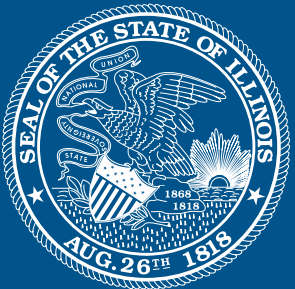




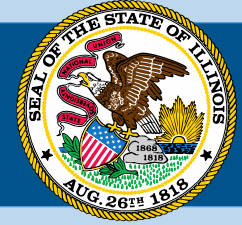
Personnel Record Review Act

*Refresher & Updates to the Law for Employers
Presentation to IL Rural Water Assoc., July 18, 2025*



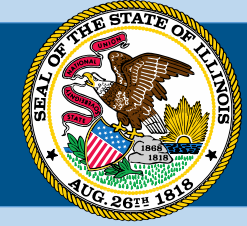
**Anna Koeppel, IDOL Legislative & Policy Director
Stephanie Barton, IDOL Deputy General Counsel**

Mission statement



The mission of the Illinois Department of Labor is to protect and promote the **wages, welfare, working conditions, and safety** of Illinois workers by enforcing State labor and employment laws, providing compliance assistance to employers, and increasing public awareness of workplace protections.

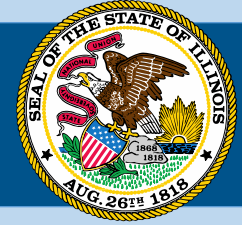
Safety – OSHA



- ❖ IDOL's Occupational Safety and Health Division is responsible for occupational safety and health enforcement in the public sector, including investigating complaints and conducting inspections.
- ❖ IL OSHA conducts random, no-notice, comprehensive inspections of **public water departments and districts** as part of its high-hazard inspection program.
- ❖ *(See handout for top 20 water/sewer department OSHA violations)*



Safety – On-Site Consultations

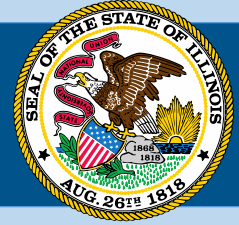


Free and confidential **on-site workplace safety and health consultation services** for small/medium sized employers.

[Worksafe.Illinois.gov](https://www.worksafe.illinois.gov) to view FAQs or request a consultation



Wages – Public Works Projects



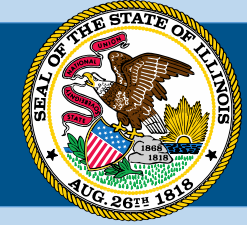
The **Prevailing Wage Act** requires certain wage/benefit rates for publicly funded public works projects that are contracted out.

IDOL:

- ❖ Enforces this requirement;
- ❖ Surveys and establishes wage/benefit rates; and
- ❖ Collects certified payrolls and issues workforce reports.



Other Core Worker Protections



Minimum Wage

- ❖ \$ 15 an hour (\$9 for tipped workers); Overtime after 40

Wage Payment & Collection Act

- ❖ Payment for promised wages

Child Labor Law (age 15 and younger)

One Day Rest in Seven Act

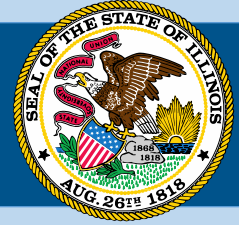
- ❖ Meal and rest breaks for most hourly employees

Equal Pay Act

- ❖ NEW in 2025 – Employers with 15+ employees who post job openings **must include pay and benefits info in the job posting**

Paid Leave for All Workers Act

About the Audience



Help us learn what information is most relevant to you!

With a show of hands...

- Which of you have employees who are covered by a CBA?
- Who here is an attorney?
- Who has fewer than 10 full time employees? 10 to 50? 50+?
- Are your offices independent from the county/municipality?

A close-up photograph of a person's hands, wearing a light blue button-down shirt, sorting through papers in a metal filing cabinet. The person's left hand, adorned with a ring, is holding a document, while their right hand is positioned near the bottom of the cabinet. The background is softly blurred, showing a window with natural light. A solid blue horizontal bar is overlaid on the bottom half of the image, containing the title text in white.

