

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Equal Pay in Employment

2) Code Citation: 56 Ill. Adm. Code 320

3) Section Numbers: Proposed Actions:

320.120	Amendment
320.140	Amendment
320.150	Amendment
320.160	New Section
320.200	Amendment
320.210	Amendment
320.220	Amendment
320.230	Amendment
320.240	Amendment
320.260	New Section
320.300	Repealed
320.310	Repealed
320.320	Repealed
320.330	Repealed
320.340	Repealed
320.400	Repealed
320.500	Repealed
320.510	Repealed
320.520	Repealed
320.600	Repealed
320.610	Repealed
320.620	Repealed
320.630	Repealed
320.640	Repealed
320.650	Repealed
320.660	Repealed
320.700	Repealed
320.710	Repealed
320.720	Repealed
320.730	Repealed
320.740	Repealed
320.810	Amendment
320.840	Amendment
320.860	Amendment

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320.880

Amendment

- 4) Statutory Authority: Implementing and authorized by the Equal Pay Act of 2003 [820 ILCS 112].
- 5) Complete Description of the Subjects and Issues Involved: This rulemaking implements Public Act 103-539, which statutorily requires employers who employ 15 or more employees to include pay scale and benefits information in any job posting that the employer chooses to post. This rulemaking defines the scope of benefits that must be included in the posting; clarifies the relative responsibilities between employers who choose to use third parties to publish job postings and said third parties; and clarifies what constitutes a "job posting". Additionally, this rulemaking streamlines the Department's internal procedures for processing complaints under the Act, in an effort to make processes clearer and more efficient, by eliminating "informal investigative hearings". This rulemaking also implements Public Act 104-17 by eliminating references to the federal EEO-1 data collection program.
- 6) Published studies and reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking is statutorily mandated by Section 15(a) of the Act.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

Anna Koeppel  
Illinois Department of Labor  
Lincoln Tower Plaza

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524 S. 2<sup>nd</sup> Street  
Suite 400  
Springfield, IL 62701

(217) 558-1270  
Anna.Koeppel@illinois.gov

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: All employers with any number of employees are subject to the Equal Pay Act of 2003.
- B) Reporting, bookkeeping or other procedures required for compliance: In accordance with the Act, employers must establish and maintain records regarding compensation, job posting, and the hiring process.
- C) Types of professional skills necessary for compliance: None

14) Small Business Impact Analysis:

- A) Types of businesses subject to the proposed rule:
  - 11 Agriculture, Forestry, Fishing and Hunting;
  - 21 Mining;
  - 22 Utilities;
  - 23 Construction;
  - 31-33 Manufacturing;
  - 42 Wholesale Trade;
  - 44-45 Retail Trade;
  - 48-49 Transportation and Warehousing;
  - 51 Information;
  - 52 Finance and Insurance;
  - 53 Real Estate Rental and Leasing;
  - 54 Professional, Scientific, and Technical Services;
  - 55 Management of Companies and Enterprises;
  - 56 Administrative and Support and Waste Management and Remediation Services;
  - 61 Educational Services;

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- 62 Health Care and Social Assistance;
- 71 Arts, Entertainment, and Recreation;
- 72 Accommodation and Food Services;
- 81 Other Services (except Public Administration); or
- 92 Public Administration.

B) Categories that the agency reasonably believes the rulemaking will impact, including:

- viii. record keeping;
- ix. compensation and benefits.

15) Regulatory Agenda on which this rulemaking was summarized: July 2025

The full text of the Proposed Amendments begins on the next page:



## ILLINOIS DEPARTMENT OF LABOR

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## TITLE 56: LABOR AND EMPLOYMENT

## CHAPTER I: DEPARTMENT OF LABOR

## SUBCHAPTER b: REGULATION OF WORKING CONDITIONS

## PART 320

## EQUAL PAY IN EMPLOYMENT

## SUBPART A: GENERAL PROVISIONS

## Section

320.100	Purpose and Scope
320.110	Application of the Act
320.120	Definitions
320.130	Independent Contractor Exemption
320.140	Recordkeeping Requirements
320.150	Incorporated and Referenced Materials
<u>320.160</u>	<u>Service of Documents</u>

## SUBPART B: COMPLAINT, INVESTIGATION, DETERMINATION

## Section

320.200	<u>Complaints</u> <del>Persons Who May File a Complaint</del>
320.210	<u>Investigations Other Than Those Under Section 11 of the Act</u> <del>Contents and Time Limit for Filing</del>
320.220	<u>Dismissal</u> <del>Confidentiality</del>
320.230	<u>Determination</u> <del>Incomplete Complaint</del>
320.240	<u>Cure Period for Pay Transparency</u> <del>Amendment of Complaint</del>
320.250	Withdrawal of Complaint
<u>320.260</u>	<u>Penalties and Enforcement Procedures</u>

## SUBPART C: PROCEDURE UPON COMPLAINT AND DECISION

## Section

320.300	Jurisdiction <u>(Repealed)</u>
320.310	Investigations Except Those Under Section 11 of the Act <u>(Repealed)</u>
320.320	Fact-Finding Conference <u>(Repealed)</u>
320.330	Decision After Investigation <u>(Repealed)</u>
320.340	Enforcement Procedures <u>(Repealed)</u>

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## SUBPART D: SETTLEMENT

Section  
320.400 Settlement [\(Repealed\)](#)

## SUBPART E: DISMISSAL, DEFAULT AND CLOSURE

Section  
320.500 Dismissal [\(Repealed\)](#)  
320.510 Default [\(Repealed\)](#)  
320.520 Closure [\(Repealed\)](#)

## SUBPART F: INFORMAL INVESTIGATIVE HEARING

Section  
320.600 Request for Informal Investigative Hearing [\(Repealed\)](#)  
320.610 Convening an Informal Investigative Hearing [\(Repealed\)](#)  
320.620 Continuances [\(Repealed\)](#)  
320.630 Application of the Rules of Evidence, Pleading and Procedure [\(Repealed\)](#)  
320.640 Attorneys and Witnesses at an Informal Investigative Hearing [\(Repealed\)](#)  
320.650 Contumacious Conduct [\(Repealed\)](#)  
320.660 Telephone Hearings [\(Repealed\)](#)

## SUBPART G: REQUEST FOR REVIEW

Section  
320.700 Filing with Chief Administrative Law Judge [\(Repealed\)](#)  
320.710 Contents of Request for Review [\(Repealed\)](#)  
320.720 Reply to Request for Review and Surreply [\(Repealed\)](#)  
320.730 Extensions of Time [\(Repealed\)](#)  
320.740 Additional Investigation and Decision [\(Repealed\)](#)

## SUBPART H: EQUAL PAY REGISTRATION CERTIFICATE

Section  
320.800 Purpose  
320.810 Definitions  
320.820 Enrollment  
320.830 Assignment of Filing Date

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320.840	Application for Certification; Recertification
320.850	Issuance or Rejection
320.860	Appeal
320.870	Suspension and Revocation
320.875	Section 11 Investigations
320.880	Initiation of Hearing
320.890	Employee Request for Data

AUTHORITY: Implementing the Equal Pay Act of 2003 [820 ILCS 112].

