

1 AN ACT concerning human rights.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Board of Higher Education Act is amended by
5 changing Section 9.16 as follows:

6 (110 ILCS 205/9.16) (from Ch. 144, par. 189.16)

7 Sec. 9.16. Underrepresentation of certain groups in higher
8 education. To require public institutions of higher education
9 to develop and implement methods and strategies to increase
10 the participation of minorities, women and individuals with
11 disabilities who are traditionally underrepresented in
12 education programs and activities. For the purpose of this
13 Section, minorities shall mean persons who are citizens of the
14 United States or lawful permanent resident aliens of the
15 United States and who are any of the following:

16 (1) American Indian or Alaska Native (a person having
17 origins in any of the original peoples of North and South
18 America, including Central America, and who maintains
19 tribal affiliation or community attachment).

20 (2) Asian (a person having origins in any of the
21 original peoples of the Far East, Southeast Asia, or the
22 Indian subcontinent, including, but not limited to,
23 Cambodia, China, India, Japan, Korea, Malaysia, Pakistan,

1 the Philippine Islands, Thailand, and Vietnam).

2 (3) Black or African American (a person having origins
3 in any of the black racial groups of Africa).

4 (4) Hispanic or Latino (a person of Cuban, Mexican,
5 Puerto Rican, South or Central American, or other Spanish
6 culture or origin, regardless of race).

7 (5) Native Hawaiian or Other Pacific Islander (a
8 person having origins in any of the original peoples of
9 Hawaii, Guam, Samoa, or other Pacific Islands).

10 The Board shall adopt any rules necessary to administer
11 this Section. The Board shall also do the following:

12 (a) require all public institutions of higher education to
13 develop and submit plans for the implementation of this
14 Section;

15 (b) conduct periodic review of public institutions of
16 higher education to determine compliance with this Section;
17 and if the Board finds that a public institution of higher
18 education is not in compliance with this Section, it shall
19 notify the institution of steps to take to attain compliance;

20 (c) provide advice and counsel pursuant to this Section;

21 (d) conduct studies of the effectiveness of methods and
22 strategies designed to increase participation of students in
23 education programs and activities in which minorities, women
24 and individuals with disabilities are traditionally
25 underrepresented, and monitor the success of students in such
26 education programs and activities;

1 (e) encourage minority student recruitment and retention
2 in colleges and universities. In implementing this paragraph,
3 the Board shall undertake but need not be limited to the
4 following: the establishment of guidelines and plans for
5 public institutions of higher education for minority student
6 recruitment and retention, the review and monitoring of
7 minority student programs implemented at public institutions
8 of higher education to determine their compliance with any
9 guidelines and plans so established, the determination of the
10 effectiveness and funding requirements of minority student
11 programs at public institutions of higher education, the
12 dissemination of successful programs as models, and the
13 encouragement of cooperative partnerships between community
14 colleges and local school attendance centers which are
15 experiencing difficulties in enrolling minority students in
16 four-year colleges and universities;

17 (f) mandate all public institutions of higher education to
18 submit data and information essential to determine compliance
19 with this Section. The Board shall prescribe the format and
20 the date for submission of this data and any other education
21 equity data; ~~and~~

22 (g) report to the General Assembly and the Governor
23 annually with a description of the plans submitted by each
24 public institution of higher education for implementation of
25 this Section, including financial data relating to the most
26 recent fiscal year expenditures for specific minority

1 programs, the effectiveness of such plans and programs and the
2 effectiveness of the methods and strategies developed by the
3 Board in meeting the purposes of this Section, the degree of
4 compliance with this Section by each public institution of
5 higher education as determined by the Board pursuant to its
6 periodic review responsibilities, and the findings made by the
7 Board in conducting its studies and monitoring student success
8 as required by paragraph d) of this Section. With respect to
9 each public institution of higher education such report also
10 shall include, but need not be limited to, information with
11 respect to each institution's minority program budget
12 allocations; minority student admission, retention and
13 graduation statistics; admission, retention, and graduation
14 statistics of all students who are the first in their
15 immediate family to attend an institution of higher education;
16 number of financial assistance awards to undergraduate and
17 graduate minority students; and minority faculty
18 representation. This paragraph shall not be construed to
19 prohibit the Board from making, preparing or issuing
20 additional surveys or studies with respect to minority
21 education in Illinois; and

22 (h) require all public institutions of higher education to
23 comply with subsection (B) or (B-5) of the Illinois Human
24 Rights Act.

