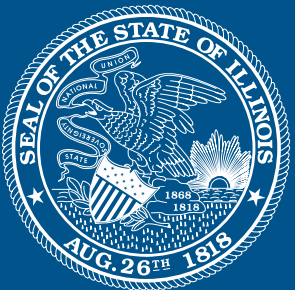




# Illinois Equal Pay Act & Job Postings

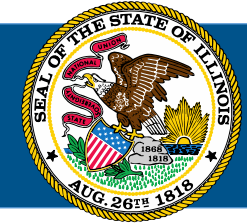
*What Employers and Employees Should Know*



# About Illinois Department of Labor

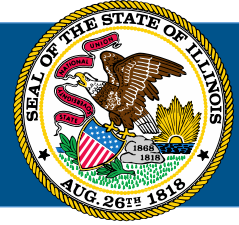
- ❖ Charged with enforcing laws protecting workers' rights on the job.
- ❖ Enforces about 28 different workplace protections and safety standards.
- ❖ Has offices in Chicago, Springfield, and Marion.

# Format of Today's Presentation



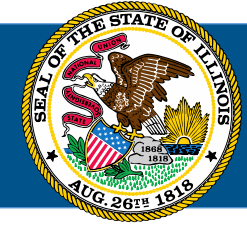
1. The presentation is intended to provide education about the new requirements of the Illinois Equal Pay Act that took effect January 1, 2025, regarding job posting requirements.
2. Today's discussion is meant to be an introduction to the fundamental elements of the upcoming changes to the Illinois Equal Pay Act related to job postings. IDOL is developing more detailed guidance on the nuances of the law and will share those once finalized.
3. We encourage you to visit the Frequently Asked Questions posted on our website. The questions we receive at webinars like this will help us learn what items need to be addressed in the FAQ. These Powerpoint slides are also on the website.
4. Everyone will be muted during this webinar. Near the end of the presentation, we will turn on the "Q & A" function. Please type your questions into the box and direct them to "All Panelists." Questions will be answered at the conclusion of the presentation.

# Overview – Agenda



- ❖ EPA Background + Main Takeaways
- ❖ Who is Covered?
- ❖ What is Required?
- ❖ Other Employer Responsibilities
- ❖ Penalties and Enforcement
- ❖ FAQs – see our website at [labor.illinois.gov](https://labor.illinois.gov)
- ❖ We will finish with a question session.

# Disclaimers

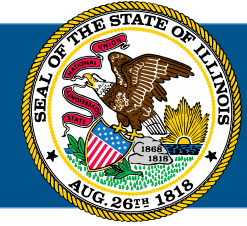


- ❖ This presentation is intended to offer **general guidance** on the provisions of the Equal Pay Act of 2003 and its amendments.
- ❖ IDOL cannot provide legal advice.
- ❖ Employees should consult their union representatives or legal counsel to determine what rights and/or claims they have under the law, including any situations specific to their position or employment. Employers and third parties should consult their legal counsel to determine their duties under the law.
- ❖ As we finalize our administrative rules, some of this general guidance will likely continue to evolve.



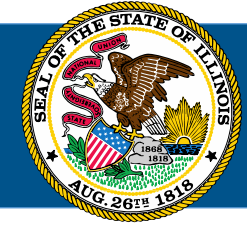
# IL Equal Pay Act: What is it?

# Equal Pay Act Background



- ❖ The Illinois Equal Pay Act of 2003 prohibits an employer from paying an employee less “for the same or substantially similar work...” on the basis of their sex or race (African-American).
  - Some exceptions for differential payment (seniority system, merit system, collective bargaining agreement, or a lawful factor other than sex or race that is job-related and consistent with business necessity for that position).
- ❖ As of 1/1/2019, prohibits employers from seeking/requiring a job applicant to disclose their pay or salary history.
- ❖ As of 3/23/2021, requires employers of 100+ employees (except public bodies) to register for Equal Pay Registration Certification and provide relevant compensation data to IDOL.
- ❖ As of January 1, 2025, requires employers of 15+ employees to include pay and benefit information on job postings (“pay transparency”).