SOURCE: Emergency rule adopted at 28 Ill. Reg. 363, effective January 1, 2004, for a maximum of 150 days; adopted at 28 Ill. Reg. 8009, effective May 26, 2004; amended at 34 Ill. Reg. 19552, effective December 3, 2010; amended at 40 Ill. Reg. 229, effective December 21, 2015; amended at 47 Ill. Reg. 155, effective December 22, 2022; amended at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 320.120 Definitions**

"Act" means the Equal Pay Act of 2003 [820 ILCS 112].

"Authorized agent" means an employee of a business with knowledge of pay practices and who has been designated by the corporate officers of the business to submit information to the Department as required by the Act. Authorized agent does not include any outside or third-party consultant or vendor who serves the business.

"Average compensation" means the average wages for a specific occupation in the State of Illinois as determined by the most recent U.S. Bureau of Labor Statistics State Occupational Employment and Wage Estimates publication.

"Benefits" as used in Section 10 (b-25) of the Act, means all employment benefits an employer is offering for a position, including health care benefits, retirement benefits, any benefits permitting paid days off (including sick leave, parental leave, and paid time off or vacation benefits), and any other benefits that must be reported for federal tax purposes, but not benefits in the form of minor privileges incidental to regular salary or wages.

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"Complaint" means an allegation of a violation of the Act filed with or initiated by the Department.

"Complainant" means a person who files a complaint, ~~including the Department in cases initiated by the Department.~~

*"Department" means the Illinois Department of Labor. [820 ILCS 112/5]*

*"Director" means the Director of the Illinois Department of Labor or a duly authorized representative of the Director. [820 ILCS 112/5]*

"Effort" means the physical or mental exertion needed for the performance of a job. Job factors that cause mental fatigue and stress, as well as those factors that alleviate fatigue, are to be considered in determining the effort required for the job. Effort encompasses the total requirements of the job. Occasional or sporadic performance of an activity that may require extra physical or mental exertion is not alone sufficient to justify a finding of unequal or equal effort.

*"Employee" means any individual permitted to work by an employer. [820 ILCS 112/5]*

*"Employer" means an individual, partnership, corporation, association, business, trust, person, or entity for whom ~~4 or more~~ employees are gainfully employed in Illinois and includes the State of Illinois, any State officer, department, or agency, any unit of local government, and any school district. [820 ILCS 112/5]*

"Employment Agency" means any person engaged for gain or profit in the business of placing, referring, securing, or attempting to secure employment for persons seeking employment, or in screening or finding employees for employers, including but not limited to agencies licensed under the Private Employment Agency Act [225 ILCS 515].

"Engage" means activity between an employer and a third party in which the employer and the third party communicate regarding one or more job postings, that the employer has consented to be announced, posted, published, shared or otherwise made known by the third party.

"Equal Pay Registration Certificate" means a certificate issued by the Department to a business in accordance with the requirements of Section 11 of the Act.

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"Filing year" means any calendar year in which a business is due to submit its Equal Pay Registration Certificate application, as determined by the due date assigned to the business by the Department, whether the business is applying for its initial certification or a recertification. The filing year is the year immediately after the payroll year.

"Job posting" means a written announcement that an employer is seeking to hire or is accepting applications for a specific position, whether announced, posted, published, or otherwise made known by the employer, the employer's agent, or a third party that the employer has engaged to announce, post, publish, or otherwise make known the announcement on the employer's behalf. "Job posting" does not include general announcements that do not identify a specific job opportunity, job title, or position, such as "help wanted" signs.

"Merit system" means an established, bona fide, uniform and objective system that rewards an employee with promotion, bonus, increased pay or other advantages based on competence, expertise, proficiency and human relations.

"Minority" means a minority person as defined in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act. [30 ILCS 575]

"Pay scale and benefits" means the wage or salary, or the wage or salary range, and a general description of the benefits and other compensation, including, but not limited to, bonuses, stock options, or other incentives the employer reasonably expects in good faith to offer for a position, set by reference to any applicable pay scale, the previously determined range for the position, the actual range of others currently holding equivalent positions, or the budgeted amount for the position, as applicable. [820 ILCS 112/5]

"Payroll year" means the complete calendar year (January 1-December 31) upon which the payroll data in the business' Equal Pay Registration Certificate application is based. The payroll year is the year immediately preceding the filing year.

"Promotional opportunity" means an employment opportunity announced, posted, published, or otherwise made known in writing by an employer or a third party the employer has engaged to act on its behalf, to its current employees.

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"Respondent" means an employer, or third party engaged by an employer for purposes of job postings, against whom a complaint is filed.

"Responsibility" means the degree of accountability required in the performance of a job. Minor or occasional responsibility added to an employee's duties that are not of significant consequence or importance will not justify a finding of unequal or equal responsibility.

"Seniority system" means a system that gives preference to employees based on years of service.

"Sex" means the sex or gender of an employee or job applicant.

"Similar working conditions" means the surroundings and hazards, including the frequency and intensity of such conditions. Surroundings measure the elements, such as toxic chemicals or fumes, regularly encountered by an employee. Hazards take into account the physical hazards regularly encountered by an employee. Slight or inconsequential differences in working conditions that are not usually taken into account by employers or in collective bargaining in setting wage rates do not justify a differential in pay. The method used for testing this requirement is flexible. The mere fact that jobs are in different departments of a workplace or performed in different locations will not necessarily mean that the jobs are performed under dissimilar working conditions.

"Skill" means experience, training, education and ability. Possession of a skill not needed to meet the requirements of the job cannot be considered in making a determination regarding equality of skill.

"Substantially similar work" means comparable work on jobs with comparable requirements related to equal skill, effort and responsibility. Substantially similar is not dependent on a job classification or title but depends rather on actual job requirements and genuine differences in how work is performed.

"Wage or salary history" means any information related to an employee or job applicant's current or past earnings at any point of time.

"Wages", except as used in Section 10(b-25) of the Act, means any compensation made to an employee as remuneration for employment regardless of whether paid periodically or deferred until a later date. Compensation includes but is not

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limited to: wages, salary, vacation pay, sick leave, holiday pay, overtime pay, premium pay, and other benefits such as health insurance, life insurance, disability insurance, commission, draw payments, pension and profit sharing, expenses, bonus, uniform cleaning allowance, hotel accommodations, use of vehicle, gasoline allowance, cafeteria plan and educational benefits. "Wage", as used in Section 10(b-25) of the Act, means hourly base wage rate, salary, overtime pay, premium pay, expected bonuses, and commissions.

"Workplace" means a distinct physical place of business rather than an entire business or enterprise that may include several separate places of business.

(Source: Amended at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.140 Recordkeeping Requirements**

- a) An employer subject to any provision of the Act shall make and preserve records that document the name, address, and occupation of each employee; the wages paid to each employee and any other forms of compensation provided by the employer; dates of hire, dates of promotion, dates of pay increases, and dates any other compensation was provided by the employer, if applicable, for each employee; and payroll records.
- b) The employer shall also preserve any records made in the regular course of the business operation related to personnel records, employee qualifications for hire, promotion, transfer, discharge or other disciplinary action, wage rates, skills testing certifications, job evaluations, job descriptions, merit systems, seniority systems, written job offers, individual employment contracts, collective bargaining agreements, description of practices or other matters that describe or explain the basis for payment of any wage differential between employees of different sexes ~~the opposite sex~~ or the basis for payment of wages to any employee who is African-American at a rate less than the rate paid to employees who are not African-American by the same employer and that may be pertinent to a determination whether the differential or lower wage payment is based on a factor other than sex or race.
- c) In addition to the recordkeeping requirements set forth in the Act, an employer subject to Section 10(b-25) of the Act shall also make and preserve records that document:

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- 1) the pay scale and benefits for each job posting made by the employer, the employer's agent, or a third party engaged by the employer; and
- 2) the promotional opportunities communicated to current employees as required by the Act. If the employer engages a third party to announce, post, publish, or otherwise make known job postings, the employer should also maintain records of such or announcements. See Section 20 of the Act.

