TITLE 56: LABOR AND EMPLOYMENT
CHAPTER I: DEPARTMENT OF LABOR
SUBCHAPTER b: REGULATION OF WORKING CONDITIONS

PART 200
PAID LEAVE FOR ALL WORKERS ACT

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AUTHORITY: Implementing and authorized by the Paid Leave for All Workers Act [820 ILCS 192].

SOURCE: Adopted at 48 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 200.100 Scope

This Part implements the Paid Leave for All Workers Act [820 ILCS 192].

Section 200.110 Definitions

In addition to the terms set forth in Section 10 of the Act, all other terms used in this Part shall have the meanings set forth in this Section.

"Accrual" or "accrue" is the practice of accumulating paid time off over a period of time, proportionately to hours worked.

"Act" means the Paid Leave for All Workers Act [820 ILCS 192].

"Administrative Law Judge" means an individual authorized by the Department to determine the merits of claims alleging violations of the Act.

"Aggrieved Employee" means an employee affected by a possible violation of the Act, regardless of whether the employee has filed a claim with the Department.

"Complaint" means a signed document alleging a violation of the Act, accompanied by any supporting documentation required by the Department.

"Construction industry" means any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintenance, landscaping, improving, wrecking, painting, decorating, demolishing, or adding to or subtracting from any building, structure, highway, roadway, street, bridge, alley, sewer, ditch, sewage disposal plant, waterworks, parking facility, railroad, excavation or other structure, project, development, real property, or improvement, or to do any part thereof, whether or not the performance of the work herein described involves the addition to or fabrication into, any structure, project, development, real property, or improvement herein described of any material or article of merchandise. The definition also includes moving construction-related materials on the job site or to or from the job site, snow plowing, snow removal, and refuse collection. [820 ILCS 192/10]

"Day" means a calendar day.

"Department" means the Illinois Department of Labor, its Director, and the Director's authorized representatives. [820 ILCS 192/110]

"Domestic work" means housekeeping, house cleaning, home management, nanny services including childcare and child monitoring, caregiving, personal care or home health services for elderly persons or persons with an illness, injury, or disability who require assistance in caring for themselves, laundering, cooking,

companion services, chauffeuring; or other household services for members of households or their guests in or about a private home or residence or any other location where the domestic work is performed, as defined by the Domestic Workers' Bill of Rights Act. [820 ILCS 192/10]

"Domestic worker" means a person, *including independent contractors, sole proprietors, and partnerships,* who performs domestic work. [820 ILCS 192/10]

"Domicile" for purposes of the definition of "employee," means a *true, fixed, and permanent legal home of a person or the place to which the person intends to return even though the person may reside elsewhere. As a further explanation, "a person may have more than one residence but only one domicile".* [625 ILCS 5/1-115.5]

"Employee" means an individual permitted to work in an occupation by an employer and:

whose base of operations, regional office, or headquarters is in Illinois and that employee's work is primarily performed in Illinois, or

if either of the following is true:

The work is primarily performed in Illinois for an employer that performs substantial business in the State, markets its services in the State, or maintains a registered agent within the State of Illinois; or

The work is primarily performed in Illinois and individual is domiciled in Illinois.

For the purposes of this Part, when considering whether work is performed primarily in Illinois, the Department will consider the following factors:

The amount of work performed in Illinois compared to the amount of work performed outside of Illinois;

Whether the work performed inside of Illinois is isolated, temporary, or transitory; and

Whether the work performed outside of Illinois is the of same nature or has the same duties of the work performed in Illinois.

The definition of "employee" does not include the following:

An employee as defined in the federal Railroad Unemployment Insurance Act (45 U.S.C. 351) or the federal Railway Labor Act (45 U.S.C. 151);

A student enrolled in and regularly attending classes in a college or university who is also working less than full-time temporary basis at the same college or university;

An employee of a college or university who works for less than 2 consecutive quarters and the employee does not have a reasonable expectation to be rehired by the same employer for the same service in the subsequent calendar year; or

A bona fide independent contractor except an individual working as a domestic worker *as defined by the Domestic Workers' Bill of Rights Act* and by this Part. [820 ILCS 192/10]

The definition of "employee" includes domestic workers.

"*Employer*" means any individual, sole proprietor, partnership, association, corporation, limited liability company, business trust, employment and labor placement agency where wage payments are made directly or indirectly by the agency or business for work undertaken by employees under hire to a third party pursuant to a contract between the business or agency with the third party, *State or local unit of government, any political subdivision of the State, or any State or local government agency,* including all branches of State government, employing individuals in Illinois, except for the following:

Public school districts organized under the School Code [105 ILCS 5]; *and*

Park districts organized under the Park District Code [70 ILCS 1205]. [820 ILCS 192/10]

"Foreseeable" means reasonably able to be known or anticipated.