Personnel Record Review Act Background

Disclaimer



- This presentation is not legal advice, and IDOL cannot give specific legal advice to anyone. This information is given as general guidance, and employers should consult their own legal counsel if they need advice.

PRRA Background

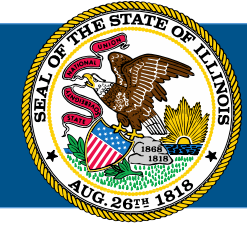


- ❖ Provides a mechanism for employees to review their personnel file, particularly those documents used for determining employment decisions such as hiring, firing and promotion.
- ❖ Employee may not file a PRRA lawsuit in court without going through IDOL first.
- ❖ Created in 1984, with new amendments (PA 103-727) effective **January 1, 2025**



Employee Record Requests

Who is covered by the Act?



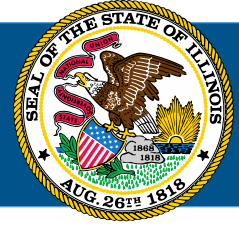
- ❖ **Employers** with 5 or more employees
- ❖ **Employees** who are:
 - currently employed
 - on layoff and subject to recall
 - on leave of absence with a right to return to work, or
 - a former employee whose employment has ended within the past year

Employee Requests



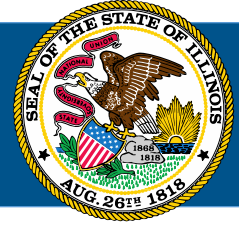
- ❖ Employees may request to *inspect, copy, or obtain a copy* of their personnel records at "reasonable intervals."
- ❖ Request must be made to the *person responsible for maintaining the employer's personnel records*, such as HR, the employee's supervisor, or another person designated in an employee handbook.
- ❖ *An electronic request (such as email or text) from an employee is a valid request.*

New Requirements for Requests



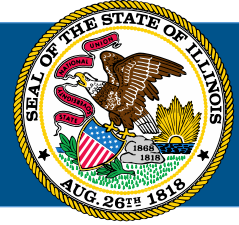
- ❖ Requests must be in writing (including email or text)
- ❖ Requests must specify:
 - ✓ the **specific** personnel records requested or if requesting **all** records allowed to be requested under the Act
 - ✓ Whether the employee is requesting to inspect, copy, or receive copies of the records
 - ✓ Whether the employee wants to receive the copies in hardcopy or **electronically**; and
 - ✓ If an employee representative will be inspecting, copying, or receiving records (see next slide).

Employee Representatives



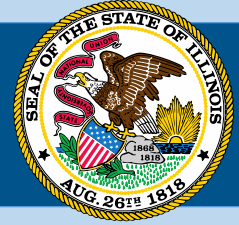
- Representatives include a lawyer, *union steward, other union official, family member, or translator*
- If the documents include medical records, request must include a signed waiver to release medical information and medical records to the employee's representative.

Responding to Requests



- ❖ Employers must respond with **7 working days**.
- ❖ If the employer can reasonably show that the 7-day deadline cannot be met, the employer may have an additional **7 calendar days** to comply
TIP: Think now about how prepared you would be to respond to a request if you received it today. Are your files in order? What if your HR person is on vacation?
- ❖ Employers must grant requests at least twice per calendar year.
- ❖ An employer may charge a fee for providing a copy of the requested record. **The fee shall be limited to the actual cost of duplicating the requested record and may not include time costs, or the cost of purchase or rental of equipment or software.**

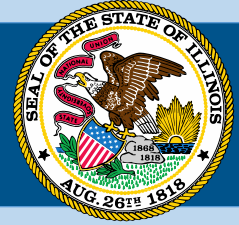
Questions & Examples



Do employers have to have a personnel file policy?

No. The Act does not require employers to create a policy. But if an employer has a written policy, it can designate the person responsible for handling requests.

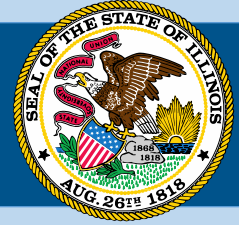
Questions & Examples



Can an employer require that an employee fill out a specific form to request personnel records?

No. An employer can offer a standard request form for convenience. However, the law requires that upon a valid written request that includes the necessary information (including requests made by email or text) an employer must provide responsive documents.