~~de~~) The records required by subsections (a), ~~and~~ (b), ~~and~~ (c) shall be preserved and maintained for a period of not less than 5 years unless the records relate to an ongoing investigation or enforcement action under the Act, in which case the records must be maintained until their destruction is authorized by the Department or by court order.

(Source: Amended at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.150 Incorporated and Referenced Materials**

The following regulations and standards are incorporated in this Part. All incorporations by reference refer to the regulations, guidelines and standards on the date specified and do not include any editions or amendments subsequent to the date specified.

- a) Federal Regulations and Publications
  - 1) U.S. Bureau of Labor Statistics Standard Occupational Classification (SOC) System Revision for 2018, April 15, 2020.
  - 2) 29 CFR 1602.7 through 1602.14, July 26, 1991.
  - 3) 41 CFR 60-1.7(a), December 22, 1997.
- b) The following State statutes and rules are referenced in this Part:
  - 1) The Freedom of Information Act [5 ILCS 140]
  - 2) The Equal Pay Act of 2003 [820 ILCS 112]
  - 3) The Illinois Income Tax Act [35 ILCS 5]



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- 4) The Business Enterprise for Minorities, Women, and Persons with Disabilities Act [30 ILCS 575]
- 5) The Illinois Human Rights Act [775 ILCS 5]
- 6) The Equal Wage Act [820 ILCS 110]
- 7) The Illinois Administrative Procedure Act [5 ILCS 100/Art. 10]
- 8) Rules of Procedure in Administrative Hearings (56 Ill. Adm. Code 120)
- 9) Joint Rules of the Department of Labor and Department of Human Rights: Rules on Investigation of Equal Pay Act Cases (56 Ill. Adm. Code 325)

10) The Private Employment Agency Act [225 ILCS 515]

c) The following federal laws are referenced in this Part:

- 1) 29 U.S.C. 2
- 2) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.)
- 3) The Equal Pay Act of 1963 (29 U.S.C. 201 et seq.)

(Source: Amended at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.160 Service of Documents**

Service of any document under the Act or this Part upon any person may be made by personal delivery, certified mail with the return receipt signed by the person or its agent, U.S. regular mail with postage prepaid, email to an email address previously designated by the party for purposes of receiving communications under this Act, or any other verifiable means, such as private carrier, to the following:

- a) an address on file with the Department;
- b) an address on file with the Secretary of State;

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- c) an address on file with any other State agency with which the respondent must maintain a current address; or
- d) any other address, including e-mail address, that the Department reasonably calculates to be a true and current address for the person.

(Source: Added at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART B: COMPLAINT, INVESTIGATION, DETERMINATION

**Section 320.200 Complaints~~Persons Who May File a Complaint~~**

- a) An employee, job applicant, ~~or~~ former employee, or, for the purposes of an alleged violation of subsection (b-25) of Section 10 of the Act, any person that claims to be aggrieved by a violation of that subsection, ~~An employee former employee~~ may file a complaint alleging a violation of the Act by submitting a signed, completed complaint form. The Department may also initiate an investigation. [820 ILCS 112/15]
- b) Time Limit and Contents for Filing
  - 1) All complaints shall be filed with the Department within one year from the date of the relevant violation. The complaint shall be deemed filed as of the date it is received by the Department. [820 ILCS 112/15(b)]
  - 2) To the extent possible, a complaint shall be in such detail as to substantially apprise the Department and the parties of the dates, place, parties, and facts with respect to the alleged violation of the Act.
  - 3) The Department has discretion to accept any complaint that lacks a complainant's name and contact information if the complaint contains the information determined to be necessary for a proper investigation and review of the alleged violation contained in the complaint.
- c) Jurisdiction
  - 1) At the time of filing, the Department shall determine initially whether the allegations in the complaint sufficiently state a claim under the Act so that the Department can proceed with the investigation. If, at the time of filing,

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or at any subsequent time, it is determined that there is a lack of jurisdiction, the complaint shall be dismissed. All parties shall be notified of the dismissal pursuant to Section 320.160.

2) For alleged violations of all subsections except Section 10(b-25) of the Act, jurisdiction may exist where an employer has any number of employees who physically work, at least in part, either at an Illinois work site or outside of Illinois but reporting directly to a supervisor, office, or other work site in Illinois.

3) For alleged violations of subsection (b-25) of Section 10 of the Act, jurisdiction may exist when an employer with 15 or more employees in any place announces, posts, publishes or otherwise makes known a specific job posting for a position that will be physically performed either:

A) in Illinois (at least in part); or

B) outside of Illinois but the position reports to a supervisor, office, or work site in Illinois.

4) Jurisdiction regarding actions arising under Section 11 of the Act are addressed in Subpart H.

d) Referral to the Illinois Department of Human Rights

1) The Department may refer a complaint alleging a violation of this Act to the Department of Human Rights for investigation if the subject matter of the complaint also alleges a violation of the Illinois Human Rights Act and the Department of Human Rights has jurisdiction over the matter. When a complaint is referred to the Department of Human Rights under this subsection, the Department of Human Rights shall also file the complaint under the Illinois Human Rights Act and be the agency responsible for investigating the complaint. The Department shall review the Department of Human Rights' investigation and findings to determine whether a violation of this Act has occurred or whether further investigation by the Department is necessary and take any necessary or appropriate action required to enforce the provisions of this Act. [820 ILCS 112/15(c)]

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- 2) If, at the time of filing, or at any subsequent time while the matter is pending with the Department of Labor, it is determined that the subject matter of the complaint also alleges a violation of the Illinois Human Rights Act, the Department may refer the complaint to the Department of Human Rights to be processed pursuant to 56 Ill. Adm. Code 325 (Joint rules of the Departments of Labor and Human Rights on the investigation of Equal Pay Act Cases).

(Source: Amended at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.210 Investigations Other Than Those Under Section 11 of the Act**~~Contents and Time Limit for Filing~~

- a) After the Department determines jurisdiction, the Department may conduct an investigation to determine whether reasonable cause exists to believe a violation of the Act has occurred. When conducting an investigation, the Department shall provide the respondent with a written notice of investigation stating the substance of the alleged violation and giving the respondent an opportunity to respond to the allegation and present any information the respondent wishes the Department to consider in its investigation of the alleged violation. The respondent must submit such response to the Department within 30 calendar days after receipt of the notice of investigation.
- b) The Department is authorized to investigate and gather data and records regarding employee wages and hours, and other conditions and practices of employment of the respondent, and may enter the respondent's premises to inspect such records at reasonable times during regular business hours; question the respondent's employees; and investigate the facts, conditions, practices, or matters as the Department may deem necessary or appropriate to determine whether the respondent has violated the Act. [820 ILCS 112/15(c)] Investigations may also include written or oral inquiries, field visits, subpoenas, conferences, and interviews, or any investigation method or combination of methods deemed suitable in the discretion of the Department or authorized by the Act. In no case will the Department review data and records from more than five years prior to the date the complaint was filed.
- c) Cooperation By Parties  
In case of failure of any person to comply with any subpoena lawfully issued under Section 25 of the Act or on the refusal of any witness to produce evidence

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or to testify to any matter regarding which he or she may be lawfully interrogated, it is the duty of any circuit court, upon application of the Director, or his or her authorized representative, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued by such court or a refusal to testify therein. The Director may certify to official acts. [820 ILCS 112/25] In such proceedings the Director shall be represented by the Attorney General.