"Frontload" means to *make available the minimum number of hours of paid leave time, subject to pro rata requirements provided in* 820 ILCS 192/15(b)*, to an employee on the first day of employment or the first day of the 12-month period*. [820 ILCS 192/15(c)]

"Independent contractor" means an individual, other than a domestic worker, who:

has been and will continue to be free from control and direction over the performance of the individual's work, both under the contract of service with the employer and in fact; and

performs work that is either outside the usual course of business or is performed outside all of the employer's places of business, unless the employer is in the business of contracting with third parties for the placement of employees; and

is in an independently established trade, occupation, profession, or business. [820 ILCS 115/2]

"Paid leave", "paid leave time", or "paid leave hours" means time off from work for which the employer is required to pay the employee.

"Party" means any employee affected by a possible violation of the Act or any employer whose compliance with the Act is in question.

"Practical" means realistically capable of being accomplished in the actual circumstances.

"Qualifying pre-existing paid leave policy" means a bona fide paid leave policy that an employer has enacted prior to January 1, 2024, that, in practice, satisfies the minimum amount of leave required by subsection 15(a) if the policy offers an employee the option, at the employee's discretion, to take paid leave for any reason.

"Rate of pay" means:

for an employee who is not *engaged in an occupation in which gratuities or commissions have customarily and usually constituted part of remuneration for hire*, an employee's hourly rate of pay; and

for an employee who *is engaged in an occupation in which gratuities or commissions have customarily and usually constituted part of remuneration for hire, the full minimum wage in the jurisdiction where the employee is employed* or the agreed-upon hourly base wage rate, whichever is higher. [820 ILCS 192/5]

"Shared services" means services provided by a domestic worker to more than one employer that are intentionally coordinated by the employers. For example, in the context of childcare services, shared services are commonly referred to as a "nanny share".

"State agency" means all boards, commissions, agencies, institutions, authorities, bodies politic and corporate of the State created by or pursuant to the constitution or statute, of the executive branch of State government.

"Unforeseeable" means not reasonably able to be known or anticipated.

"Writing" or "Written" means a printed or printable communication in physical or electronic format, including a communication that is transmitted through electronic mail, text message, or a computer system or is otherwise sent or stored electronically. [820 ILCS 192/10]

Section 200.120 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) The following State statutes are referenced in this Part:

1) Illinois Vehicle Code [625 ILCS 5];

2) School Code [105 ILCS 5];

3) Park District Code [70 ILCS 1205];

4) Forms Notice Act [20 ILCS 435];

5) Illinois Wage Payment and Collection Act [820 ILCS 115]; and

6) Illinois Administrative Procedure Act [5 ILCS 100/Art. 10].

b) The following State regulations are referenced in this Part:

1) Minimum Wage Law Code (56 Ill. Adm. Code 210);

2) Rules of Procedure in Administrative Hearings (56 Ill. Adm. Code 120); and

3) Payment and Collection of Wages and Final Compensation (56 Ill. Adm. Code 300).

c) The Fair Labor Standards Act of 1938, as amended (29 U.S.C. 207 and 213).

SUBPART B: EARNING PAID LEAVE

Section 200.200 General Provisions

a) Minimum Paid Leave Time Requirements

1) An employee is entitled to earn a *minimum of 40 hours of paid leave during a 12-month period or a pro rata number of hours of paid leave* during a 12-month period, consistent with Section 15(a) and Section 15(b) of the Act and Section 200.220 of this Part. [820 ILCS 192/15]

2) Employers may provide such leave via accrual or frontloading.

3) An employer may choose to provide more than the minimum number of paid leave hours to an employee under this subsection or otherwise adopt a more generous paid leave policy as long as the policy meets the minimum requirements of the Act and this Part.

b) An employer who has a qualifying pre-existing paid leave policy in effect on January 1, 2024, is not required to modify the pre-existing paid leave policy. If, after January 1, 2024, the employer modifies a pre-existing paid leave policy in such a way that it no longer provides a minimum of 40 hours of paid leave to be used for any reason in accordance with Section 15(a) of the Act, that policy will no longer be considered a qualifying pre-existing paid leave policy.

EXAMPLE A: Employer A has provided all employees with at least two weeks' vacation every year since 2010. The vacation policy requires at least two weeks' advance notice and manager approval, but the leave can be taken for any reason. Per the employer's policy, unused vacation time is paid out to the employee at the end of employment. Employer A does not need to modify anything about this policy after January 1, 2024, because it complies with the definition of "qualifying pre-existing paid leave policy".

EXAMPLE B: Employer B has provided all employees with 15 sick days every year since 2015, but no other form of paid leave such as vacation or paid time off. The employees can call in sick for their shift any time prior to the start of their shift without penalty so long as they have that amount of sick time available; however, the sick time is only to be used for illness, injury, and medical appointments of the employee or a family member of the employee. Employer B's policy is not a "qualifying pre-existing paid leave policy" because it does not allow employees to take leave for any reason. Therefore, on or before January 1, 2024, Employer B must modify their policy to allow at least five days of that

leave to be used for any reason, or add five days that can be used for any reason in accordance with the Act.

