOL for alleged violations of the Act but no private right of action
- ❖ 3 year SOL

## ➤ Penalties

- ❖ Actual underpayment, compensatory damages, fines ranging from \$500 to \$1,000, equitable relief, attorneys fees, expert witness fees, other costs

# COOK COUNTY PAID LEAVE ORDINANCE

- Effective as of December 31, 2023
- Applies to employees who work for an employer in Cook County and/or an employer has a place of business in Cook County
- Very similar to the Illinois Paid Leave for All Workers Act
  - 1 hour of paid leave for every 40 hours worked (used for any reason)
  - Accrue immediately, but can use beginning 3/30/24 or 90 days after date of hire, whichever is later
  - Carryover, but employees cannot use more than 40 hours in a year
  - Unused paid leave does not have to be paid out at termination
- Does not apply to employers in Chicago
- Applies to municipalities who previously opted out of the Earned Sick Leave Ordinance



# COOK COUNTY PAID LEAVE ORDINANCE (cont'd)

- Leave can be used for any reason
- Frontloading allowed
- **Private right of action**
  - ❖ Employer liable to employee for damages for actual underpayment, compensatory damages, and fines ranging from \$500 to \$1,000
  - ❖ Filing period – within 3 years of last alleged violation
- **Payout**
  - ❖ No, but employers are required to pay the value of unused paid leave if the leave is credited to the employee's paid time off bank or employee vacation amount. Must be paid within 15 days of employee's termination, resignation, retirement, or other separation.
  - ❖ Be careful – vacation/PTO must be paid under Illinois Wage Payment and Collection Act
- **Denial of Leave**
  - ❖ Employers may adopt policies that establish some parameters for taking leave (e.g. notice requirements, etc.) and limited reasons the employer may deny the leave for operational necessity. Policy must be communicated to employees and apply equally.

# COOK COUNTY PAID LEAVE ORDINANCE (cont'd)

- **Repayment of Paid Leave? No.**
  - ❖ Employer may not seek compensation from employees for front-loaded time used if they leave before the 12-month period.
- **Recordkeeping**
  - ❖ Must maintain records documenting hours worked, paid leave accrued and taken, and remaining paid leave balance for each employee for a period of not less than 3 years
- **Rollover (except when frontloaded)**
  - ❖ Employees are allowed to carry over or roll over unused, accrued leave from one year to the next, and employers may cap how much time an employee can roll over from year to year. A cap shall not be less than 40 hours. 40 hour rollover cap allowed.
- **Tipped Employees**
  - ❖ Rate of pay is Cook County's current non-tipped minimum wage (\$14.05/hour).

# CHICAGO PAID LEAVE AND PAID SICK AND SAFE LEAVE ORDINANCE

- Effective July 1, 2024
- Applies to any employer who employs at least one employee
- Applies to employees who work within Chicago for at least 80 hours within a 120-day period (includes part-time, full-time, or seasonal employees)
- Provides Paid Sick Leave AND Paid Leave totaling 80 hours in a year:
- **Accrual**
  - ❖ Paid Sick Leave: 1 hour of paid sick leave for every 35 hours worked up to 40 hours in a 12-month period
  - ❖ Paid Leave: 1 hours of paid leave for every 35 hours worked up to 40 hours in a 12-month period
  - ❖ Begins upon start of employment or July 1, 2024, whichever is later
  - ❖ If employee already accrued paid sick leave prior to July 1, 2024, then those hours carry forward
  - ❖ Paid Leave and Sick Leave accrues in hourly increments



# CHICAGO PAID LEAVE AND PAID SICK AND SAFE LEAVE ORDINANCE (CONT'D)

Paid Leave can be used for any reason



Paid Sick Leave can be used for employee and family member's illness, injury, victim of sexual or domestic violence, business is closed for public health emergency, and more.



Payout at separation for Paid Leave only (no payout for Paid Sick Leave)

Large employer (101+ employees) – full amount of unused leave up to 7 days max.