- d) Investigations of violations of Section 11 of the Act, Equal Pay Registration Certificate Requirements, shall be governed by the provisions of Subpart H.
- a) ~~A complaint shall be in such detail as to substantially apprise the parties of the dates, place and facts with respect to the alleged violation of the Act. Each complaint shall contain the following information:~~
- ~~1) the full name and address of the complainant;~~
  - ~~2) the full name and address of each respondent;~~
  - ~~3) a statement of the facts alleged to constitute a violation under the Act, including the dates and place of the alleged violation;~~
  - ~~4) a statement of each specific harm the complainant has suffered as a consequence of the alleged violation;~~
  - ~~5) complainant's signature, including date of signing; and~~
  - ~~6) a statement as to any other action, civil or criminal, instituted in any other forum, and as to any pending administrative proceeding based on the same violation as alleged in the complaint, together with a statement as to the status or disposition of the other action.~~
- b) ~~All complaints and amendments shall be filed by U.S. mail or personal delivery with the Department's Chicago office within one year from the date of the underpayment. The complaint shall be deemed filed as of the date of the postmark or as it is date stamped as received by the Department.~~
- e) ~~Any complaint that fails to meet all the requirements set forth in subsection (a) may be accepted if it otherwise contains the information determined to be~~

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~~necessary for a proper investigation and review of the alleged violation contained in the complaint.~~

(Source: Amended at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.220 Dismissal~~Confidentiality~~**

If the Department determines that dismissal of all or portions of a complaint is warranted, the Department shall notify all parties in writing of the Department's decision to dismiss. The dismissal notice shall also advise the parties of the complainant's right to bring a private action within 5 years from the date of the violation.

~~While the case is pending at the administrative level, the identity of the complainant shall be kept confidential unless the complainant requests otherwise. This confidentiality provision does not apply in cases alleging retaliatory discharge or retaliatory discrimination under the Act, or to matters referred to the Department of Human Rights for an investigation under Section 15(d) of the Act.~~

(Source: Amended at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.230 Determination~~Incomplete Complaint~~**

- a) At the conclusion of the Department's investigation, unless the complaint has been withdrawn, dismissed, or otherwise resolved, the Department shall make one of the following determinations:
- 1) Reasonable cause found. If the Department determines that there is reasonable cause to believe that a violation of the Act has occurred, it shall:
    - A) Seek a voluntary settlement agreement signed by the respondent that addresses the violation and provides appropriate relief to the complainant; or
    - B) Commence referral to the Attorney General for initiation of a civil action.
  - 2) No reasonable cause found. If the Department determines that there is no reasonable cause to believe that a violation of the Act has occurred, the Department shall dismiss the complaint pursuant to Section 320.220.

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- b) Whenever a determination is made under this Section, a written notice shall be provided to the parties stating the Department's findings and any applicable civil penalty assessments pursuant to Section 30(c) of the Act. The notice shall also advise the parties of the complainant's right to bring a civil action as provided for in Section 30 of the Act.

~~If the Department receives a written complaint from an individual that complies substantially with Section 320.210 but is lacking an element that still must be provided, the Department may accept and docket the complaint as an incomplete complaint. The Department shall notify the complainant in writing of the elements that must be supplied. If the complainant fails or refuses to perfect the complaint within 30 calendar days, the complaint may be dismissed pursuant to Section 320.500.~~

(Source: Amended at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.240 Cure Period for Pay Transparency~~Amendment of Complaint~~**

- a) Solely with respect to allegations that an employer violated its pay transparency and promotional opportunity obligations in Section 10(b-25) of the Act, when the Department determines that a violation has occurred, it shall issue to the employer a notice, using a method set forth in Section 320.160, setting forth: the violation, the applicable penalty as described in Section 30(c-10) and (c-15), and, for active job postings, the period to cure the violation as described in subsection (c-10). A job posting found to be in violation of subsection (b-25) of Section 10 of the Act shall be considered as one violating job posting regardless of the number of duplicative postings that list the job opening. [820 ILCS 112/30(c-7)]
- b) For purposes of Section 30 (c-15) of the Act, the Department, during its investigation of a complaint, shall make a determination as to whether a job posting is active by considering the totality of the circumstances, including, but not limited to:
- 1) whether a position has been filled;
  - 2) the length of time a posting has been accessible to the public;
  - 3) the existence of a date range for which a given position is active; and



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- 4) whether the violating posting is for a position for which the employer is no longer accepting applications. [820 ILCS 112/30(c-15)]
- c) For job postings that are still active, the following cure periods shall apply:
- 1) For an employer's first offense, 14 days. A first offense may be either a single job posting that violates subsection (b-25) of Section 10 or multiple job postings that violate subsection (b-25) of Section 10 and are identified at the same time by the Department.
- 2) For an employer's second offense, 7 days. A second offense is a single job posting that violates subsection (b-25) of Section 10. [820 ILCS 112/30(c-10)]
- d) There is no cure period for an employer's third or subsequent offense, or for non-active job postings. [820 ILCS 112/30(c-10)]
- e) If an employer fails to cure the violation in the time allotted by this Section, or is found to have committed a third or subsequent violation, the Department shall proceed as provided for in the Act and this Part.
- a) ~~A complaint may be amended to cure technical defects or to set forth additional facts or allegations related to the subject matter of the original complaint. The amendments, if timely filed pursuant to Section 320.210, shall relate back to the original filing date.~~
- b) ~~A complaint may be amended to substitute or name additional respondents. The amendment shall relate back to the original filing date, if timely filed pursuant to Section 320.210, and if at the time of the amendment a separate complaint could have been timely filed against the additional respondent or the additional respondent had timely notice of the original complaint and the fact that it might be involved in that complaint. Mere misnomer of a party may be cured at any time.~~
- e) ~~If a party dies while the proceedings are pending, the complaint may be amended to substitute the legal representative, or any other person with a legally recognized interest in the decedent's estate, for the deceased.~~
- d) ~~The Department shall provide notice of the substance of any amendment to a complaint to all parties.~~



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(Source: Amended at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.260 Penalties and Enforcement Procedures****a) Recovery of Wages and Other Monies Owed**

- 1) The payment of back wages, fines, and other relief found due to any person pursuant to Section 30 of the Act will be supervised, when possible, by the Director.
- 2) The Director may require proof that the employees or former employees received all the back wages and other relief due pursuant to Section 30 of the Act. Payment for back wages and other relief or penalties may be made to the Department using the State Treasurer's E-Pay program or any successor program, certified checks, cashier's checks, or money orders, made payable to the individual employees or the Department of Labor. Any sums recovered by the Director on behalf of an employee under Section 30 of the Act shall be paid to the employee or employees affected. [820 ILCS 112/30(b)]
- 3) If a respondent does not comply within 15 calendar days after the Director's demand, the Director may bring a civil action against the respondent as provided for in Section 30 of the Act. In any such action, the Director shall be represented by the Attorney General. Failure to timely comply may also subject the respondent to further penalties as provided for in Section 35(a) of the Act.