EXAMPLE C: Employer C has provided full time employees with five days' (40 hours) vacation since 2018. Employer C does not provide any paid time off to part time employees. On or before January 1, 2024, Employer C must develop a policy to provide paid leave to part time employees at the rate of at least one hour of paid leave for every 40 hours worked, but does not need to modify its policy for full time employees.

EXAMPLE D: Employer D did not provide any paid leave to its employees prior to January 1, 2024. On January 1, 2024, Employer D adopts a paid leave policy that provides all employees 40 hours of paid leave, and the terms of that policy comply with all provisions in the Act. The following year, Employer D decides to offer an additional five days of paid leave to its employees who have been employed by them for five years or more. The employer would like to require advanced written notice in order to take that additional leave. The provisions of this Act do not apply to the additional paid leave time the employer has chosen to provide for longer-tenured employees and the employer can set different terms and conditions for use of this leave.

Section 200.210 Start of Paid Leave Benefits

An employee shall begin to earn *paid leave hours,* via frontloading or accrual, *at the commencement of the individual's employment with the employer or on January 1, 2024, whichever is the later date*. [820 ILCS 192/15]

Section 200.220 Accruing Paid Leave Over a 12-Month Period

a) If an employer requires employees to earn paid leave hours via accrual, an employee is entitled to *accrue paid leave hours at the rate of one hour of paid leave for every 40 hours worked during a 12-month period up to a minimum of 40 hours of paid leave over the same 12-month period*. [820 ILCS 192/15] An employer may choose to provide leave in smaller, proportional, increments, if the rate of benefit accrual is at least 1 hour of paid leave for every 40 hours worked. For the purpose of this Section, work periods must be counted on a minute-by-minute basis or may be rounded up to the next 15 minutes. An employer may not round down time worked.

b) Except as provided in subsection (c), an employer is required to count all time that an employee works, including overtime hours worked, for purposes of calculating accrual. An employer is not required to count time when an employee is on paid or unpaid leave or other non-compensable time where the employee is not performing work for the employer as time worked for accrual purposes.

c) *Employees exempt from the overtime requirements of the federal Fair Labor Standards Act (29 U.S.C 213(a)(1)) shall be deemed to work 40 hours in each workweek for purposes of paid leave time accrual if that employee regularly works 40 or more hours in a workweek.* [820 ILCS 192/20] If such employee's regular workweek is less than 40 hours, the employee's paid leave time accrues based on the number of hours in their regular workweek.

1) An overtime-exempt employee who regularly works 40 hours or more in a workweek is entitled a minimum of 40 hours of paid leave during a 12-month period.

2) An overtime-exempt employee who regularly works less than 40 hours in a workweek is entitled to accrue paid leave hours based on the number of hours worked in that workweek consistent with Sections 200.200 and 200.220.

d) Accrual calculation examples.

EXAMPLE A: Employee A works 15 hours per week, 52 weeks per year. Employee A is entitled to accrue 19.5 hours of paid leave annually. (15 times 52 = 780 hours worked per year. 780 divided by 40 = 19.5 hours of paid leave time.)

EXAMPLE B: Employee B works 50 hours per week, 52 weeks per year. Employee B is entitled to accrue at least 40 hours of paid leave annually.

Employee B's employer may choose to provide more than 40 hours, either via accrual or frontloading.

EXAMPLE C: Employee C is paid on a salary basis and qualifies for the "administrative" exemption under the Fair Labor Standards Act. Employee C's office hours are regularly 37.5 hours per week, but in some weeks, this employee's work hours may be fewer or more, depending on workload. Employee C's employer requires employees to earn paid leave via accrual. Employee C's paid leave shall accrue on the basis of 37.5 hours per week, even in weeks when they work fewer hours.

Section 200.230 Frontloading Paid Leave at the Start of a 12-Month Period

a) If an employer frontloads leave by providing to its employees the minimum required number of paid leave hours available for use on the employee's first day of employment or the first day of any 12-month period, the employer is subject to the following requirements:

1) The employer shall give written notice to the employee informing the employee of how many paid leave hours that employee is receiving on or before the first day of initial employment or on or before the first day of the initial 12-month period, and before the employer changes the amount of leave the employee receives via frontloading.

A) If an employer chooses a fixed date for the beginning of the 12-month period, such as January 1 or July 1, the employer may pro-rate the amount of frontloaded paid leave time that an employee who begins employment mid-12-month period shall receive. The employer shall then frontload the full 12-month period's worth of paid leave time to that employee at the next regular fixed date.

B) An employer may choose to use each employee's employment start date as the start of that employee's 12-month period.