# Main Takeaways



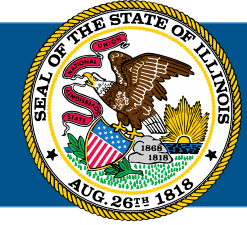
- ❖ Employers with 15+ employees must include pay and benefit information in any job posting they choose to publish.
  - **Employers are not required to make job postings!**
- ❖ Also, if an employer with 15+ employees publishes a job opportunity externally to the public, they must, within 14 days, notify their current employees of all opportunities for promotion so they can apply (“promotional opportunity”).
- ❖ If IDOL determines that a covered employer’s job posting does not comply with these requirements, **and the job posting is still active**, the **employer will have an opportunity to fix the violation** before being subject to penalty for the first and second offenses.





# Duty to Provide **Pay Transparency**: Who and What is Covered?

# Which Employers Are Covered?



## ❖ **Only** employers with 15 or more employees.

- For determining employer coverage, the IL EPA does not distinguish between employees inside or outside Illinois, or part-time or full-time employees.
- The IL EPA does not exclude apprenticeships, employers with collective bargaining agreements, or other organizations from being covered employers.

**NOTE:** Pay transparency covers a much smaller group of employers than are subject to other Equal Pay Act requirements (such as the general prohibition on pay discrimination).

# When Does Pay Transparency Kick In?

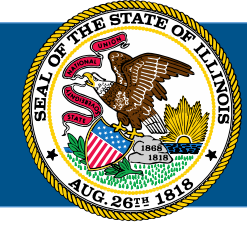


- ❖ Only when the employer with 15+ employees makes a “specific job posting” viewable.
  - Any publication – whether purely internal to a company’s existing employees or external to the public – for a **specific employment opportunity** that (i) will be physically performed, at least in part, in Illinois or (ii) will be physically performed outside of Illinois, but the employee reports to a supervisor, office, or other work site in Illinois.
    - ✓ Does not exclude positions held by student workers who are paid, or temporary workers.

**Pro Tip:** Not required for

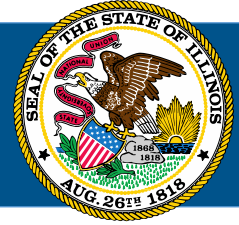


# Third Parties Acting on Employer's Behalf



- ❖ Pay transparency requirement also applies when a covered employer **engages** any third party, agent, or service to announce, post, publish, or otherwise make known a job posting.
  - The employer must provide the pay and benefit information to the third party to be included in the posting.
  - The third party is liable for failure to include the pay and benefit information in the job posting, **unless** the third party can show that the employer did not provide the necessary pay and benefit information.
- ❖ The recent amendments of the Act only address pay transparency and promotional opportunity issues in job postings. If there are other concerns about the content of a job posting, those may be addressed in other state or federal laws.

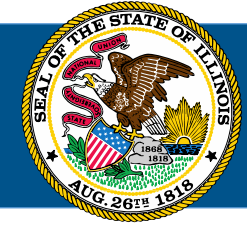
# What is “Pay Scale”?



- ❖ The wage or salary, or the wage or salary range, and a general description of the benefits and other compensation.
- **“Pay scale”** means detail about the pay, how it is paid (hourly, salary, piece rate), and a general description of additional income that is part of the compensation that an employer reasonably expects in good faith to offer for the position.

**NOTE:** *IDOL will provide more detail and examples of what “pay scale” includes in the administrative rulemaking process.*

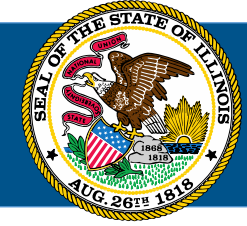
# What are “Benefits”?



- ❖ The wage or salary, or the wage or salary range, and a general description of the benefits and other compensation.
  - **“Benefits”** means (but is not limited to) a general description of all employment benefits the employer is offering for the position.
  - At a minimum, the benefits description should include health care, retirement benefits, paid days off, and any other benefits that would be reportable to tax authorities.

**NOTE:** *IDOL will provide more detail and examples of what “benefits” includes in the administrative rulemaking process.*

# Pay Ranges are OK!



❖ Can employers use a range that shows the possible pay scale for a specific position?