**b) Penalties for Pay Transparency and Promotional Opportunity Violations Only**

- 1) If the Department issues a notice of violation to an employer with an active job posting subject to subsection (b-25) of Section 10, and the employer fails to cure the violation in the time allowed, the Department may impose a fine as follows:

A) For a first offense, a fine not to exceed \$500 at the discretion of the Department. The Department shall have discretion to waive any civil penalty under this paragraph.

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- B) For a second offense, a fine not to exceed \$2,500 at the discretion of the Department. The Department shall have discretion to waive any civil penalty under this paragraph.
    - C) For a third or subsequent offense, a fine not to exceed \$10,000 at the discretion of the Department. The Department shall have discretion to waive any civil penalty under this paragraph. If a company has had a third offense, it shall incur automatic penalties without a cure period for a period of 5 years, at the completion of which any future offense shall count as a first offense. The 5-year period shall restart if, during that period, an employer receives a subsequent notice of violation from the Department. [820 ILCS 112/30(c-10)]
  - 2) The penalties for a job posting or batch of job postings that are not active at the time the Department issues a notice of violation for violating subsection (b-25) of Section 10 are as follows:
    - A) For a first offense, a fine not to exceed \$250 at the discretion of the Department. A first offense may be either a single job posting that violates subsection (b-25) of Section 10 or multiple job postings that violate subsection (b-25) of Section 10 and are identified at the same time by the Department. The Department shall have discretion to waive any civil penalty under this paragraph.
    - B) For a second offense, a fine not to exceed \$2,500 at the discretion of the Department. A second offense is a single job posting that violates subsection (b-25) of Section 10. The Department shall have discretion to waive any civil penalty under this paragraph.
    - C) For a third or subsequent offense, a fine not to exceed \$10,000 at the discretion of the Department. A third or subsequent offense is a single job posting that violates subsection (b-25) of Section 10. The Department shall have discretion to waive any civil penalty under this paragraph. [820 ILCS 112/30(c-15)]
- 3) In determining the amount of the penalty under this Section, the appropriateness of the penalty to the size of the business of the employer charged and the gravity of the violation. The penalty may be recovered in

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a civil action brought by the Director, represented by the Attorney General, in any circuit court. [820 ILCS 112/30(d)]

- c) Penalties for other violations of the Act  
Employers who violate any provision of the Act or this Part, except for a violation of Section (b-25) of the Act, are subject to a civil penalty as follows:
- 1) An employer with fewer than 4 employees: first offense, a fine not to exceed \$500; second offense, a fine not to exceed \$2,500; third or subsequent offense, a fine not to exceed \$5,000.
  - 2) An employer with between 4 and 99 employees: first offense, a fine not to exceed \$2,500; second offense, a fine not to exceed \$3,000; third or subsequent offense, a fine not to exceed \$5,000.
  - 3) An employer with 100 or more employees who violates any Section of this Act except for Section 11 shall be fined up to \$10,000 per employee affected. An employer with 100 or more employees that is a business as defined under Section 11 and commits a violation of Section 11 shall be fined up to \$10,000. [820 ILCS 112/30(c)]
  - 4) If a respondent does not comply within 15 calendar days after the Director's determination, the Director may bring a civil action against the respondent as provided for in Section 30 of the Act. In any such action, the Director shall be represented by the Attorney General. Failure to timely comply may also subject the respondent to further penalties as provided for in Section 35(a) of the Act.
  - 5) The respondent, if found in violation of the Act or this Part, shall be subject to the penalties in Section 30.
- d) The Department may, at any point, attempt to resolve the complaint by conference, voluntary mediation, conciliation, or persuasion.

(Source: Added at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART C: PROCEDURE UPON COMPLAINT AND DECISION

**Section 320.300 Jurisdiction (Repealed)**

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- a) ~~At the time of filing, the Department shall determine initially whether the allegations in the complaint sufficiently state a claim under the Act so that the Department can proceed with the investigation.~~
- b) ~~If, at the time of filing, or at any subsequent time, it is determined that there is a lack of jurisdiction, the complaint shall be dismissed. All parties shall be notified of the dismissal pursuant to Section 320.500.~~
- c) ~~If, at the time of filing, or at any subsequent time while the matter is pending with the Department of Labor, it is determined that the subject matter of the complaint also alleges a violation of the Illinois Human Rights Act, the Department may refer the complaint to the Department of Human Rights to be processed pursuant to 56 Ill. Adm. Code 325 (Joint rules of the Departments of Labor and Human Rights on the investigation of Equal Pay Act cases).~~

(Source: Repealed at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.310 Investigations Except Those Under Section 11 of the Act (Repealed)**

- a) ~~After the Department determines jurisdiction and that the matter will not be referred to the Department of Human Rights under 56 Ill. Adm. Code 325, the Department shall conduct an investigation to determine whether reasonable cause exists to believe a violation under the Act has occurred. Within 30 business days after receipt of the complaint, the Department shall provide the respondent with a written notice of investigation stating the substance of the alleged violation and giving the respondent an opportunity to respond to the allegation and present any information the respondent wishes the Department to consider in its investigation of the alleged violation. The respondent must submit such response to the Department within 30 business days after receipt of the notice of investigation.~~
- b) ~~The Department is authorized to investigate and gather data and records regarding employee wages and hours, and other conditions and practices of employment of the respondent, and may enter the respondent's premises to inspect such records at reasonable times during regular business hours; question the respondent's employees; and investigate the facts, conditions, practices, or matters as the Department may deem necessary or appropriate to determine whether the respondent has violated the Act. Investigations may also include written or oral inquiries, field visits, subpoenas, conferences, and interviews, or~~

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~~any investigation method or combination of methods deemed suitable in the discretion of the Department or authorized by the Act. In no case will the Department review more than 5 years prior to the date the complaint was filed.~~

- e) ~~If during the investigation a respondent refuses to cooperate, the Director may either make a finding of reasonable cause or issue subpoenas to compel the attendance of respondent witnesses or the production of documents.~~
- d) ~~Whenever a decision is made after an investigation conducted by the Department of Human Rights and the Department of Labor adopts that decision, 56 Ill. Adm. Code 325 supersedes this Part and shall control as to further procedural actions and remedies available to the parties. If the Department of Labor does not adopt the Department of Human Rights' decision, then this Part 320 applies and controls as to further procedural actions and remedies available to the parties.~~
- e) ~~A complainant must promptly notify the Department of any address or telephone number change or a prolonged absence from the current address so that the complainant can be located. A complainant must cooperate with the Department, provide necessary information and be available for interviews, conferences and hearings upon reasonable notice or request by the Department. If a complainant cannot be located or does not respond to reasonable requests by the Department, the Department may dismiss the complaint pursuant to Section 320.500.~~
- f) ~~The Director may, upon request or in the Director's discretion, withhold any witness statement or identity of any witness as confidential.~~

(Source: Repealed at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.320 Fact-Finding Conference (Repealed)**