C) An employer may not retroactively diminish benefits that the employer has already provided to an employee. Therefore, an employer may not recoup or require an employee to repay paid leave time that was frontloaded at the beginning of the 12-month period if the employee's employment ends before the end of the 12-month period.

2) Each 12-month period shall renew consecutively for the duration of employment unless employer does all of the following (see Section 15(d) of the Act):

A) Gives written notice to the employee at least 30 days prior to the end of the 12-month period, informing them that the 12-month period is changing or ending;

B) Gives the employee written documentation of the number of hours worked during the 12-month period, the number of paid leave hours accrued, the number of paid leave hours taken, and the remaining paid leave hours balance; and

C) Ensures that the changing of the 12-month period does not reduce the number of paid leave hours the employee is otherwise entitled to in a 12-month period.

3) An employee who receives frontloaded paid leave on the first day of any 12-month period shall continue to receive paid leave hours on the first day of any consecutive 12-month period unless the employer does the following (see Section 15(d) of the Act):

A) Gives written notice the employee at least 30 days prior to the end of the 12-month period that the 12-month period is changing or ending;

B) Gives the employee written documentation of the number of hours worked during the 12-month period, the number of paid leave hours accrued, the number of paid leave hours taken, and the remaining paid leave hours balance; and

C) Ensures that the changing of the 12-month period does not reduce the number of paid leave hours the employee is otherwise entitled to in a 12-month period.

b) The number of hours of paid leave provided under this Section shall not be less than what the employee would be entitled to earn if the employer had not provided all paid leave hours on the first day of employment or the first day of the 12-month period.

c) With appropriate notice to the employee and documentation, employers may frontload paid leave time for part-time employees at a pro rata amount consistent with the employee's anticipated work schedule for that 12-month period. However, if the employee works more hours than the employer anticipated, the employee is entitled to accrue additional hours at a rate of 1 hour of paid leave for every 40 hours worked in that same 12-month period, up to 40 hours of paid leave. If a part-time employee works fewer hours in the 12-month period than anticipated by their employer, the employer may not diminish or recoup used or unused frontloaded paid leave benefits in any way.

Section 200.240 Mixed-Earning Policies

a) An employer may provide some of its employees paid leave in form of frontloading, and other employees paid leave via accrual, if the employer's paid leave policy or policies meets all of the requirements of the Act and this Part.

b) An employer shall not illegally discriminate or otherwise violate state or federal law when determining which employees qualify for frontloading or accrual.

Section 200.250 Notice and Accounting

If an employee accrues paid leave based on Section 200.220 and requests information regarding that employee's paid leave balance, then the employer shall provide such information to the employee as soon as is practical.

Section 200.260 Collective Bargaining Agreements

a) Employees covered under a bona fide collective bargaining agreement may negotiate minimum standards of paid leave meeting or exceeding what is required by the Act.

b) *No term or provision of an existing bona fide collective bargaining agreement, in effect on January 1, 2024, shall be affected by the Act*. [820 ILCS 192/15] Employers and employees who are parties to such an agreement shall not be subject to this Act until the expiration of that agreement.

c) For a bona fide collective bargaining agreement that takes effect on or after January 1, 2024, *covered employees may waive the requirements of the Act only if the language of the waiver is clear, unambiguous, and explicitly waives the requirements of the Act*. [820 ILCS 192/15] In the absence of a clear, unambiguous, and explicit waiver in a collective bargaining agreement taking effect after January 1, 2024, the employer shall be subject to the Act and this Part.

d) The provisions of this Act do not apply to:

1) an *employee who works in the construction industry and is covered by a bona fide collective bargaining agreement,* regardless of whether that collective bargaining agreement is in effect before or after January 1, 2024; [820 ILCS 192/20] or

2) *an employee who works for an employer that provides services nationally and internationally of delivery, pickup, and transportation of parcels, documents, and freights and is covered by a bona fide collective bargaining agreement,* regardless of whether that collective bargaining agreement is in effect before or after January 1, 2024. [820 ILCS 192/15]

e) If an employee works for a State Agency and is covered by a bona fide collective bargaining agreement in effect on July 1, 2024, then *nothing in the Act shall affect the validity or change the terms of the agreement applying to the employee. Employees covered under a bona fide collective bargaining agreement with a State Agency may only waive the requirements of the Act in such agreement under the following conditions:*

1) *If the language of the waiver is clear, unambiguous, and explicitly waives the requirements of the Act; and*

2) *The collective bargaining agreement is in effect after January 1, 2024.*
[820 ILCS 192/15]

Section 200.270 Local Paid Leave Ordinances

a) The Act and this Part *shall not apply to any employer that is covered by a municipal or county ordinance that is in effect on* January 1, 2024 *that requires employers to give any form of paid leave to their employees, including paid sick time or paid leave.* [820 ILCS 192/15]

b) An employer that qualifies for subsection (a) but who employs employees who are not covered by such municipal or county ordinance, is required to provide paid leave to such employees in accordance with the Act.