**Yes!**

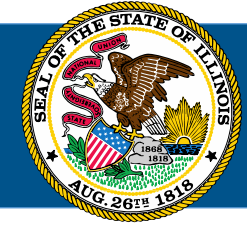
- An acceptable range can include the lowest to the highest pay the employer actually believes it might pay for the particular job, depending on circumstances such as employee qualifications, employer finances, or other operational considerations.

❖ Can an employer use a range to account for different locations?

**Yes!**

- If the pay might be different in Illinois and outside Illinois, the range should be what the employer would pay in Illinois.
- If the pay may vary by local area in Illinois, the information should let applicants reasonably estimate their pay. If the employer has one or more sites in Illinois, the posted pay must be included for the site(s) in question.

# Adjustments in Pay are OK!

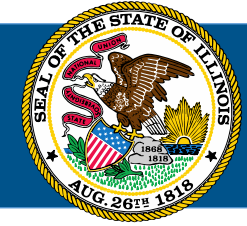


## ❖ What if an employer wants to make an offer outside of the pay range or benefits package they initially identified in the posting?

- The law does not prohibit an employer from offering or paying at a rate different from what the job posting said, or modifying the benefits package.
- As an example, an employer could establish a pay range in good faith, but then identify an outstanding job candidate who seeks to negotiate higher pay than the employer originally anticipated.
- The employer should, however, maintain records supporting their compliance with the Act.



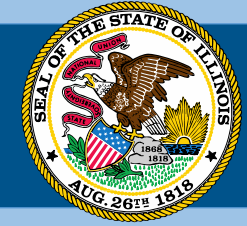
# Links are OK!



- ❖ If a job posting is published, the employer may include a hyperlink to a publicly viewable web page that includes the pay scale and benefits, so long as the link takes the viewer directly to the pay scale and benefits information for the particular position in question.
- ❖ A general description of benefits that the employer *might* provide to employees in various positions would not meet the pay transparency requirement.

Example: If an employer offers tuition reimbursements for certain professional staff such as accountants who seek a Masters Degree, they should not list “tuition reimbursement” as a benefit for in postings for positions that wouldn’t qualify for that benefit, such as a receptionist.

# Question: No Job Posting?



## ❖ Can an employer hire someone into a role without having made a job posting for that role?

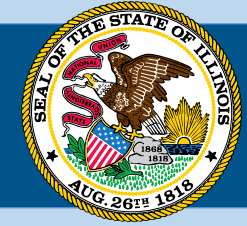
Yes! Nothing in this subsection requires an employer to make a job posting.

- A hiring event may be such a situation, if there is no written publication of a specific job offer.

### ***BUT KNOW:***

- If the employer recruits or interviews without having made a job posting, *and* did not make a public or internal posting for the job, promotion, transfer, or other employment opportunity to the applicant, ***at an applicant's request and prior to any offer or discussion of compensation***, the employer must disclose to an applicant the pay scale and benefits to be offered for the position.

# Question: Changing The Offer?



**Is an employer limited to offering the pay amount and benefits package that was in the job posting?**

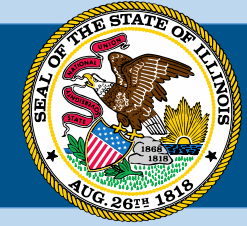
No.

**Example 1:** An employer posts a job opportunity seeking to hire someone that ideally has at least 10 years of experience in the field. The employer does not receive any applications from jobseekers with that amount of experience, so the employer decides to interview someone who has less experience than desired. The employer offers that candidate a lower salary than the job posting advertised. This is not prohibited.

**Example 2:** A job posting advertises a job with two weeks paid vacation. A highly qualified candidate applies but asks for three weeks of paid vacation. The law does not prohibit the employer from agreeing to this.

- ❖ The employer should, however, maintain records supporting their compliance with the Act.

# Question: Remote Workers?



## What about fully remote workers?

IDOL will provide more detailed guidance in the coming months, but for now, **remember**:

*These provisions apply to positions that*

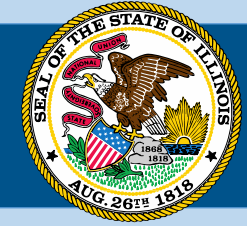
*(i) will be physically performed, at least in part, in Illinois and*

*(ii) will be physically performed outside of Illinois, but the employee reports to a supervisor, office, or other work site in Illinois.*

❖ Every fact situation will be distinct, but factors to consider include...