- a) ~~As part of its investigation, the Department may convene a fact-finding conference in person or by telephone for the purpose of obtaining evidence, identifying the issues in dispute, ascertaining the positions of the parties and exploring the possibility of settlement. The fact-finding conferences will be limited in scope to those issues the Department believes to be in question.~~
- b) ~~Notice of the conference shall be given to all parties at least 10 calendar days prior to the conference and shall identify the individuals requested to attend on behalf of each party.~~

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- e) ~~A party may be accompanied at a fact-finding conference by the party's attorney and by a translator if necessary.~~
- d) ~~A Department investigator shall conduct the conference and control the proceedings. No tape recordings, stenographic report or other verbatim record of the conference shall be made. If any person fails to cooperate at the conference and becomes so disruptive or abusive that a full and fair conference cannot be conducted, the Department investigator shall exclude the person from the conference.~~
- e) ~~A party who appears at the conference exclusively through an attorney or other representative unfamiliar with the events at issue shall be deemed to have failed to attend, unless, with respect to a respondent, it establishes that it does not employ or control any person with knowledge of the events at issue.~~
- f) ~~If a respondent or complainant refuses to attend a fact-finding conference, the Department shall make a determination based upon the evidence provided to the Department.~~

(Source: Repealed at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.330 Decision After Investigation (Repealed)**

- a) ~~At the conclusion of Department of Labor investigation, the Department must make one of the following findings:~~
  - 1) ~~Reasonable cause found. If the Department determines that there is reasonable cause to believe that a violation of the Act has occurred, it may:~~
    - A) ~~Seek a voluntary settlement agreement signed by the respondent that eliminates the unlawful practice and provides appropriate relief to the complainant; or~~
    - B) ~~Recommend the commencement of a civil action.~~



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- 2) ~~No reasonable cause found.—If the Department determines that there is no reasonable cause to believe that a violation of the Act has occurred, the complaint will be dismissed pursuant to Section 320.500.~~
- b) ~~Whenever a decision is made under this Section, a written notice must be provided to the parties stating the Department's findings and any applicable civil penalty assessments pursuant to Section 30(c) of the Act and advise the parties of the right to request review pursuant to Section 320.600. The notice must also advise the parties of the right to bring a civil action as provided for in Section 30 of the Act.~~

(Source: Repealed at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.340 Enforcement Procedures (Repealed)**

- a) ~~The payment of back wages and other relief found due pursuant to Section 30 of the Act will be evidence of compliance with the provisions of the Act. Payment shall be supervised, when possible, by the Director.~~
- b) ~~The Director may require proof that the employees or former employees received all the back wages and other relief due pursuant to Section 30 of the Act. Payment for back wages and other relief or penalties may be made to the Department using the State Treasurer's E-Pay program or any successor program; certified checks, cashier's checks, or money orders, made payable to the individual employees or the Department of Labor.~~
- c) ~~If the respondent does not comply within 15 calendar days after the Director's demand, the Director may bring a civil action against the respondent as provided for in Section 30 of the Act. Failure to timely comply may also subject the respondent to further penalties as provided for in Section 35(a) of the Act.~~

(Source: Repealed at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART D: SETTLEMENT

**Section 320.400 Settlement (Repealed)**

- a) ~~At any time prior to the commencement of a civil action, the parties may settle the complaint on mutually agreeable terms.—Such an agreement will not affect the~~

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~~processing of a complaint made by any other complainant, the allegations of which are like or related to the individual allegations settled.~~

- b) ~~If the Department finds that the complainant's objections to a proposed settlement agreement are without merit or that the complainant is unavailable or unwilling to participate in settlement negotiations, or continuing the investigation would be otherwise detrimental, the Department may, in its discretion, dismiss the complaint pursuant to Section 320.500.~~

(Source: Repealed at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART E: DISMISSAL, DEFAULT AND CLOSURE

**Section 320.500 Dismissal (Repealed)**

- a) ~~The Department shall serve upon the parties a written notice of dismissal of all or parts of a complaint. The dismissal notice shall state the grounds for dismissal and advise the parties of the right to seek review by filing a written request within 15 calendar days after the date of the dismissal notice pursuant to Section 320.600. The dismissal notice shall also advise the parties of the right to bring a private action within 5 years from the date of the underpayment.~~
- b) ~~The dismissal may be based on, but not limited to, lack of reasonable cause that a violation under the Act occurred, lack of jurisdiction or complainant's failure to proceed pursuant to Section 320.310(c). The notice of dismissal shall specify the manner in which the complainant has failed to proceed.~~

(Source: Repealed at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.510 Default (Repealed)**

~~Except for good cause shown, the failure of a respondent to appear at an informal investigative hearing shall constitute a default.~~

(Source: Repealed at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.520 Closure (Repealed)**



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~~When the Department becomes aware that there is a complaint pending in federal or State court containing some or all of the issues before the Department, it may close the issues of the complaint that are being litigated and continue to process the remaining issues. If all issues are being litigated, then the entire complaint will be closed. The Department shall notify all parties in writing that the complaint before the Department is closed.~~

(Source: Repealed at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART F: INFORMAL INVESTIGATIVE HEARING

**Section 320.600 Request for Informal Investigative Hearing (Repealed)**

~~Any party who contests a decision issued pursuant to Section 320.330 may file a written request for an informal investigative hearing within 15 calendar days after the Department's written notice of decision. The request shall be marked Request for Informal Investigative Hearing on both the letter and the envelope and shall be delivered by U.S. mail or personal delivery to the Department's Chicago office. The request must set forth reasons why the party believes the Department's findings are incorrect as a matter of law or fact or any newly discovered evidence the party could not have discovered during the course of the investigation. Late submissions need not be considered by the Department.~~

(Source: Repealed at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.610 Convening an Informal Investigative Hearing (Repealed)**

- a) ~~The Department shall make an initial determination with respect to the legal and factual merits of a Request for Informal Investigative Hearing. If the request presents a reasonable issue of law or fact, the Department may schedule an informal hearing before an Administrative Law Judge for purposes of obtaining evidence specific to the issue raised in the request and for which the hearing was granted. At this hearing, all parties shall be afforded the opportunity to address the specific issue raised in the Request for Informal Investigative Hearing, including the Department's investigator who shall be afforded the opportunity to present the Department's investigative findings.~~
- b) ~~A written notice of an informal investigative hearing shall be sent, not less than 10 calendar days prior to the date of the hearing, to the complainant and respondent, and may also be sent to those employees, former employees or witnesses covered by the investigation at issue. Each notice shall identify the~~

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~~individual requested to attend and records or documents the party must produce at the hearing.~~

- e) ~~If a request for an informal investigative hearing is denied, the Department will notify the party who filed the request of the Department's determination in writing.~~

(Source: Repealed at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.620 Continuances (Repealed)**

~~Parties shall be prepared to proceed at hearing. A request by one party for a continuance will be granted prior to the hearing if the request is in writing, the other party agrees and the Administrative Law Judge grants permission. Otherwise, a request for a continuance must be made in person to the Administrative Law Judge at the time of hearing with proof that the party notified or attempted to notify the other party in advance of the hearing of the intent to ask for a continuance. The continuance will be granted only upon a showing of good cause. Good cause may be shown by, but not limited to, the failure of the party to receive notice of the hearing, the inability of a party to produce a material witness or relevant evidence, the illness or death of a party or counsel, the sudden and unexpected unavailability of counsel, and the substitution of counsel.~~