EXAMPLE: Employer A is located in the city of Commerce, Illinois, which has a local paid leave ordinance. Employer A also has a branch location located in the city of Anytown, Illinois, which does not have a local paid leave ordinance. Employer A provides paid leave in accordance with that ordinance to its employees in Commerce. Employer A is required to comply with the Act and this Part in relation to its employees working in Anytown.

c) Notwithstanding the provisions of subsection (a), any employer that is not required to provide paid leave to its employees, including paid sick leave, under a municipal or county ordinance that is in effect on January 1, 2024 shall be subject to the provisions of the Act and this Part if the employer would be required to provide paid leave under the Act to its employees. This shall include employers located in municipalities or counties that have opted out of an overlapping jurisdiction's paid leave law.

d) If a municipality or county enacts or amends a local law or ordinance to provide paid leave time, including paid sick leave, after January 1, 2024, and the local law or ordinances provides equal or greater paid leave benefits, rights, and remedies than the Act, then the employer shall comply with the local law or ordinance.

e) If a municipality or county enacts or amends a local law or ordinance to provide paid leave time, including paid sick leave, after January 1, 2024, and the local law or ordinances provides less paid leave benefits, rights, or remedies than the Act, then the employer shall comply with the minimum requirements of the Act.

SUBPART C: USE OF PAID LEAVE

Section 200.300 General Provisions

a) *An employee is entitled to begin using earned paid leave time 90* calendar *days after commencement of employment or* March 31, 2024*, whichever is later*. [820 ILCS 192/15]

EXAMPLE A: The Paid Leave for All Workers Act takes effect on January 1, 2024. Six months later, Employee A starts a new job on Monday, July 1, 2024, and works 40 hours per week. Employee A starts accruing paid leave on their first day (July 1) but must wait 90 days (until September 29, 2024) before using any of their accrued paid leave time. See Section 15(g) of the Act.

EXAMPLE B: Employee B is hired to begin employment in an office job on September 1, 2024, which is the beginning of the employer's pay period. The office is closed on September 1 because it is a weekend, and it's also closed on Monday, September 2 for Labor Day, so Employee B's first day performing work is Tuesday, September 3. Because Employee B's employment status began on September 1, that day is the beginning of the 90-day waiting period. See Section 15(g) of the Act.

EXAMPLE C: Employee C has worked for an employer since 2019 but did not previously get paid time off. Employee C is entitled to earn paid leave beginning January 1, 2024 (the effective date of the Act). Employee C's employer frontloads its employees' paid leave in accordance with the Act, but Employee C must wait 90 days before being entitled to use any of their paid leave time. See Section 15(g) of the Act.

EXAMPLE D: Employee D works 40 hours per week between June 1 and August 15 (75 days) and does not work the rest of the year. Although Employee D is entitled to accrue 1 hour of paid leave for every 40 hours worked, they are not entitled to use that leave during that time because they are not employed for 90 days or longer. If Employee D returns to work for that employer within 12 months, their accrued but unused leave shall be carried over or reinstated. See Section 15(k) of the Act.

b) *An employee is entitled to use paid leave earned under the Act and this Part for any reason of the employee's choosing.* [820 ILCS 192/15]

1) *An employer shall not require an employee to provide a reason for taking paid leave time.*

2) *An employer shall not require an employee provide any type of documentation, including a certificate or form, as proof or support for the reason to use the paid leave time.* [820 ILCS 192/15]

EXAMPLE: Employee A has accrued a sufficient number of hours under the Act to take a paid leave day. Employer A has scheduled a business closure for a major holiday. In the past, Employer A has allowed employees to choose whether to go unpaid for that holiday, or to use paid leave time available to them. Employer A may not require Employee A to use their accrued paid leave hours for the holiday closure.

c) If an employer maintains a written paid leave policy, handbook, or manual, that policy, handbook, or manual must be consistent with the Act and this Part, including Section 200.310.

d) *An employee shall be allowed to* choose whether to *use paid leave earned under the Act and this Part before using any other leave benefits provided by the employer or State law.* [820 ILCS 192/15]

e) An employee shall be allowed to choose whether to use any other leave benefits provided by the employer or State law before using paid leave earned under the Act and this Part.

f) An employer who offers more than one type of leave should confirm and document what category of leave the employee wishes to draw from for any use of leave.

g) Employees shall have the discretion to determine how many paid leave hours they need to use in a 12-month period except:

1) If an employee's scheduled workday is more than two hours, then *the employer may restrict the use of paid leave to increments of no less than 2 hours per day*.