Medium employer (51-100 employees) – currently 16 hours, but expands to full amount on 7/1/25 (same cap)

Small employers (50 or less employees) – no payout



## PUTTING THE 3 NEW LAWS INTO PRACTICE

- If your business is located in Chicago, you should follow the Chicago Paid Leave and Paid Sick and Safe Leave Ordinance.
  - ❖ Effective 7/1/24
- If your business is located outside of Chicago, but within Cook County, follow Cook County's Paid Leave Ordinance.
- If your business is located outside of Chicago and Cook County, follow Illinois' PLFAW Act.



# ILLINOIS LEGAL UPDATES AND REMINDERS



# MINIMUM WAGE

## Illinois Minimum Wage:

- As of January 1, 2024, the current minimum wage is \$14.00 per hour.
- As of January 1, 2024, the tipped employee current minimum wage is \$8.40 per hour.
- Penalties for failure to pay minimum wage include treble damages for the underpayment, reasonable attorney's fees and costs, damages of 5% of the amount of any underpayments for each month following the underpayment until the underpayment is corrected. Additional penalties may apply if it is found that the employer's violations were willful, repeated, or with reckless disregard.

## Cook County Minimum Wage:

- As of July 1, 2024, the current minimum wage is \$14.05 per hour.
- As of July 1, 2024, the current tipped employee minimum wage remains at \$8.40 per hour.
- Every year on July 1, Cook County may adjust the minimum wage based on the greatest rate among the Federal minimum wage, Illinois State minimum wage, or on the County's calculation using the Consumer Price Index (CPI).
- Penalties for failure to pay minimum wage under the Cook County Minimum Wage Ordinance are unpaid wages plus a fine of no less than \$500 and no more than \$1,000 for each offense.

# MINIMUM WAGE

## Chicago Minimum Wage:

- As of July 1, 2024, the current minimum wage is \$16.20 per hour for employers with 4 or more employees.
- As of July 1, 2024, the current tipped minimum wage is \$11.02 per hour for employers with 4 or more employees.
- Every July 1, Chicago's minimum wage increases per the Minimum Wage Ordinance.
  - The minimum wage for increases annually according to the Consumer Price Index or 2.5%, whichever is lower, since reaching \$15 per hour in 2021.
- Penalties for failure to pay minimum wage under the Chicago Minimum Wage Ordinance are unpaid wages plus a fine of no less than \$500 and no more than \$1,000 for each offense.

## **THE CHILD EXTENDED BEREAVEMENT LEAVE ACT**

Effective January 1, 2024, the Act entitles employees who experience the loss of their child by suicide or homicide to take up to a maximum of 12 weeks of unpaid leave to grieve the loss of that child, which includes an employee's biological, adopted, foster, or stepchild, legal ward, or a child of a person standing *in loco parentis*.

## **TRANSPORTATION BENEFITS ACT (TBA)**

Effective January 1, 2024, requires employers with 50 or more employees in designated transit zones to provide transit benefits to their covered employees.

Employees who perform an average of 35 hours of work per week for full-time compensation are eligible for transit benefits under the law.

Transit benefits must be offered to all covered employees starting with their first full pay period after 120 days of employment.

Employers are required to allow covered employees to purchase transit passes with pre-tax dollars through payroll deduction up to the federal limit. An employer also may comply with this requirement by participating in programs by the Chicago Transit Authority or the Regional Transportation Authority.

# TRANSPORTATION BENEFITS ACT (cont'd)

➤ Areas of coverage:

Addison Township	Frankfort Township in Will County	Plainfield Township
Algonquin Township	Geneva Township	Shields Township
Aurora Township	Grant Township in Lake County	St. Charles Township
Avon Township	Homer Township	Troy Township
Batavia Township	Joliet Township	Vernon Township
Benton Township	Libertyville Township	Warren Township in Lake County
Bloomington Township	Lisle Township	Waukegan Township
Cook County	Lockport Township	West Deerfield Township
Deerfield Township	McHenry Township	Wheatland Township in Will County
Downers Grove Township	Milton Township	Winfield Township
Dundee Township	Naperville Township	York Township
DuPage Township	New Lenox Township	Zion Township
Elgin Township	Nunda Township	

# EQUAL PAY ACT AMENDMENTS AND PAY TRANSPARENCY

## PAY SCALE AND BENEFITS REQUIRED

- An employer with 15 or more employees must include the pay scale and benefits for a position in any specific job posting. (A hyperlink to the information will suffice.)

