

**TITLE 56: LABOR AND EMPLOYMENT  
CHAPTER II: DEPARTMENT OF HUMAN RIGHTS  
PART 2520 PROCEDURES OF THE DEPARTMENT OF HUMAN RIGHTS**

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AUTHORITY: Implementing Articles 1 through 7B of the Illinois Human Rights Act [775 ILCS 5] and the Intergovernmental Cooperation Act [5 ILCS 220], and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act.

SOURCE: Adopted November 20, 1972 by the Fair Employment Practices Commission; transferred to the Department of Human Rights by P.A. 81-1216, effective July 1, 1980; emergency amendments at 4 Ill. Reg. 39, p. 335, effective September 17, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 1627, effective February 9, 1981; amended at 6 Ill. Reg. 2125, effective February 8, 1982; amended at 6 Ill. Reg. 3076, effective March 15, 1982; amended at 6 Ill. Reg. 8090, effective July 1, 1982; codified at 8 Ill. Reg. 17884; amended at 17 Ill. Reg. 15556, effective September 13, 1993; amended at 18 Ill. Reg. 16829, effective November 4, 1994; emergency amendment at 20 Ill. Reg. 445, effective January 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 5084, effective March 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6291, effective April 18, 1996; amended at 20 Ill. Reg. 10631, effective July 24, 1996; amended at 21 Ill. Reg. 14081, effective October 10, 1997; amended at 26 Ill. Reg. 17217, effective November 18, 2002; amended at 29 Ill. Reg. 804, effective December 28, 2004; amended at 30 Ill. Reg. 1343, effective January 13, 2006; amended at 30 Ill. Reg. 13403, effective July 31, 2006; amended at 30 Ill. Reg. 18715, effective November 20, 2006; amended at 31 Ill. Reg. 12319, effective August 8, 2007; amended at 31 Ill. Reg. 14815, effective October 19, 2007; amended at 32 Ill. Reg. 13482, effective August 1, 2008; amended at 33 Ill. Reg. 11311, effective July 20, 2009; amended at 33 Ill. Reg. 17086, effective December 4, 2009; amended at 34 Ill. Reg. 11413, effective July 20, 2010; amended at 36 Ill. Reg. 8699, effective June 1, 2012; amended at 38 Ill. Reg. 9481, effective April 21, 2014; amended at 39 Ill. Reg. 5601, effective April 6, 2015; amended at 41 Ill. Reg. 11560, effective August 29, 2017; amended at 42 Ill. Reg. 17235, effective September 17, 2018; emergency amendment at 44 Ill. Reg. 12676, effective July 10, 2020, for a maximum of 150 days; emergency amendment at 44 Ill. Reg. 16886, effective October 1, 2020, for a maximum of 150 days; amended at 44 Ill. Reg. 19864, effective December 14, 2020.

## SUBPART A: INTERPRETATIONS

### Section 2520.110 Preservation of Records by Employers, Labor Organizations, Employment Agencies and Respondents

- a) Employers subject to the Act shall preserve and maintain the following records, to the extent that they may exist, for the periods indicated herein:
  - 1) Applications for employment, resumes, and other documents or supporting materials submitted by or on behalf of applicants; and all interview forms, aptitude or qualifying examinations, personal history or background examination reports, medical history and physical examination reports, and other documents, pertaining to each applicant, for a period of four years ~~one year~~ from the date of application;
  - 2) Each employee's personnel file, including performance evaluations, attendance/tardiness records, reprimands and disciplinary records, and suspension, lay-off, termination or resignation records, for a period of four years ~~one year~~ from the date of such employee's termination or separation from employment;
  - 3) Job descriptions, production standards, and other records of required job duties, qualifications and performance criteria, for a period of four years ~~one year~~ following the date the same cease to be effective;
  - 4) Notices, postings, and disclosures regarding the employer's use of artificial intelligence pursuant to Section 2-102(L) of the Act, and records of such use, for a period of four years following such use.
- b) Labor organizations subject to the Act shall preserve and maintain the following membership and business records to the extent that they may exist for the periods indicated herein:
  - 1) Applications for membership or transfer of membership, and supporting documents or materials submitted by or on behalf of any applicant, and any records bearing on the disposition thereof, for a period of four years ~~one year~~ from the date of application;
  - 2) All membership and apprenticeship records, including records pertaining to the discipline, suspension or expulsion of a member, apprentice, or trainee, for a period of four years ~~one year~~ from the date of expulsion or separation of any such person from membership or an apprenticeship or training program;
  - 3) All grievance and arbitration records, including documents pertaining to the request by or on behalf of any member of the collective bargaining

unit that a grievance be initiated, and any documents reflecting the disposition of such a request or the disposition of any grievance filed, for a period of four years ~~one year~~ from the date of such request or from the date of final resolution of the grievance.

- c) Employment agencies shall preserve the following documents for a period of four years ~~one year~~ from the time these documents are created:
  - 1) all applications for assignment to an employer, and documents in support thereof;
  - 2) any documents bearing on the disposition thereof;
  - 3) documents relating to the terms and conditions of an assignment.
- d) Charge Pending – Notwithstanding any other provision of this Part, once a charge has been served on a respondent, the respondent shall preserve all records and other evidence pertaining to the charge until the matter has been finally adjudicated.

## **SUBPART J: USE OF ARTIFICIAL INTELLIGENCE IN EMPLOYMENT**

### **Section 2520.900 DEFINITIONS:**

For purposes of this Subpart, the following terms shall have the meanings indicated:

“Act” means the Illinois Human Rights Act [775 ILCS 5].