(cont'd)

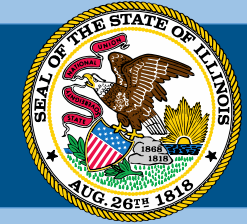
# Question: Remote Workers?



## Factors for assessing postings for fully remote jobs include:

- Does the employer have reason to anticipate that the work of the remote position would call for it to be performed in Illinois, at least in part?
- Does the employer have reason to anticipate that the remote position would report to a supervisor, office, or other work site in Illinois?
- Does the position have an immediate supervisor/office/work site located out of state?
- ❖ The mere fact that an employer with a fully-remote job posting *could* hire a remote worker who happens to live in Illinois is not enough to require pay transparency in the job posting IF the position will not be physically performed at least in part in Illinois or reporting to a supervisor, office, or other work site in Illinois.
- ❖ Consult your legal counsel for advice on which positions are covered for pay transparency and promotional opportunity.

# Example: Out-of-State Work

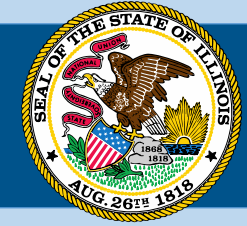


**What if an Illinois construction company, headquartered in Moline, is doing a construction job in Iowa and sends employees across the state line to work? Are posts for that job subject to IL EPA?**

If a position is “based” in Illinois but its work duties occasionally require the employee to travel around, then it is still covered by the IL EPA. So if the construction company’s HQ is in Moline, and that’s where employee records are kept, etc., then the workers “report” to the Moline office – even if occasionally their specific assignments take them across the river.

Occasional, intermittent, or sporadic work visits to another state do not undo the fact that their employment is primarily based in Illinois.

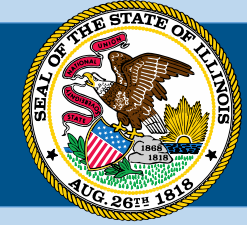
# Example: Third-Party Posting



An Accounting Firm is hiring for a new CPA. The firm makes a job posting, listing the anticipated salary range, and benefits package including health care, vision, dental, 2 weeks PTO, and a 401k. The firm engages an online professional networking service to post the job opportunity on its web site.

- ❖ If the online service (third party) fails to include the pay and benefits information on the posting on their web site, the online service could be liable for not including the required information.
- ❖ However, if the online service can show that the employer never provided them with the pay and benefits information for the job posting, solely the employer may be liable.
- *See Sec. 10 b-25 of the Equal Pay Act for details.*

# Questions: Pay Range



**When an employer posts a job, can it just include the *starting* salary range, or does it have to include the entire salary range for all people in the position, including those who have been in the position for many years? What about saying "Starts at \$20 depending on experience"?**

The Act says the employer must include in the specific job posting the "*pay scale and benefits*" for the position, and "*pay scale and benefits means the wage or salary, or the wage or salary range...*"

The employer should post the pay range that it anticipates it might actually pay for a person they hire based on the information in that job posting.

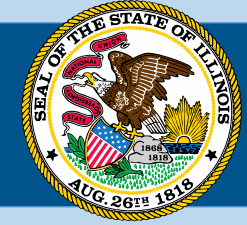
- ❖ So, if the posting is for an entry-level job, the employer should include the entry-level pay range and benefits. However, in the job posting, the employer can explain that the role is considered entry-level and what qualifications and experience the employer is looking for.
- ❖ If the employer reasonably expects to offer a fixed amount in pay, with no room for adjusting, the employer should state the fixed amount. However, if the pay that the employer offers may be adjusted up or down according to circumstances, then the employer must disclose the top and bottom of the pay range.

**May an employer use phrases like "\$80,000-\$90,000/year based on qualifications and experience" in a job posting?**

Sure! The law does not prohibit an employer from disclosing factors they may use to determine what pay they may offer, so long as the employer provides the applicable pay range for the position.