25 (Source: P.A. 102-465, eff. 1-1-22.)

1 Section 10. The Illinois Human Rights Act is amended by
2 changing Sections 2-101 and 2-105 as follows:

3 (775 ILCS 5/2-101)

4 Sec. 2-101. Definitions. The following definitions are
5 applicable strictly in the context of this Article.

6 (A) Employee.

7 (1) "Employee" includes:

8 (a) Any individual performing services for
9 remuneration within this State for an employer;

10 (b) An apprentice;

11 (c) An applicant for any apprenticeship.

12 For purposes of subsection (D) of Section 2-102 of
13 this Act, "employee" also includes an unpaid intern. An
14 unpaid intern is a person who performs work for an
15 employer under the following circumstances:

16 (i) the employer is not committed to hiring the
17 person performing the work at the conclusion of the
18 intern's tenure;

19 (ii) the employer and the person performing the
20 work agree that the person is not entitled to wages for
21 the work performed; and

22 (iii) the work performed:

23 (I) supplements training given in an
24 educational environment that may enhance the
25 employability of the intern;

1 (II) provides experience for the benefit of
2 the person performing the work;

3 (III) does not displace regular employees;

4 (IV) is performed under the close supervision
5 of existing staff; and

6 (V) provides no immediate advantage to the
7 employer providing the training and may
8 occasionally impede the operations of the
9 employer.

10 (2) "Employee" does not include:

11 (a) (Blank);

12 (b) Individuals employed by persons who are not
13 "employers" as defined by this Act;

14 (c) Elected public officials or the members of
15 their immediate personal staffs;

16 (d) Principal administrative officers of the State
17 or of any political subdivision, municipal corporation
18 or other governmental unit or agency;

19 (e) A person in a vocational rehabilitation
20 facility certified under federal law who has been
21 designated an evaluatee, trainee, or work activity
22 client.

23 (B) Employer.

24 (1) "Employer" includes:

25 (a) Any person employing one or more employees
26 within Illinois during 20 or more calendar weeks

1 within the calendar year of or preceding the alleged
2 violation;

3 (b) Any person employing one or more employees
4 when a complainant alleges civil rights violation due
5 to unlawful discrimination based upon his or her
6 physical or mental disability unrelated to ability,
7 pregnancy, or sexual harassment;

8 (c) The State and any political subdivision,
9 municipal corporation or other governmental unit or
10 agency, without regard to the number of employees;

11 (d) Any party to a public contract without regard
12 to the number of employees;

13 (e) A joint apprenticeship or training committee
14 without regard to the number of employees.

15 (2) "Employer" does not include any place of worship,
16 religious corporation, association, educational
17 institution, society, or non-profit nursing institution
18 conducted by and for those who rely upon treatment by
19 prayer through spiritual means in accordance with the
20 tenets of a recognized church or religious denomination
21 with respect to the employment of individuals of a
22 particular religion to perform work connected with the
23 carrying on by such place of worship, corporation,
24 association, educational institution, society or
25 non-profit nursing institution of its activities.

26 (C) Employment Agency. "Employment Agency" includes both

1 public and private employment agencies and any person, labor
2 organization, or labor union having a hiring hall or hiring
3 office regularly undertaking, with or without compensation, to
4 procure opportunities to work, or to procure, recruit, refer
5 or place employees.

6 (D) Labor Organization. "Labor Organization" includes any
7 organization, labor union, craft union, or any voluntary
8 unincorporated association designed to further the cause of
9 the rights of union labor which is constituted for the
10 purpose, in whole or in part, of collective bargaining or of
11 dealing with employers concerning grievances, terms or
12 conditions of employment, or apprenticeships or applications
13 for apprenticeships, or of other mutual aid or protection in
14 connection with employment, including apprenticeships or
15 applications for apprenticeships.