2) *If an employee's scheduled workday is less than two hours, then the employer may restrict the amount of paid leave used per day to the equivalent of the scheduled workday.* [820 ILCS 192/15]

EXAMPLE A: Employee A wants to use 45 minutes of paid leave to run an errand. Their employer may have a policy requiring employees to use 2 hours.

EXAMPLE B: Employee B wants to use 3 hours of paid leave. Their employer may not require employees to use a higher number of hours instead.

EXAMPLE C: Employee C's children's before and after school care is canceled. Employee C's employer requires a minimum usage of two hours of paid leave per day. Employee C may take one hour of paid leave in the morning and one hour of paid leave in the afternoon to do drop-off and pick-up.

Section 200.310 Paid Leave Usage Policy and Notice Requirements

a) If an employer chooses to impose terms and conditions on employees' use of paid leave time, beyond the provisions explicitly required by the Act, the employer must adopt a reasonable, written paid leave policy, made available in English and in any additional language commonly spoken by the employer's workforce, that, at a minimum, includes the protections of the Act and this Part, and is consistent with the provisions of the Act and this Part. A written paid leave policy, other than a qualifying pre-existing policy, that is inconsistent with the Act and this Part is invalid, and an employer with such a policy waives its right to notice of employees' use of paid leave time.

1) The paid leave policy can be a part of an existing employer manual, existing employer handbook, or a separate document.

2) The employer shall provide the paid leave policy to the employee prior to or upon the employee's commencement of employment or March 31, 2024, whichever is later. Employers who regularly communicate with employees via electronic means shall also provide the notice via the employer's regular electronic communication method.

3) If an employer changes the paid leave policy during the course of an employee's employment, then the employer shall notify the employee of the updated paid leave policy as soon as practical.

4) An employee may request to use paid leave *under this Act and this Part by making an oral or written request to the employer consistent with the employer's paid leave policy*. [820 ILCS 192/15] An employer's policy may require the employee to provide written notice after making an oral request for paid leave.

b) If an employer's paid leave policy has prior notification requirements, those may include the following (see Section 15(h) of the Act):

1) If an employee's request to use paid leave time is foreseeable, then an employer may require an employee give a maximum of 7 days' prior notice.

2) If an employee's request to use paid leave time is unforeseeable, then the employer may require the employee to provide notice as soon as practically possible after the employee is aware of the necessity of the leave.

c) An employer may deny an employee's request to use the minimum amount of paid leave provided for under this Act if all of the following conditions are met:

1) The employer's policy for considering leave requests under the Act, including any basis for denial under this Section is disclosed to the employee, in writing, consistent with this Section; and

2) The employer's paid leave policy establishes certain limited circumstances in which paid leave may be denied in order to meet the employer's operational needs for the requested time period; and

3) As a matter of fact, the employer's policy is consistently applied to similarly situated employees and does not effectively deny an employee adequate opportunity to use all paid leave time they are entitled to over a 12-month period.

d) *An employer shall provide employees with written notice of the paid leave policy notification requirements in this Section in the manner provided in Section 20 (d) of the Act for notice and posting, and* shall do so *within 5 calendar days of any change to the employer's reasonable paid leave policy notification requirements.* [820 ILCS 192/15]

e) *An employer shall not require an employee to search for or locate a replacement worker to cover the employee's use of paid leave time.* [820 ILCS 192/15]

f) If an employer changes its policy regarding an employee's requirement to notify the employer before taking paid leave time, then the employer must communicate the change in writing within 5 calendar days after the change.

g) An employer may restrict an employee's use of paid leave to the employee's known or anticipated work schedule.

Section 200.320 Carry Over

a) For an employee who accrues paid leave time over the course of a 12-month period, any unused paid leave time shall carry over annually from one 12-month period to the next 12-month period unless the employer and employee have mutually agreed that the unused leave will be paid out according to subsection (d). Employers may establish a reasonable policy consistent with Section 200.310 restricting employees' ability to carry over more than 40 hours of unused paid leave. See Section 15(i) of the Act.

b) Employees who receive frontloaded paid leave at the beginning of the 12-month period, in accordance with Section 200.220, are not entitled to carry over paid leave time from one 12-month period to the next unless the employer allows them to carry their paid leave time over. See Section 15(c) of the Act.

c) An employee is not entitled to use more than 40 hours of paid leave in a 12-month period unless the employer allows them to do so. See Section 15(i) of the Act.

d) An employer and employee may mutually agree, in writing and on an annual basis, that unused paid leave will be paid out to the employee at the end of the 12-month period instead of being carried over into the new 12-month period.

Section 200.330 Rate of Pay

a) Employees shall be paid their hourly rate of pay when taking paid leave time.

b) *Employees who work in an occupation where gratuities are customarily the form of payment shall be paid at least the full minimum wage in the jurisdiction where the employer is located* or the agreed upon base hourly wage rate, whichever is higher, *for all paid leave hours.*

c) Employees who work in an occupation where commissions are customarily the form of payment shall be paid at least the full minimum wage in the jurisdiction where the employer is located or the agreed upon base hourly wage rate, whichever is higher, for all paid leave hours.

d) Employees who earn compensation through any other method shall be paid their hourly rate of pay when taking paid leave.