# Questions: CBAs



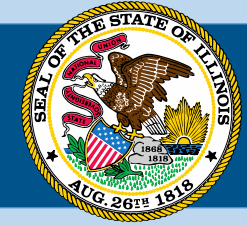
**Does the pay transparency requirement apply to jobs that are covered by a collective bargaining agreement?**

- ❖ Yes – there are no exceptions or special provisions for CBA-covered (union) jobs.

**May an employer’s job posting comply by saying “See Collective Bargaining Agreement for wage and benefit information?”**

- ❖ No – the law requires that the actual wage/salary information be provided. Remember that members of the general public who may be applying for jobs likely do not have access to private CBAs.

# Questions: Social Media



**Company is promoting a job opportunity and wants to share the announcement on a social media site. The social media post only allows 500 characters – not enough to fit the whole job description, salary, benefits, information on how to apply, etc. The company decides to post just a summary of the job opportunity.**

**Is the social media post considered a “job posting” subject to the Act?**

**Yes.**

**May the company post a summary of the job opportunity that leaves out the specifics of the pay and benefits?**

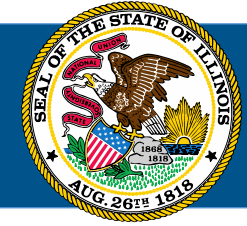
**Answer: Yes, *if* the post includes a link directly to a web page with all of the required pay and benefits information for that specific opportunity.**



# Duty to Provide Opportunities for Promotion:

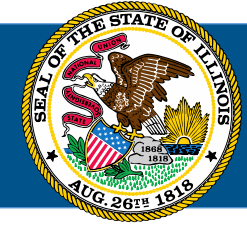
## Who and What is Covered?

# What is the “promotional opportunity” duty?



- ❖ As of January 1, 2025, an employer with 15+ employees **that chooses to make an external job posting for a position** must, within 14 calendar days, notify the employer’s existing employees about the externally-published job opportunities (opportunities for promotion, or “promotional opportunity”).
  - This duty is triggered whether an employer directly makes the external posting or a third party it has engaged to make the external posting does so on its behalf.
- ❖ Employer must announce, post, or otherwise make known “**all opportunities for promotion to all current employees**”.
- ❖ The Act does not contain a requirement that employers keep externally published postings open for 14 days, or any other period of time.

# How can employers announce?



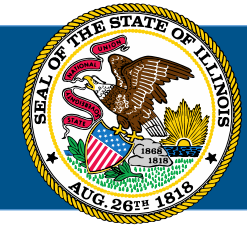
The Equal Pay Act does not dictate the exact method an employer must use to announce promotional opportunities to current employees, but generally employers should:

- ❖ use **whichever method the employer regularly uses to communicate work-related information**, and
- ❖ **maintain records** documenting its announcements.

❑ NOTE: The Act does not contain an exception for “confidential” specific job postings.

(cont'd)

# How can employers announce?

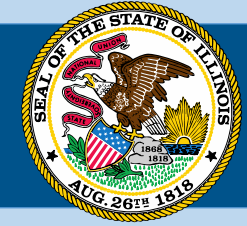


(cont'd)

Factors to consider include:

- The methods used should be **easily accessible and central**, such as, but not limited to, a bulletin board, email, an intranet site, or a web site.
- **All employees** must be informed of the availability of the information, and able to **regularly access** it freely and without interference.
- The same information that was provided in the job posting should be provided to employees.
- The employer should clearly and regularly inform all employees that it is utilizing that method to meet its Promotional Opportunity obligations, and so will publish externally-posted new job opportunities there within 14 days of when they are externally posted.
- Unless the employer typically shares work-related information (or open positions) by sending emails in each instance, the employer is not required to issue a specific email announcement for each promotional opportunity it advertised externally, if it continually maintains a “job board.”

# Question: Promotion Without Posting

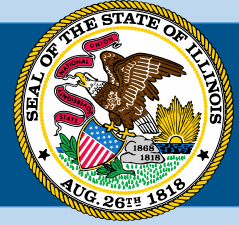


**Can an employer promote a specific employee into a new role without advertising it as a promotion opportunity to other employees?**

Yes.

- ❖ Nothing in this Act requires an employer to make a job posting or announce an opening if they don't want to.
- ❖ However, if the employer **chooses** to make a job posting, then the pay and benefits transparency and promotional opportunity announcement provisions apply.