Questions & Examples



Can an employer require that an employee give a reason why they are requesting their personnel records?

No. The Act does not require employees to state the reason they are requesting records, and employers may not require a reason.

A close-up photograph of a person's hands, wearing a white long-sleeved shirt, placing a document into a metal filing cabinet. The person is wearing a ring on their left ring finger. The background is softly blurred, showing a window with natural light. A blue banner with white text is overlaid across the middle of the image.

What Documents are Covered?

What is a Personnel Record?



The PRRA does not name every personnel document covered by the law. Rather, the law identifies the characteristics and purposes of the documents which an employee is entitled to receive.

- ❖ Any personnel documents which are, have been or are intended to be used in determining that employee's:
 - qualifications for employment,
 - Promotion,
 - Transfer,
 - *Compensation,*
 - *Benefits,*
 - Discharge, or
 - Other disciplinary action.

**THINK: What are
some common
records/documents
that fit this description?**

What is a Personnel Record?



Personnel records now *also* include:

- ❖ Any employment-related **contracts or agreements** that apply to the employee;
- ❖ Any employee **handbooks** that the employer made available to the employee or that the employee acknowledged receiving; and
- ❖ Any written employer **policies or procedures** that the employer contends the employee was subject to and that concern qualifications for employment, promotion, transfer, compensation, benefits, discharge, or other disciplinary action.

What is NOT a Personnel Record?



Employees do not have a right to the following documents:

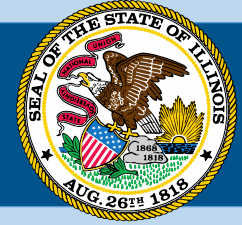
- ❖ **Letters of reference**
- ❖ **Test documents**, except test scores
- ❖ Materials relating to the employer's **staff planning** unless directly applicable to that employee;
- ❖ Information of a personal nature **about a person other than the employee;**
- ❖ Records relevant to any other **pending claim** between the employer and employee;
- ❖ Investigatory or security records maintained by an employer to investigate **criminal conduct**; or
- ❖ *Trade secrets, client lists, sales projections, and financial data.*

Maintaining Records



- ❖ The Personnel Record Review Act does not require employers to create or produce records that the employer does not maintain.
***But:** Consider that other state and federal laws may require employers to maintain certain records during and after employment*
- ❖ If an employer does not maintain records in one or more of the categories of documents requested:
 - They may respond in writing that they do not maintain those records, but must still provide the rest.

Questions & Examples



An employer terminates an employee, stating that the termination is due to the employee's tardiness. However, the employee believes they have been terminated unfairly, because the employer has a handbook that outlines a progressive discipline policy, which the employee believes was not followed.

Note: IDOL, under PRRRA, does not make any determination about whether the employee's termination was "fair" or lawful, or whether the employer violated their own policy. PRRRA simply gives the employee the ability to request records.

What records might an employer expect to receive a request for in this scenario – and is expected to produce?

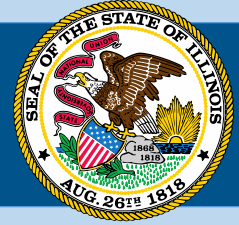
Employee handbook with discipline policy

EE's Clock in/clock out records

Attendance policy

Records of prior warnings about tardiness

Questions & Examples



What if the records that an employee has requested are not part of the employee's official personnel file? Does the employer still have to produce them?

Yes. Reminder: The PRRRA does not name every personnel document covered by the law. Rather, the law identifies the **characteristics and purposes** of the documents which an employee is entitled to receive, and requires employers to produce **all documents that fit that description**, regardless of whether they are maintained in a formal personnel file or personnel file system.

For example, documents maintained in the employer's email system, a manager's personal file, or in any other physical or electronic file of the employer, or even records that are in the possession of a third party administrator that the employer has contracted with, must be provided if they meet the definition of personnel record in the PRRRA.



Other Employer Responsibilities

Releasing Information to Third Parties



- ❖ An employer may not disclose an employee's disciplinary records to a third party (not including their union representative) without first providing written notice to the employee, except in certain circumstances.
- ❖ As always, if you are in a situation where this provision is relevant, consult your HR/legal counsel for advice.