SUBPART D: EMPLOYER RESPONSIBILITIES

Section 200.400 Domestic Workers

a) Domestic workers shall earn or accrue paid leave under this Act from each employer for whom they perform work. *If the employer of a domestic worker requires that a domestic worker demonstrate that the domestic worker has performed, in aggregate for all employers, more than 8 hours of domestic work per workweek, in order to meet the definition of "domestic worker" in Section 10 of the Domestic Workers' Bill of Rights Act, then a signed statement prepared by the domestic worker and submitted to each employer indicating that the employee has worked or is scheduled to work 8 total hours in the workweek shall suffice in order for the domestic worker to be eligible to earn paid leave time.* [820 ILCS 192/10]

b) If a domestic worker is employed jointly by two or more employers in a shared services arrangement, then all of the employers shall be considered one employer for the purposes of the Act and this Part (see Section 200.420).

EXAMPLE: A worker is hired jointly by two families with an agreement to provide nanny services for two separate households. The worker provides services for a combined 50 hours during the week: 30 hours for Family A and 20 hours for Family B. For the purposes of providing paid leave time, the families are in a shared services arrangement. All of the worker's time spent working for both families is counted together for accrual calculation purposes.

Section 200.410 Joint Employment

For the purposes of the Act and this Part, questions of joint employment will be evaluated according to the provisions of Section 210.115 of the Minimum Wage Law Code (56 Ill. Adm. Code 210).

Section 200.420 Transfers and Reinstatements

a) *An employee is entitled to retain and use all unused accrued paid leave earned at a division, entity, or location if the employee is transferred to a separate division, entity, or location of the same employer.* [820 ILCS 192/15]

b) *An employee is entitled to retain and use all unused accrued paid leave time earned from employment if the employee was terminated or separated from employment and was rehired within 12 months by the same employer. The unused earned or accrued paid leave time shall be reinstated to the employee on the first day of reinstatement.* [820 ILCS 192/15]

c) If an employee separates and returns within the same 12-month period, that employee is entitled to reinstatement of any unused frontloaded paid time off unless it was paid out upon separation.

Section 200.430 Continuation of Health Benefits

a) If an employee takes earned or accrued paid leave under the Act, then *the employer shall continue to provide any health plan coverage for the employee and the employee's family* that the employee already had during the duration of the paid leave time. [820 ILCS 192/15]

b) *The continuation of any group health plan coverage shall not be at a level or at conditions less than if the employee had not taken or used paid leave under the Act.* [820 ILCS 192/15]

c) If the employee is required to pay a premium for the health plan while taking or using paid leave time, then before the use of paid leave *the employer shall notify the employee in writing that the employee is still responsible for continued payment*. [820 ILCS 192/15]

Section 200.440 Recordkeeping Requirements

a) *Every employer shall create and maintain, for not less than 3 years*, the following records for each employee:

1) Name and address;

2) *Hours worked each day* in each workweek;

3) *Paid leave earned or accrued* in each workweek;

4) *Paid leave taken or used* in each workweek;

5) Requests by the employee to use paid leave that the employer denied; and

6) *Remaining paid leave balance* in each workweek and upon employee's separation or termination from employment. [820 ILCS 192/15]

b) Every employer shall make all records related to the Paid Leave for All Workers Act and this Part available to the employee or for inspection by the Department upon request.

Section 200.450 Display of Paid Leave for All Workers Notice

Every employer shall display a notice in the following manner:

a) *Each notice shall be posted in a conspicuous location on the employer's premises where notices to employees are customarily posted.*

b) The notice shall not be obscured in any manner and shall be prominently visible in the location where notices to employees are customarily posted. In addition to displaying a notice in a physical location at the employer's premises, employers who regularly communicate with employees via electronic means shall also provide the notice via the employer's regular electronic communication method.

c) The *notice shall be a written document* supplied by the Department at no cost to the employer, *summarizing the requirements of the Act including information about filing a complaint with the Department*. [820 ILCS 192/20]

d) If the employer's workforce has a significant percentage of workers who are not literate in English, then the employer shall additionally post the notice, as supplied by the Department, in the languages commonly spoken in the workplace.