“Agent” includes any person acting on behalf of an employer to exercise control over the employer’s actions with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure, or the terms, privileges, or conditions of employment. An agent of an employer is also an “employer” for purposes of this Subpart.

“Artificial Intelligence” (“AI”) as defined in Section 2-101(M) of the Act.

"Artificial intelligence" means a machine-based system that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments. "Artificial intelligence" includes generative artificial intelligence.

“Covered employment decision” means a decision with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure, or the terms, privileges, or conditions of employment.

“Generative Artificial Intelligence” as defined in Section 2-101(N) of the Act.

"Generative artificial intelligence" means an automated computing system that, when prompted with human prompts, descriptions, or queries, can produce outputs that simulate human-produced content, including, but not limited to, the following: (1) textual outputs, such as short answers, essays, poetry, or longer compositions or answers; (2) image outputs, such as fine art, photographs, conceptual art, diagrams, and other images; (3) multimedia outputs, such as audio or video in the form of compositions, songs, or short-form or long-form audio or video; and (4) other content that would be otherwise produced by human means.

“Use” of an artificial intelligence system includes any instance in which the output of an artificial intelligence system influences or facilitates a covered employment decision.

### **Section 2520.910 Notice**

- a) An employer must not use artificial intelligence in any covered employment decision unless the employer provides notice of such use of artificial intelligence to its employees, including prospective employees.

b) Circumstances and conditions that require notice.

- 1) Notice is required under this Subpart to employees when an employer is using artificial intelligence (including ongoing uses) to influence or facilitate a covered employment decision.
- 2) Notice is required under this Subpart regardless of whether the employer's use of artificial intelligence has the purpose or effect of subjecting employees to unlawful discrimination.
- 3) Examples of circumstances and conditions that generally require notice under this Subpart include but are not limited to:
  - A) Using computer-based assessments or tests, such as questions, puzzles, games, or other challenges to:
    - i. Make predictive assessments about a prospective or current employee;
    - ii. Measure a prospective or current employee's skills, dexterity, reaction-time, and/or other mental or physical abilities or characteristics;
    - iii. Measure a prospective or current employee's personality trait, aptitude, attitude, and/or cultural fit; and/or
    - iv. Screen, evaluate, categorize, and/or recommend prospective or current employees.
  - B) Use of AI in directing certain job advertisements or recruiting materials or activities to targeted groups, areas, or populations;
  - C) Screening resumes for particular terms or patterns;
  - D) Analyzing facial expression, word choice, and/or voice in online interviews, videos, or interview transcripts; or
  - E) Analyzing data acquired from third parties regarding prospective or current employees.
- 4) Notice is not required under this Subpart when:
  - A) An employer uses artificial intelligence for other business operations purposes, such as to generate text or images for promotional purposes, and not for the purpose of making, influencing, or facilitating a covered employment decision.
  - B) An employer uses an automated computer system that does not qualify as artificial intelligence as defined in the Act, such as a word processing software, spreadsheet software, map navigation systems, web hosting, domain registration, networking, caching,

website loading, data storage, firewalls, anti-virus, anti-malware, spam- and robocall-filtering, spellchecking, calculators, database, or similar technologies, provided that such technology is not being used to infer, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments with respect to a covered employment decision.

- C) An employer uses a computer system that has distinguishable artificial intelligence features or functionality, but the employer does not use the artificial intelligence features or functionality to make, influence, or facilitate any covered employment decision.

c) Time period for providing notice to employees.

- 1) For current employees, on an annual basis and within 30 days of adoption of a new or substantially updated product, system, or process using AI for covered employment decisions.
- 2) For prospective employees, as part of the job notice or posting.

d) Means for providing notice. The employer must provide notice by all of these means, as applicable:

- 1) In any employee handbook, manual, or policy document;
- 2) In a conspicuous location on any physical premises of the employer where notices are customarily posted;
- 3) In a conspicuous location on any intranet or external website where the employer customarily posts notices to prospective or current employees, which must also be accessible through a conspicuous link on the homepage of any external website maintained by the employer; and
- 4) Included with any job notice or posting.

e) Information required to be included in notice.

- 1) The product name and (if applicable) developer and (if applicable) vendor of the artificial intelligence system;
- 2) Which covered employment decision the artificial intelligence system is influencing or facilitating (e.g., recruitment, hiring, discipline);
- 3) The purpose of the artificial intelligence system, including the categories of personal information or employee data collected or processed by the



system. For example, summarize resumes submitted by applicants, score resumes relative to preset criteria, analyze a video interview with AI, use AI to evaluate a text exchange between the employee and a chatbot;

- 4) The types of job position(s) the AI tool will be used for;
  - 5) A point of contact, such as a hiring manager or human resources agent, who can answer questions about the system and its use by the employer;
  - 6) The right to request a reasonable accommodation and instructions on how to request the accommodation; and
  - 7) The language from 775 ILCS 5/2-102(L) of the Illinois Human Rights Act.
- f) Accessibility. Notices required under this Subpart shall:
- 1) Use plain language and a format that makes the notice readable;
  - 2) Be available in the languages commonly spoken by the employer's workforce; and
  - 3) Be reasonably accessible to employees with disabilities.
- g) Compliance with the notice provisions under this Subpart does not relieve an employer from any obligation to comply with any bargaining obligations or any other provision of applicable local, state, or federal law, including nondiscrimination requirements or the Artificial Intelligence Video Interview Act [820 ILCS 42/1].