(Source: Repealed at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.630 Application of the Rules of Evidence, Pleading and Procedure (Repealed)**

~~When an Administrative Law Judge conducts an informal investigative hearing, the Administrative Law Judge is not bound by the rules of evidence or by any technical or formal rules of pleading or procedure.~~

(Source: Repealed at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.640 Attorneys and Witnesses at an Informal Investigative Hearing (Repealed)**

~~A party may be accompanied at an informal investigative hearing by the party's attorney and by a translator, if necessary. The parties may bring witnesses to the hearing, but the Administrative Law Judge shall decide which witnesses shall be heard and the order in which they shall be heard. The Administrative Law Judge may exclude witnesses and other persons from the hearing when they are not giving testimony. The Administrative Law Judge shall conduct and~~

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~~control the proceedings. No tape recordings, stenographic report or other verbatim record of the hearing shall be made.~~

(Source: Repealed at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.650 Contumacious Conduct (Repealed)**

~~If any person becomes so disruptive or abusive that a full and fair hearing cannot be conducted, the Administrative Law Judge shall exclude the person from the proceeding. The Administrative Law Judge may take any of the following actions: continue the hearing without the participation of the excluded individual; render a decision based upon the evidence previously presented; dismiss the complainant's complaint; or strike the respondent's response.~~

(Source: Repealed at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.660 Telephone Hearings (Repealed)**

- a) ~~Written requests to participate in an informal investigative hearing by telephone must be received by the Department's Chicago office no later than seven calendar days prior to the hearing date. The request shall be in writing and state a compelling reason why the party needs to participate by telephone and the name, address and telephone number of the person to be contacted.~~
- b) ~~A party shall not consider its request granted unless the party receives written notice of the Department's approval prior to the hearing date.~~

(Source: Repealed at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART G: REQUEST FOR REVIEW

**Section 320.700 Filing with Chief Administrative Law Judge (Repealed)**

- a) ~~A party may request review by the Chief Administrative Law Judge of a decision by the Department, including a decision made after an informal investigative hearing, to dismiss one or more allegations of a complaint for:~~
  - 1) ~~Lack of substantial evidence;~~
  - 2) ~~Lack of jurisdiction;~~

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- 3) ~~No reasonable cause found;~~
- 4) ~~Failure of complainant to proceed; or~~
- 5) ~~Failure of complainant to accept a settlement offer.~~
- b) ~~A respondent may request review by the Chief Administrative Law Judge of a decision by the Department, including a decision made after an informal investigative hearing, to issue a notice of default or a notice of reasonable cause found.~~
- c) ~~A request for review must be delivered by U.S. mail or personal delivery to the Chief Administrative Law Judge at the Department's Chicago office within 15 calendar days after the decision.~~
- d) ~~Neither the parties nor the Department may communicate directly or indirectly with the Chief Administrative Law Judge except in writing with copies to all parties and the Department.~~

(Source: Repealed at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.710 Contents of Request for Review (Repealed)**

~~A request for review must be in writing and state the reasons the party disagrees with the Department's decision. The request must be prominently marked "REQUEST FOR REVIEW" on both the letter and the envelope. A copy of the decision sought to be reviewed must be included with the request. The request for review must set forth the reasons why the party believes the Department misconstrued the evidence or misapplied the law to the facts and any newly discovered evidence the party could not have discovered prior to the Department's decision.~~

(Source: Repealed at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.720 Reply to Request for Review and Surreply (Repealed)**

- a) ~~When a party files a timely request for review, the Chief Administrative Law Judge may request other parties to submit a reply to the request for review. The reply must be filed with the Chief Administrative Law Judge within 14 calendar~~

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~~days after the request by the Chief Administrative Law Judge. The reply must be served on all other parties and proof of service must be provided to the Chief Administrative Law Judge or the reply cannot be considered. A reply is limited to the issues raised in the request for review. Whether a reply is needed or required is in the sole discretion of the Chief Administrative Law Judge.~~

- b) ~~If a reply to a request for review is timely filed with the Chief Administrative Law Judge, the party requesting review may file a surreply to the reply with the Chief Administrative Law Judge. Such surreply must be filed within 14 calendar days after the deadline for filing the reply. The surreply must be served on all parties and proof of service must be provided to the Chief Administrative Law Judge or the surreply cannot be considered. A surreply is limited to the issues raised in the reply.~~

(Source: Repealed at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.730 Extensions of Time (Repealed)**

- a) ~~For good cause shown, a party may request in writing an extension of time to file a request for review, reply or surreply. Such an extension shall be no more than 14 calendar days. Requests for extensions of time must be filed with the Chief Administrative Law Judge no later than the original deadline and will be granted if the Chief Administrative Law Judge determines that good cause has been shown.~~
- b) ~~A determination for an extension of time shall be sent to all parties.~~

(Source: Repealed at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.740 Additional Investigation and Decision (Repealed)**

~~At the conclusion of the request for review process, the Chief Administrative Law Judge must make one of the following findings:~~

- a) ~~Additional investigation. If the Chief Administrative Law Judge determines that additional investigation is needed, all parties will be notified of the decision. All parties will be informed of the results of the additional investigation and provided copies of any documents submitted in response to the decision for additional investigation. All parties will be given 14 calendar days to file a supplemental~~

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~~request for review, reply and surreply to address the results of the additional investigation.~~

- b) ~~Decision. If, after review of the Administrative Law Judge's decision to dismiss a complaint, issue a notice of default, or issue a reasonable cause finding, the Chief Administrative Law Judge determines that the Administrative Law Judge's decision should be sustained, a decision shall be entered stating the findings and reasons for the determination. Otherwise, the Chief Administrative Law Judge shall determine whether the dismissal, default or reasonable cause finding should be vacated. The Chief Administrative Law Judge will either return the complaint to the Department for additional investigation or issue a reasonable cause finding or a dismissal. The Chief Administrative Law Judge shall serve the decision upon all parties to the complaint.~~

(Source: Repealed at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART H: EQUAL PAY REGISTRATION CERTIFICATE

**Section 320.810 Definitions**

The following definitions shall apply for this Subpart H only:

"Application" means the form provided by the Department that a business must complete and submit to the Department in order to obtain an Equal Pay Registration Certificate or recertification of an Equal Pay Registration Certificate.  
"Business" *means any private employer who has 100 or more employees in the State of Illinois*~~and is required to file an Annual Employer Information Report EEO-1 with the Equal Employment Opportunity Commission~~, but does not include the State of Illinois or any political subdivision, municipal corporation, or other governmental unit or agency. [820 ILCS 112/11]

"Compliance" means that, as of the date of application or recertification, the business either:

- 1) has not had any final and non-appealable adverse judgment or final and non-appealable administrative ruling entered against it in the preceding two years under Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e), the Equal Pay Act of 1963 (29 U.S.C. 206), the Illinois Human

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Rights Act (775 ILCS 5), the Equal Wage Act (820 ILCS 110), or the Equal Pay Act of 2003 (820 ILCS 112); or

- 2) has corrected any final and non-appealable adverse judgment or final and non-appealable administrative ruling entered against it under Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e), the Equal Pay Act of 1963 (29 U.S.C. 206), the Illinois Human Rights Act (775 ILCS 5), the Equal Wage Act (820 ILCS 110), or the Equal Pay Act of 2003 (820 ILCS 112).