## NOTICE OF PROMOTIONAL OPPORTUNITIES

- An employer must announce, post, or otherwise make known all opportunities for promotion, except for promotions in the State of Illinois workforce designated as exempt from competitive selection.

## VIOLATIONS

- For the first offense, following a curing period of 14 days, the IDOL will issue a fine not to exceed \$500.
- The second offense has a 7-day curing period and a fine not to exceed \$2,500.
- Any further offense has no curing period and a fine not to exceed \$10,000.



# Equal Pay Act Amendment

## Deadline was March 23, 2024

(Effective January 1, 2024)

- Requires employers with 100 or more employees to obtain an Equal Pay Registration Certificate certifying compliance with the Act.
- Employers will receive notification from the IDOL—every deadline to apply is different, however all covered employers must have applied by no later than March 23, 2024.
- When applying, employers need:
  - ❖ Wage records, including the most recent EEO-1 report
  - ❖ An equal pay compliance statement signed by a corporate officer, legal counsel, or registered agent that certifies statutory compliance with the Act.
- Employers are required to recertify compliance every two years.

# EQUAL PAY ACT CERTIFICATE APPLICATION PROCESS – DEADLINE WAS MARCH 23, 2024 (AND EVERY 2 YEARS AFTER)

To comply with the EPA by the statutory deadline, employers should have:

1. Provided your business contact information to the IDOL to ensure the IDOL can send you information on obtaining your Equal Pay Certificate.
2. When your business received its application deadline from the IDOL, prepared your application and filed by the deadline. Businesses with multiple Illinois locations needed to only file a single application.
3. Submitted the following required items with your application:
  - ❖ Signature by a corporate officer of the business;
  - ❖ \$150 filing fee;
  - ❖ An Equal Pay Act compliance statement to the IDOL, which includes all required components;
  - ❖ The most recent EEO-1 report filed for each Illinois county in which the business has a facility of employees; and
  - ❖ A list of all employees employed during the last calendar year, including employee information for each category required by the IDOL.
  - ❖ The IDOL may ask for additional relevant information, likely when they reach out to provide your application deadline.
4. Once you obtain your initial certification, you will be required to re-certify every two years.



## ILLINOIS BIPA (REMINDER)

What is biometric information? "Biometric identifier" means a retina or iris scan, fingerprint, voiceprint, or scan of hand or face geometry

"Biometric information" means any information, regardless of how it is captured, converted, stored, or shared, based on an individual's biometric identifier used to identify an individual

In the workplace, employee time-keeping devices and security scanning devices are most commonly related to biometric information

## WHAT DOES BIPA REQUIRE?

- Publicly-available written policy setting a retention schedule and guidance for permanently destroying biometric data when the initial purpose of collecting/obtaining the data ends, or within 3 years of the individual's last interaction with the entity, whichever occurs first.
- Prohibition on collecting, capturing, purchasing or receiving biometric data, unless the following requirements are **first** satisfied:
  - ✓ Written notice including: (a) that the entity is collecting or storing biometric data; and (b) the purpose and length of term for collection or storage
  - ✓ A written release from the individual
- Restriction on disclosure, redisclosure or other dissemination of biometric data without obtaining consent **first**.
- Exceptions: completion of a financial transaction or disclosure required by law or pursuant to a valid warrant or subpoena.
- Storage requirements.
- Always prohibited from selling, leasing, trading or profiting from an individual's biometric data.





## REMINDER!

The Illinois Human Rights Act requires annual sexual harassment prevention training to be completed by December 31<sup>st</sup> each year.

Training programs must include:

- ❖ an explanation of sexual harassment consistent with the IHRA;
- ❖ examples of conduct that constitute unlawful sexual harassment;
- ❖ a summary of relevant federal and State statutory provisions concerning sexual harassment, including remedies available to victims of sexual harassment; and
- ❖ a summary of responsibilities of employers in the prevention, investigation, and corrective measures of sexual harassment.

# Thank You! Any Questions?

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