16 (E) Sexual Harassment. "Sexual harassment" means any
17 unwelcome sexual advances or requests for sexual favors or any
18 conduct of a sexual nature when (1) submission to such conduct
19 is made either explicitly or implicitly a term or condition of
20 an individual's employment, (2) submission to or rejection of
21 such conduct by an individual is used as the basis for
22 employment decisions affecting such individual, or (3) such
23 conduct has the purpose or effect of substantially interfering
24 with an individual's work performance or creating an
25 intimidating, hostile or offensive working environment.

26 For purposes of this definition, the phrase "working

1 environment" is not limited to a physical location an employee
2 is assigned to perform his or her duties.

3 (E-1) Harassment. "Harassment" means any unwelcome conduct
4 on the basis of an individual's actual or perceived race,
5 color, religion, national origin, ancestry, age, sex, marital
6 status, order of protection status, disability, military
7 status, sexual orientation, pregnancy, unfavorable discharge
8 from military service, citizenship status, or work
9 authorization status that has the purpose or effect of
10 substantially interfering with the individual's work
11 performance or creating an intimidating, hostile, or offensive
12 working environment. For purposes of this definition, the
13 phrase "working environment" is not limited to a physical
14 location an employee is assigned to perform his or her duties.

15 (F) Religion. "Religion" with respect to employers
16 includes all aspects of religious observance and practice, as
17 well as belief, unless an employer demonstrates that he is
18 unable to reasonably accommodate an employee's or prospective
19 employee's religious observance or practice without undue
20 hardship on the conduct of the employer's business.

21 (G) Public Employer. "Public employer" means the State, an
22 agency or department thereof, unit of local government, school
23 district, instrumentality or political subdivision.

24 (H) Public Employee. "Public employee" means an employee
25 of the State, agency or department thereof, unit of local
26 government, school district, instrumentality or political

1 subdivision. "Public employee" does not include public
2 officers or employees of the General Assembly or agencies
3 thereof.

4 (I) Public Officer. "Public officer" means a person who is
5 elected to office pursuant to the Constitution or a statute or
6 ordinance, or who is appointed to an office which is
7 established, and the qualifications and duties of which are
8 prescribed, by the Constitution or a statute or ordinance, to
9 discharge a public duty for the State, agency or department
10 thereof, unit of local government, school district,
11 instrumentality or political subdivision.

12 (J) Eligible Bidder. Except as defined in subsection (B-5)
13 of Section 2-105, "eligible bidder" means a person
14 who, prior to contract award or prior to bid opening for State
15 contracts for construction or construction-related services,
16 has filed with the Department a properly completed, sworn and
17 currently valid employer report form, pursuant to the
18 Department's regulations. The provisions of this Article
19 relating to eligible bidders apply only to bids on contracts
20 with the State and its departments, agencies, boards, and
21 commissions, and the provisions do not apply to bids on
22 contracts with units of local government or school districts.

23 (K) Citizenship Status. "Citizenship status" means the
24 status of being:

- 25 (1) a born U.S. citizen;
- 26 (2) a naturalized U.S. citizen;

1 (3) a U.S. national; or

2 (4) a person born outside the United States and not a
3 U.S. citizen who is not an unauthorized alien and who is
4 protected from discrimination under the provisions of
5 Section 1324b of Title 8 of the United States Code, as now
6 or hereafter amended.

7 (L) Work Authorization Status. "Work authorization status"
8 means the status of being a person born outside of the United
9 States, and not a U.S. citizen, who is authorized by the
10 federal government to work in the United States.

11 (Source: P.A. 101-221, eff. 1-1-20; 101-430, eff. 7-1-20;
12 102-233, eff. 8-2-21; 102-558, eff. 8-20-21.)