# Question: Internal Promotion



**If an employer announces a job opportunity to current employees, do they also have to advertise that job opportunity to the general public?**

No.

- ❖ If the employer makes a public job posting, they must also announce it to current employees.
- ❖ The reverse is not true – there is nothing in the statute that prohibits the employer from announcing a job posting to current employees without advertising it to the general public.



# Question: How to Announce to All Employees?

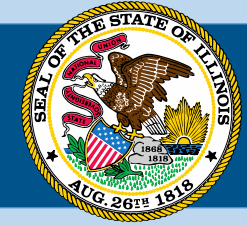


**If an employer has both on-site and remote employees, how should they communicate promotional opportunities?**

All employees must have equal access to the announcement. If, for example, the employer regularly sends all-staff emails with updates and announcements, they may do the same to announce promotional opportunities.

On the other hand, if an employer does have employees who do not regularly report to the work site, a paper posting on a bulletin board in the break room likely would not, on its own, be compliant, since the offsite employees don't regularly access that.

# Example: Promotion Options



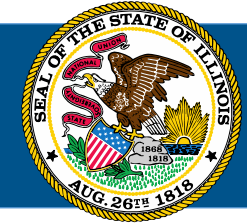
**An employer has a team of sales clerks who are led by a manager. The current manager resigns, opening up that position.**

- ❖ If the employer decides to make a publicly viewable job posting to solicit applications to fill the manager position, that employer must also share that job posting (including pay & benefits) with the current employees, so that they may have an opportunity to apply for the manager position.
- ❖ The employer may choose to simply ask one of the current sales clerks if they'd like to be promoted to be the new manager. If that employee asks for the pay and benefits information before the employer formally makes the job offer, the employer must provide it.



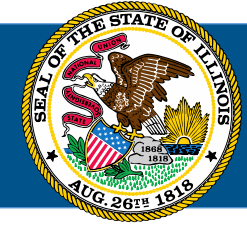
# Other Employer Responsibilities

# Records



- ❖ The Act places on employers a duty to make and preserve records of all pay scale and benefits for each position, the job posting for each position, promotional opportunities, pay determinations, and related information for **five years**.
- ❖ IDOL has authority to inspect such records in an investigation and the employer must produce them.
- ❖ The form and location of recordkeeping are up to the employer.
  - When determining what to keep, and how to keep it, think about this as what the employer would want to have available to respond to any inquiries/investigation by IDOL.
- ❖ If an employer has records that relate to an ongoing IL EPA investigation or enforcement action, the employer must retain the records until the Department or a court authorizes the destruction of the records.

# Retaliation Prohibited

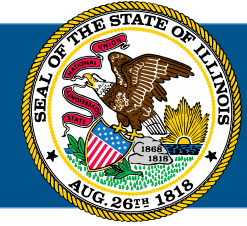


- ❖ Generally, the Act prohibits an employer, or any agent of an employer, from knowingly discriminating against an employee for asserting their Illinois Equal Pay Act rights. (Sec. 35 b)
  - An employee who is retaliated against may seek “legal and equitable relief” such as back pay, lost benefits, front pay, etc.
- ❖ Added with Pay Transparency:  
An employer or employment agency can not refuse to interview, hire, promote, or employ, or otherwise retaliate against an applicant or employee for exercising their rights to pay transparency and promotional opportunity. (Sec. 10(b-30)).



# Complaint/Enforcement Process

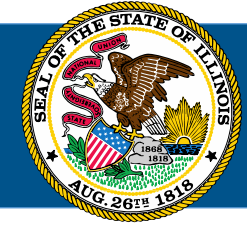
# IDOL Complaint Process



- ❖ Enforcement of this Act is generally complaint-driven.
- ❖ A person who believes that their employer violated the IL EPA can file an agency complaint within one year of the violation occurring.
- ❖ There are two different complaints for IL EPA concerns:
  - Existing complaint related to disparate pay, or wage history, issues.
  - New complaint for pay transparency/promotional opportunity complaints.

A person can file one or both of these, depending on the issue.