Section 200.460 Determining Payout of Paid Leave Upon Separation from Employment

a) An employee's existing time off allowance bank or time off account shall be kept separate from the accounting of the employee's earned paid leave under the Act unless the employer's written policy or practice is to combine such leave.

b) If an employer chooses to credit the paid leave provided for under the Act to an existing paid leave allowance provided by the employer, such policy must be communicated to the employee within 30 days after the start of employment or of the effective date of the policy. See Section. 300.210.

c) If an employer chooses to credit the leave provided for under the Act to an existing paid leave allowance provided by the employer, *any unused paid leave time shall be paid to the employee upon an employee's termination, resignation, retirement, or other separation to the same extent that vacation time is paid under the Illinois Wage Payment and Collection Act* [820 ILCS 115/5]. [820 ILCS 192/15]

d) If an employer does not provide an additional form of paid leave allowance, nor chooses to combine or credit the multiple forms of leave together, then an employer shall not be required to pay out, provide financial benefit, or reimbursement for unused paid leave earned under the Act upon an employee's termination, resignation, retirement, or other separation from employment at any time of the year.

EXAMPLE A: Prior to January 1, 2024, Employer A, who is subject to the Illinois Wage Payment and Collection Act, offers two weeks of paid vacation to all employees. Beginning on January 1, 2024, Employer A allows employees to accrue paid leave under the Paid Leave for All Workers Act, and terms that leave "PLAW Leave." Employer A maintains records of the distinct balance each employee has in the employee's vacation account and in the employee's PLAW Leave account. Because Employer A maintains separate documentation of the vacation leave and PLAW Leave, Employer A does not have to pay out PLAW Leave upon an employee's separation. When Employee A requests to use leave, Employer A should ask Employee A whether they wish to deduct the leave from their vacation balance or their PLAW Leave balance in order to appropriately document Employee A's remaining paid leave balances.

Section 200.470 Prohibition on Retaliation

a) *It is unlawful for any employer to threaten to take or to take any adverse action against an employee because the employee does one or more of the following:*

1) *exercises a right or attempts to exercise a right under the Act or this Part;*

2) *opposes practices which the employee believes to be in violation of the Act or this Part; or*

3) *supports the exercise of rights of another employee of the same employer under the Act or this Part.* [820 ILCS 192/25]

b) *It is unlawful for any employer to consider the use of paid leave by an employee as a factor in any employment action that involves recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure or terms, privileges or conditions of employment evaluation, or counting paid leave under a no-fault attendance policy.* [820 ILCS 192/25]

c) It is unlawful for an employer to take adverse employment action, including but not limited to, penalizing or disciplining an employee under an attendance point system or equivalent attendance scoring or tracking system when an employee exercises his or her rights under the Act or this Part.

SUBPART E: ENFORCEMENT

Section 200.500 Filing a Complaint

a) *An employee may file a complaint with the Department alleging a violation of the Act* by completing and submitting a form provided by the Department and submitting supporting documentation. All complaints shall be filed *within 3 years after the alleged violation*. [820 ILCS 192/30]

b) *The Department has the power to conduct investigations* upon receipt of a complaint or at the discretion of the Director. Complaints shall be reviewed by the Department to determine whether there is cause for investigation.

c) The Department may attempt to resolve the complaint by conference, voluntary mediation, conciliation, or persuasion.

d) If, after investigation, the Department believes that the Act has been violated, then the Department shall notify the parties in writing and the matter shall be referred to an administrative hearing consistent with Section 200.520.

Section 200.510 Service of Documents

Service of any document 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;

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 respondent.

Section 200.520 Administrative Hearings

Hearings shall be conducted pursuant to the provisions of Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10] and the Rules of Procedure in Administrative Hearings (56 Ill. Adm. Code 120).

Section 200.530 Damages, Penalties, and Relief Due to the Employee

a) If the Department determines that an employer owes payment for paid leave hours to an aggrieved employee or did not allow the employee to use earned paid leave hours, then the total amount due to the aggrieved employee shall be the following:

1) Total value of earned paid leave hours owed to the aggrieved employee;

2) *Compensatory damages*;

3) *A penalty of not less than $500 and not more than $1,000*; and

4) *Any equitable relief* as determined by the Administrative Law Judge pursuant to a hearing conducted under the IAPA. [820 ILCS 192/30]

b) When determining the amount of a penalty, the Director shall consider the following factors:

1) The gravity of the violation, including the nature, circumstances, and extent of the violation, and the severity of the actual or potential harm;

2) The history of previous violations; and

3) The size of the employer, including number of employees employed by the employer, the gross dollar volume of sales or business done, the employer's capital investments and financial resources, and other information relevant to the size of the employer.

Section 200.540 Penalties Due to the Department of Labor

a) If an employer violates any provision of the Act except for Section 20(c) of the Act or any Section of this Part, except for Section 200.450, then the *employer shall be subject to a civil penalty of $2,500 per offense*, payable to the Paid Leave for All Workers Fund. [820 ILCS 192/35]

b) *An employer who violates* Section 200.450 of this Part, or *Section 20(d) of the Act shall be fined a civil penalty of $500 for the first audit violation and $1,000 for any subsequent audit violation.* [820 ILCS 192/20]