13 (775 ILCS 5/2-105) (from Ch. 68, par. 2-105)

14 Sec. 2-105. Equal Employment Opportunities; Affirmative
15 Action.

16 (A) Public Contracts. Every party to a public contract and
17 every eligible bidder shall:

18 (1) Refrain from unlawful discrimination and
19 discrimination based on citizenship status in employment
20 and undertake affirmative action to assure equality of
21 employment opportunity and eliminate the effects of past
22 discrimination;

23 (2) Comply with the procedures and requirements of the
24 Department's regulations concerning equal employment
25 opportunities and affirmative action;

1 (3) Provide such information, with respect to its
2 employees and applicants for employment, and assistance as
3 the Department may reasonably request;

4 (4) Have written sexual harassment policies that shall
5 include, at a minimum, the following information: (i) the
6 illegality of sexual harassment; (ii) the definition of
7 sexual harassment under State law; (iii) a description of
8 sexual harassment, utilizing examples; (iv) the vendor's
9 internal complaint process including penalties; (v) the
10 legal recourse, investigative, and complaint process
11 available through the Department and the Commission; (vi)
12 directions on how to contact the Department and
13 Commission; and (vii) protection against retaliation as
14 provided by Sections 6-101 and 6-101.5 of this Act. A copy
15 of the policies shall be provided to the Department upon
16 request. Additionally, each bidder who submits a bid or
17 offer for a State contract under the Illinois Procurement
18 Code shall have a written copy of the bidder's sexual
19 harassment policy as required under this paragraph (4). A
20 copy of the policy shall be provided to the State agency
21 entering into the contract upon request.

22 (B) State Agencies. Every State executive department,
23 State agency, board, commission, and instrumentality shall:

24 (1) Comply with the procedures and requirements of the
25 Department's regulations concerning equal employment
26 opportunities and affirmative action.†

1 (2) Provide such information and assistance as the
2 Department may request.

3 (3) Establish, maintain, and carry out a continuing
4 affirmative action plan consistent with this Act and the
5 regulations of the Department designed to promote equal
6 opportunity for all State residents in every aspect of
7 agency personnel policy and practice. For purposes of
8 these affirmative action plans, the race and national
9 origin categories to be included in the plans are:
10 American Indian or Alaska Native, Asian, Black or African
11 American, Hispanic or Latino, Native Hawaiian or Other
12 Pacific Islander.

13 This plan shall include a current detailed status
14 report:

15 (a) indicating, by each position in State service,
16 the number, percentage, and average salary of
17 individuals employed by race, national origin, sex and
18 disability, and any other category that the Department
19 may require by rule;

20 (b) identifying all positions in which the
21 percentage of the people employed by race, national
22 origin, sex and disability, and any other category
23 that the Department may require by rule, is less than
24 four-fifths of the percentage of each of those
25 components in the State work force;

26 (c) specifying the goals and methods for

1 increasing the percentage by race, national origin,
2 sex, and disability, and any other category that the
3 Department may require by rule, in State positions;

4 (d) indicating progress and problems toward
5 meeting equal employment opportunity goals, including,
6 if applicable, but not limited to, Department of
7 Central Management Services recruitment efforts,
8 publicity, promotions, and use of options designating
9 positions by linguistic abilities;

10 (e) establishing a numerical hiring goal for the
11 employment of qualified persons with disabilities in
12 the agency as a whole, to be based on the proportion of
13 people with work disabilities in the Illinois labor
14 force as reflected in the most recent employment data
15 made available by the United States Census Bureau.

16 (4) If the agency has 1000 or more employees, appoint
17 a full-time Equal Employment Opportunity officer, subject
18 to the Department's approval, whose duties shall include:

19 (a) Advising the head of the particular State
20 agency with respect to the preparation of equal
21 employment opportunity programs, procedures,
22 regulations, reports, and the agency's affirmative
23 action plan.

24 (b) Evaluating in writing each fiscal year the
25 sufficiency of the total agency program for equal
26 employment opportunity and reporting thereon to the

1 head of the agency with recommendations as to any
2 improvement or correction in recruiting, hiring or
3 promotion needed, including remedial or disciplinary
4 action with respect to managerial or supervisory
5 employees who have failed to cooperate fully or who
6 are in violation of the program.

7 (c) Making changes in recruitment, training and
8 promotion programs and in hiring and promotion
9 procedures designed to eliminate discriminatory
10 practices when authorized.