For purposes of Section 320.840(a)(3)(A), any business that has corrected a final and non-appealable adverse judgment or final and non-appealable administrative ruling entered against it shall submit evidence of the underlying judgment or ruling and the corrective measures undertaken by the employer business.

"Employee" means any person performing a service for a business under the Act whose *base of operations, or if there is no base of operations, the place from which the service is directed or controlled, is located within the State of Illinois; or whose base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in the State of Illinois.* [35 ILCS 5/304(a)(2)(B)(iii)]

"Job classification" or "job category" means one of the following job categories: executive/senior-level officials and managers, first/mid-level officials and managers, professionals, technicians, sales workers, administrative support workers, craft workers, operatives, laborers and helpers, and service workers~~an employee classification that appears on the EEO-1 report of the Equal Employment Opportunity Commission as required by section 709(c) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-8(c), and 29 CFR 1602.7 through 1602.14 and 41 CFR 60-1.7(a).~~

"Job title" means the title or role established for an employee by their employer that is used to identify and classify the employee internally within that workplace.

"Occupation" means any one of the Standard Occupational Classifications identified and published in the Standard Occupational Classification (SOC) System – Revision for 2018 published by the U.S. Bureau of Labor Statistics.

(Source: Amended at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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**Section 320.840 Application for Certification; Recertification**

*A business that has employees in multiple locations or facilities in Illinois shall submit a single application to the Department regarding all of the business's operations in Illinois. [820 ILCS 112/11(c)(3)]*

a) An application shall include the following:

- ~~1)~~ ~~*A copy of the business's most recently filed Employer Information Report EEO-1 for all locations in the State of Illinois and for all employees as defined in this Subpart H, submitted in a text-searchable, sortable Microsoft Excel file or comma-separated values file format.*~~
- ~~12)~~ A list of all employees during the payroll year (January 1 through December 31) immediately preceding the application due date, *separated by gender, race, and ethnicity categories* in a text-searchable, sortable Microsoft Excel file or comma-separated values file format, as well as any other information required by the Department on the application form. For the purposes of this report, wages shall be reported by either the mean hourly wage (for employees paid hourly wages) or annual mean wage (for salaried employees). The business may provide any other information it believes is relevant to explain any pay disparities amongst its employees. [820 ILCS 112/11(c)(1)(A)]
- ~~23)~~ An *Equal Pay Compliance Statement, signed by a corporate officer, legal counsel employed by the business, or authorized agent employed by the business, that certifies:*
  - A) *that the business is in compliance with the Act and other relevant laws, including but not limited to, Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e), the Equal Pay Act of 1963 (29 U.S.C. 206(d)), the Illinois Human Rights Act [775 ILCS 5], and the Equal Wage Act [820 ILCS 110];*
  - B) *that the average compensation for the business's female and minority employees is not consistently below the average compensation for its male and non-minority employees within each of the major-job categorycategories in the Employer Information*



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~~Report EEO-1 Job Classification Guide~~ for which an employee is expected to perform work, taking into account factors such as length of service, requirements of specific jobs, experience, skill, effort, responsibility, working conditions of the job, education or training, job location, use of a collective bargaining agreement, or other mitigating factors;

- C) *that the business does not restrict employees of one sex to certain job classifications, and makes retention and promotion decisions without regard to sex. Businesses with positions for which sex is a bona fide occupational qualification, as defined in 29 CFR 1604.2, must provide a list of such positions with a short explanation of why sex is a bona fide occupational qualification for those positions;*
  - D) *that wage and benefit disparities are corrected when identified to ensure compliance with the Acts in subsection (a)(3)(A)(i);*
  - E) *how often wages and benefits are evaluated; and*
  - F) *the approach the business takes in determining what level of wages and benefits to pay its employees; acceptable approaches include, but are not limited to, a wage and salary survey. [820 ILCS 112/11(c)]*
- b) An application shall be submitted to the Department via the Department's web-based submission portal found on its website at <http://labor.illinois.gov>.
  - c) An application must be accompanied by a filing fee of \$150, to be paid using the State Treasurer's E-Pay program or any successor program.
  - d) After receiving an initial Equal Pay Registration Certificate, a business must recertify every two years by submitting to the Department an application, as described in this Subpart, with updated information. The Department will notify the business that recertification is required and will provide the business with a recertification due date at least 180 calendar days before the recertification due date. A business that has fewer than 100 employees on December 31 of the business's payroll year must notify the Department, in writing by the recertification due date, of the number of employees employed by the business on

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December 31 of the business's payroll year and shall not be required to recertify.  
[820 ILCS 112/11(c)]

- e) If a business discovers that it has provided incorrect or incomplete information in its application, that business shall submit to the Department a revised application with correct or complete information, along with a letter identifying the information that was amended. A business that makes a correction shall not be subject to penalties if the incorrect or incomplete information was provided in good faith and without knowledge that such information was incorrect or incomplete.

(Source: Amended at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.860 Appeal**

- a) A business may appeal a rejected application under Section 11 of the Act. An appeal shall be submitted to the Department in writing within 14 calendar days after a Statement of Rejection is received. Appeals may be submitted via email to DOL.EPRC.APPEAL@illinois.gov, or mailed to: Illinois Department of Labor, ATTN: Con/Med, 524 S. 2<sup>nd</sup> Street, Suite 400, Springfield, Illinois 62701 ~~+60 North LaSalle Street, Suite C-1300, Chicago, Illinois, 60602~~. The request, if mailed, shall be prominently marked REQUEST FOR EPRC APPEAL on both the letter and the envelope; or, if emailed, shall contain the subject line REQUEST FOR EPRC APPEAL.
- b) Within 30 calendar days after receipt of an appeal, the Department will notify the business in writing of the Department's decision on the appeal. If the appeal is granted, the Department will issue the business an Equal Pay Registration Certificate. If the appeal is denied, the Department will provide the business with a notice stating the reason for the denial and a date by which the business must submit an amended application to the Department.
- c) If the Department denies the appeal, the business must submit to the Department an application with all identified deficiencies cured. Once that application is received and contains all the information required by this Subpart, the Department will issue the business an Equal Pay Registration Certificate. The business shall be in violation of the Act until all deficiencies in its application are cured and the application is approved by the Department.

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(Source: Amended at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 320.880 Initiation of Hearing**

- a) A hearing pursuant to Section 11(e) and Section 11(i) of the Act shall be initiated upon the request of a party after the party has received a written decision of notice of suspension or revocation of the certificate or imposition of civil penalties. The request must be made in writing and mailed by certified mail or delivered in person to the Chief Administrative Law Judge at the [Illinois Department of Labor, 160 North LaSalle Street, Suite C-1300, Chicago, Illinois 60602](#)~~Department's Chicago office~~ within 20 business days after receipt of the written decision of notice of suspension or revocation. The request shall be marked REQUEST FOR HEARING UNDER THE EQUAL PAY ACT on both the letter and the envelope.
- b) Hearings pursuant to Section 11(e) and Section 11(i) of the Act shall be conducted pursuant to the provisions of Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10] and the Department's Rules of Procedure in Administrative Hearings (56 Ill. Adm. Code 120).

(Source: Amended at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)