# Penalties and Enforcement

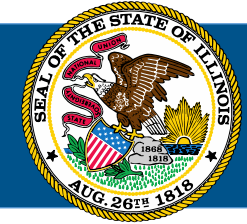


❖ **Complaints can be filed up to one year after the alleged violation.**

Violation	Employers	Description	Recovery
Unequal Pay for Equal Work	All	Employer cannot pay unequal wage for same/ substantially similar work. Protects employees based on sex, and African-American race.	Employee + IDOL
Wage/Salary Inquiry	All	Employer or their agent cannot ask or require applicant to give prior pay, or use that information if they have it to determine future pay.	Employee + IDOL
Pay Transparency	15+ Employees	Employer must include pay and benefits in job postings.	IDOL
Promotional Opportunity	15+ Employees	Employer that externally posts job opportunity must share it with current employees within 14 days.	IDOL
Equal Pay Registration Certification	100+ Employees	Every two years, employer must register and share data with IDOL about current employees and their pay to get certification.	IDOL

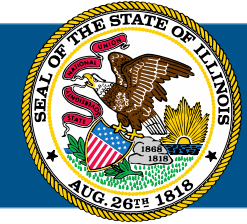


# Main Takeaways



- ❖ Employers with 15+ employees must include pay and benefits information in any job posting they choose to publish.
  - No employer is required to make any particular postings!
- ❖ Also, if an employer with 15+ employees publishes an external job opportunity, they must, within 14 days, notify their current employees of all opportunities for promotion so they can apply (“promotional opportunity”).
- ❖ If IDOL determines that a covered employer’s job posting does not comply with these requirements, and the job posting is still active, the employer will have an opportunity to fix the violation before being subject to penalty for the first and second offenses.

# Frequently Asked Questions



IDOL has a new website page for Pay Transparency.

Welcome to the Illinois Department of Labor

The Illinois Department of Labor is a medium-sized State agency that manages an extra-large workload, serving thousands of employees and businesses in the State each year. IDOL's primary responsibilities are to protect worker wages, welfare and working conditions by enforcing State labor and employment laws, providing compliance assistance to employers, and increasing public awareness of workplace protections. IDOL has offices throughout the State, with main offices in Springfield and Chicago; an office in the State Regional Office Building in Marion; and field staff located throughout the State.

## Equal Pay Act Pay Transparency

The Pay Transparency amendment to the Equal Pay Act of 2003 requires employers with more than 15 employees to include pay scale and benefit information in all job postings. Employers are also required to provide employees their current wage or salary range, along with a general description of benefits upon hiring.

[Frequently Asked Questions](#)

## Webinar Schedule

DATE	TIME	REGISTER
December 17	2 p.m.	<a href="#">Webex</a>

## Contact Information

Phone: (312) 793-6797

Email: [DOL.EqualPay@illinois.gov](mailto:DOL.EqualPay@illinois.gov)

## Resources



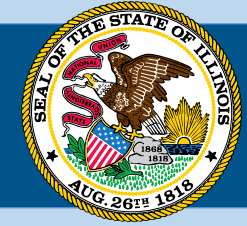
Employer Fact Sheet



Notice Poster (English)

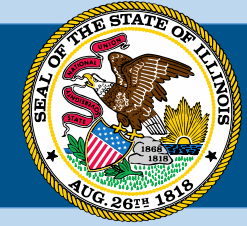
The website now has Frequently Asked Questions, a poster, a fact sheet, and a general PowerPoint presentation. IDOL will continually update these website resources.

# Administrative Rules



- ❖ IDOL staff is working to develop the Administrative Rules for these amendments.
- ❖ Questions we receive at webinars like this help us know what provisions may need to be clarified in Rule.
- ❖ IDOL's Proposed Rules will be available online when they are finalized.

# Questions and Comments



Q&A: Send questions to All Panelists

We may not be able to get through all questions, and appreciate your patience!

Questions: [DOL.EqualPay@illinois.gov](mailto:DOL.EqualPay@illinois.gov)

Slides and FAQs available: [www.Labor.Illinois.Gov/pay](http://www.Labor.Illinois.Gov/pay)

use the URL [labor.illinois.gov/salary](http://labor.illinois.gov/salary) and it will send them to <https://labor.illinois.gov/laws-rules/conmed/equal-pay-act-salary-transparency.html>.