11 (d) Evaluating tests, employment policies,
12 practices, and qualifications and reporting to the
13 head of the agency and to the Department any policies,
14 practices and qualifications that have unequal impact
15 by race, national origin as required by Department
16 rule, sex, or disability or any other category that
17 the Department may require by rule, and to assist in
18 the recruitment of people in underrepresented
19 classifications. This function shall be performed in
20 cooperation with the ~~State~~ Department of Central
21 Management Services.

22 (e) Making any aggrieved employee or applicant for
23 employment aware of his or her remedies under this
24 Act.

25 In any meeting, investigation, negotiation,
26 conference, or other proceeding between a State

1 employee and an Equal Employment Opportunity officer,
2 a State employee (1) who is not covered by a collective
3 bargaining agreement and (2) who is the complaining
4 party or the subject of such proceeding may be
5 accompanied, advised and represented by (1) an
6 attorney licensed to practice law in the State of
7 Illinois or (2) a representative of an employee
8 organization whose membership is composed of employees
9 of the State and of which the employee is a member. A
10 representative of an employee, other than an attorney,
11 may observe but may not actively participate, or
12 advise the State employee during the course of such
13 meeting, investigation, negotiation, conference, or
14 other proceeding. Nothing in this Section shall be
15 construed to permit any person who is not licensed to
16 practice law in Illinois to deliver any legal services
17 or otherwise engage in any activities that would
18 constitute the unauthorized practice of law. Any
19 representative of an employee who is present with the
20 consent of the employee, shall not, during or after
21 termination of the relationship permitted by this
22 Section with the State employee, use or reveal any
23 information obtained during the course of the meeting,
24 investigation, negotiation, conference, or other
25 proceeding without the consent of the complaining
26 party and any State employee who is the subject of the

1 proceeding and pursuant to rules and regulations
2 governing confidentiality of such information as
3 promulgated by the appropriate State agency.
4 Intentional or reckless disclosure of information in
5 violation of these confidentiality requirements shall
6 constitute a Class B misdemeanor.

7 (5) Establish, maintain, and carry out a continuing
8 sexual harassment program that shall include the
9 following:

10 (a) Develop a written sexual harassment policy
11 that includes at a minimum the following information:
12 (i) the illegality of sexual harassment; (ii) the
13 definition of sexual harassment under State law; (iii)
14 a description of sexual harassment, utilizing
15 examples; (iv) the agency's internal complaint process
16 including penalties; (v) the legal recourse,
17 investigative, and complaint process available through
18 the Department and the Commission; (vi) directions on
19 how to contact the Department and Commission; and
20 (vii) protection against retaliation as provided by
21 Section 6-101 of this Act. The policy shall be
22 reviewed annually.

23 (b) Post in a prominent and accessible location
24 and distribute in a manner to assure notice to all
25 agency employees without exception the agency's sexual
26 harassment policy. Such documents may meet, but shall

1 not exceed, the 6th grade literacy level. Distribution
2 shall be effectuated within 90 days of the effective
3 date of this amendatory Act of 1992 and shall occur
4 annually thereafter.

5 (c) Provide training on sexual harassment
6 prevention and the agency's sexual harassment policy
7 as a component of all ongoing or new employee training
8 programs.

9 (6) Notify the Department 30 days before effecting any
10 layoff. Once notice is given, the following shall occur:

11 (a) No layoff may be effective earlier than 10
12 working days after notice to the Department, unless an
13 emergency layoff situation exists.

14 (b) The State executive department, State agency,
15 board, commission, or instrumentality in which the
16 layoffs are to occur must notify each employee
17 targeted for layoff, the employee's union
18 representative (if applicable), and the State
19 Dislocated Worker Unit at the Department of Commerce
20 and Economic Opportunity.

21 (c) The State executive department, State agency,
22 board, commission, or instrumentality in which the
23 layoffs are to occur must conform to applicable
24 collective bargaining agreements.

25 (d) The State executive department, State agency,
26 board, commission, or instrumentality in which the

1 layoffs are to occur should notify each employee
2 targeted for layoff that transitional assistance may
3 be available to him or her under the Economic
4 Dislocation and Worker Adjustment Assistance Act
5 administered by the Department of Commerce and
6 Economic Opportunity. Failure to give such notice
7 shall not invalidate the layoff or postpone its
8 effective date.