Employee Associations & Activities



- ❖ Employers may not gather or keep records of an employee's associations, political activities, publications, communications or nonemployment activities, except in specific circumstances if the employee has consented to the recordkeeping, if the activities may be criminal or harmful to the employer, or are conducted during work hours.
- ❖ Other exemptions exist in the law – consult your attorney for specifics.

Note: Retained records that meet these exceptions must be part of the personnel record

Personnel Record Correction



- ❖ If an employee disagrees with any information contained in the personnel record, a removal or correction of that information may be mutually agreed upon by the employer and the employee, or the employee may submit a written statement explaining the employee's position, which must be added to the personnel record.

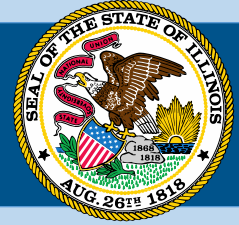
Retaliation Prohibited



Employers or agents may not discharge or in any other manner discriminate against any employee because that employee:

- ❖ Makes a complaint to the employer
- ❖ Makes a complaint to the IDOL
- ❖ Initiates, or is about to initiate, an action under the Act, or
- ❖ Testifies or is about to testify in an investigation or proceeding under the Act.

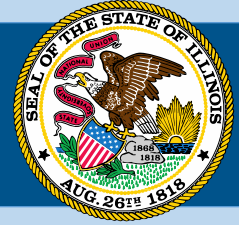
Questions & Examples



An employee requests, and their employer produces, records relating to discipline against an employee for an alleged employer policy violation. The employee disagrees that they committed a violation and wants to add their own letter telling “their side of the story” to the personnel file. Does the employer have to let them?

Yes, but the employer can, in turn, add another follow-up written statement of their own.

Questions & Examples



An employer receives a request from an employee for that employee's discipline history every year, which the employer finds very annoying. The employee is up for annual review next month, which has implications for their next year's compensation. Can the employer mark the employee lower on their evaluation simply because the employee has bothered them with the record request?

No. This would likely constitute illegal retaliation.



Enforcement Process

Enforcement



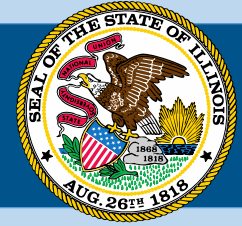
- ❖ Employee may file a complaint with the Department (IDOL) if they believe the employer has violated the Act.
- ❖ In this case, IDOL will notify the employer of the complaint against them and attempt to resolve the dispute and/or initiate an investigation.
- ❖ Employee may file a PRRA lawsuit in court if:
 - IDOL *failed to resolve the complaint within 180 calendar days (or certifies in writing that it is unlikely to do so).*
- ❖ Employee may not file a PRRA lawsuit in court without going through IDOL first.
- ❖ If the employee wins, employer may be subject to actual damages plus costs, and additional penalties for a willful and knowing violation.

Penalties - Exclusion



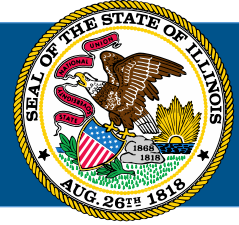
- ❖ When responding to an employee request, if an employer fails to provide any record that they legally **should have** provided, the employer may not use that record in any future judicial or quasi-judicial proceeding.
- ❖ Some exceptions apply – if you find yourself in this situation, consult legal counsel.
- ❖ *Example: Employee requests records related to their termination. Employer possesses, but does not turn over, a report of a witness statement from another employee saying that they observed the employee breaking company policy. Later, if the employee sues the employer for wrongful termination, the employer may not produce the witness statement in their defense.*

Main Takeaways



- ❖ Employees have **a right to request personnel documents** related to their employment, and employers must produce within 7/14 days.
- ❖ The category of “personnel records” **isn’t necessarily limited** to documents that are formally part of the employee’s personnel file.
- ❖ Employers can set some requirements about how those requests must be made, but generally must comply with **written requests** from employees.
- ❖ When in doubt – **consult your attorney**, since your actions under PRRA could have big implications for other investigations or proceedings that you are part of.

Questions and Comments



Questions: DOL.PRRRA@illinois.gov

<https://labor.illinois.gov/laws-rules/conmed/personnel-records-review-act.html>