9 As used in this subsection (B), "disability" shall be
10 defined in rules promulgated under the Illinois Administrative
11 Procedure Act.

12 The provisions of this subsection do not apply to a
13 purchasing institution of higher education that has adopted a
14 5% plus factor under subsection (B-5).

15 (B-5) State Agencies; Public Higher Education. A
16 university or community college listed in Section 1 of the
17 Board of Higher Education Act, at the discretion of its
18 governing board, may adopt a 5% plus factor with respect to a
19 minority-owned business, women-owned business, or business
20 owned by a person with a disability. The use of a 5% plus
21 factor shall require every bid price that is submitted by an
22 eligible bidder to be multiplied by 0.95 for purposes of bid
23 selection.

24 A university or community college listed in Section 1 of
25 the Board of Higher Education Act, at the direction of the
26 governing board, may adopt reciprocity with respect to the

1 procurement certifications operated by the City of Chicago
2 with respect to a minority-owned business, women-owned
3 business, or business owned by a person with a disability.

4 This subsection applies to the purchasing institution of
5 higher education and the provisions of subsection (B) are
6 suspended. However, if the plus factor ceases to be applied,
7 the provisions of this subsection shall automatically be
8 suspended and the institution of higher education shall be
9 subject to subsection (B).

10 As used in this subsection:

11 "Business owned by a person with a disability" has the
12 same meaning as used in Section 2 of the Business Enterprise
13 for Minorities, Women, and Persons with Disabilities Act.

14 "Eligible bidder" has the meaning provided in subsection
15 (J) of Section 2-101 and also means a business granted
16 standing under Chapter 2-92 of the Municipal Code of Chicago.

17 "Minority-owned business" has the same meaning as used in
18 Section 2 of the Business Enterprise for Minorities, Women,
19 and Persons with Disabilities Act.

20 "Procurement certifications operated by the City of
21 Chicago" refers to the certification of eligible businesses
22 under Section 2-92-495 of the Municipal Code of Chicago.

23 "Women-owned business" has the same meaning as used in
24 Section 2 of the Business Enterprise for Minorities, Women,
25 and Persons with Disabilities Act.

26 (C) Civil Rights Violations. It is a civil rights

1 violation for any public contractor or eligible bidder to:

2 (1) fail to comply with the public contractor's or
3 eligible bidder's duty to refrain from unlawful
4 discrimination and discrimination based on citizenship
5 status in employment under subsection (A)(1) of this
6 Section; or

7 (2) fail to comply with the public contractor's or
8 eligible bidder's duties of affirmative action under
9 subsection (A) of this Section, provided however, that the
10 Department has notified the public contractor or eligible
11 bidder in writing by certified mail that the public
12 contractor or eligible bidder may not be in compliance
13 with affirmative action requirements of subsection (A). A
14 minimum of 60 days to comply with the requirements shall
15 be afforded to the public contractor or eligible bidder
16 before the Department may issue formal notice of
17 non-compliance.

18 (D) As used in this Section:

19 (1) "American Indian or Alaska Native" means a person
20 having origins in any of the original peoples of North and
21 South America, including Central America, and who
22 maintains tribal affiliation or community attachment.

23 (2) "Asian" means a person having origins in any of
24 the original peoples of the Far East, Southeast Asia, or
25 the Indian subcontinent, including, but not limited to,
26 Cambodia, China, India, Japan, Korea, Malaysia, Pakistan,

1 the Philippine Islands, Thailand, and Vietnam.

2 (3) "Black or African American" means a person having
3 origins in any of the black racial groups of Africa.

4 (4) "Hispanic or Latino" means a person of Cuban,
5 Mexican, Puerto Rican, South or Central American, or other
6 Spanish culture or origin, regardless of race.

7 (5) "Native Hawaiian or Other Pacific Islander" means
8 a person having origins in any of the original peoples of
9 Hawaii, Guam, Samoa, or other Pacific Islands.

10 (Source: P.A. 102-362, eff. 1-1-22; 102-465, eff. 1-1-22;
11 revised 9-22-21.)