

Legislative Update:

A Review of New (and Proposed) Laws Affecting Illinois Community Colleges' Risk Management Practices

By: Joseph J. Perkoski and Emily P. Bothfeld

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Quick Quiz

- As of August 27, 2019, how many bills has Governor Pritzker signed into law?

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Answer

- As of August 27, 2019, Governor Pritzker has signed 605 bills into law, and vetoed 8.

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Public Act
101-0251

*Mental Health
Early Action on
Campus Act*



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Public Act
101-0251

- Creates the *Mental Health Early Action on Campus Act, 110 ILCS 58/*
- Became law on August 9, 2019
- Effective July 1, 2020 (except for funding provision, which is effective immediately)

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Public Act
101-0251

- Creates the *Mental Health Early Action on Campus Act, 110 ILCS 58/*
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Public Act 101-0251

- Public colleges and universities must attempt to meet a benchmark ratio of one clinical, non-student staff member for every 1,250 students.
- Allows institutions to use a combination of on-campus mental health services, agreements with local service providers, and/or contracts with telehealth therapy services to meet this target.

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Public Act 101-0251

- Other key provisions require colleges to:
 - Implement student orientation sessions aimed at raising awareness about mental health conditions
 - Require Mental Health First Aid or similar training for resident assistants, advisors, and campus security before they begin duties
 - Distribute messages to students during high stress periods
 - Develop a peer support program

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*Cannabis
Regulation and
Tax Act*



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*Cannabis
Regulation and
Tax Act*

- Public Act 101-0027
- Signed into law on June 25, 2019
- Effective January 1, 2020

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What Does the Act Permit?

- Permits the personal, recreational use of cannabis by adult (21 and older) residents of Illinois, subject to restrictions.
- Allows adult residents to possess up to 30 grams (roughly one ounce) of cannabis flower, 5 grams of cannabis concentrate and 500 milligrams of THC contained in a cannabis-infused product, subject to restrictions.

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The Act's Limitations



- Limitations on Use and Possession – Section 10-35
 - Nothing in the Act shall require an individual or business entity to violate the provisions of federal law, including colleges or universities that must abide by the *Drug-Free Schools and Communities Act Amendments of 1989*, that require campuses to be drug free.

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Recommendations for Colleges



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Employment- Related Recommendations

- Review existing drug testing policies and procedures.
- Train supervisors and managers on the Act's requirements and how to recognize symptoms of impairment and/or under the influence of cannabis.

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Employment- Related Recommendations

- Develop procedures for implementing discipline for employees determined to be under the influence/impaired by cannabis in the workplace.
- Be aware of possible bargaining implications related to policy and/or procedural changes.

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Student-Related Recommendations



- Colleges and universities that receive federal financial assistance may (and should) continue to prohibit the possession, use, and distribution of marijuana by students while on school property, including in student housing.

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Student-Related Recommendations

- Institutions may continue to prohibit public intoxication and disruptive behavior, including disruptive behavior by a student who is under the influence of marijuana (regardless of whether the marijuana use is lawful, and regardless of whether the marijuana is used on or off campus).

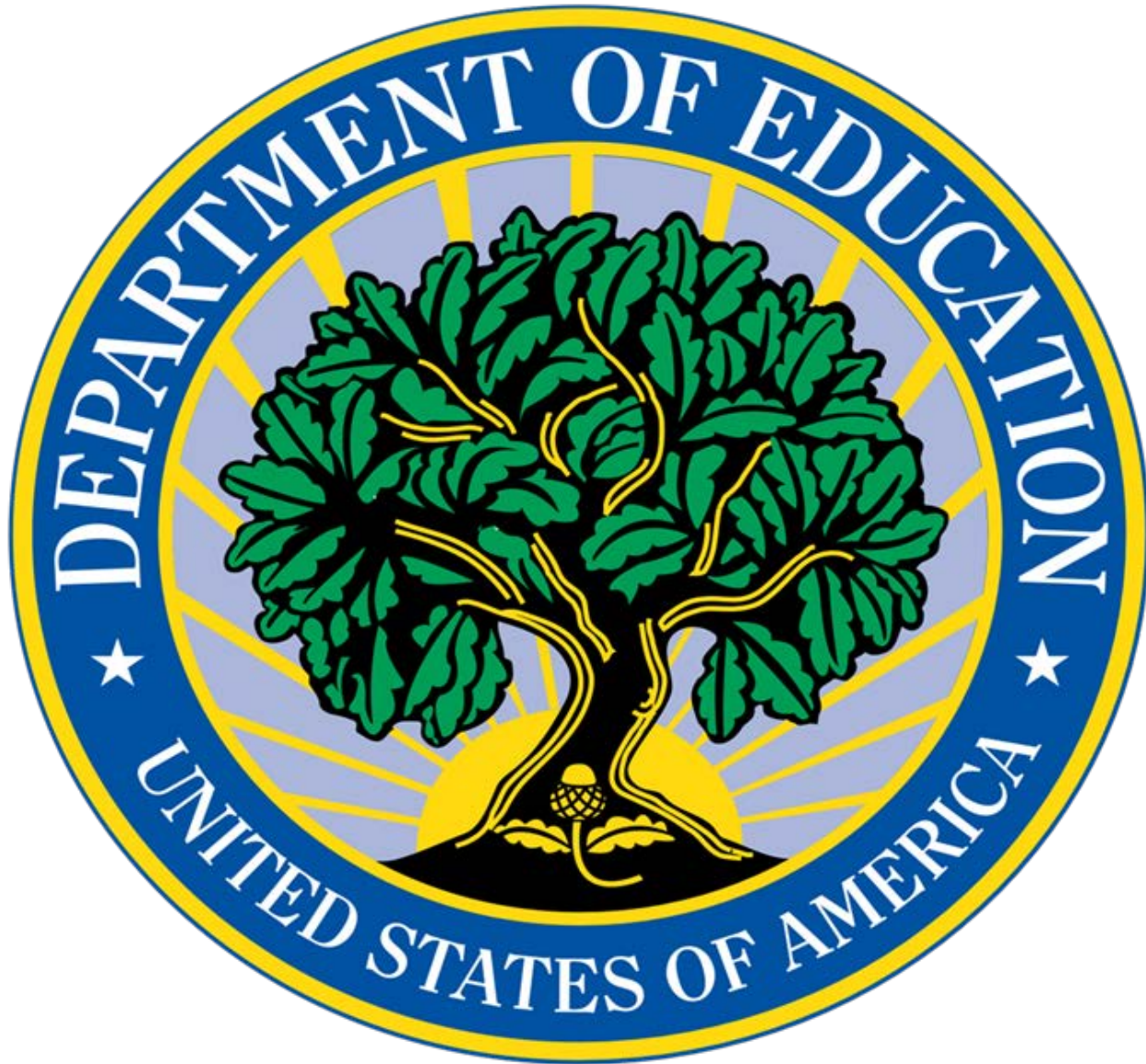
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Specialty Program Recommendations

- Specialty programs that require drug testing as an admissions or clinical placement requirement may not deny adult students admission to their programs as a result of a positive marijuana test.
- These programs may consider removing marijuana altogether from the list of substances included in their drug tests.

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Proposed Title IX
Regulations



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Background and Timeline

- September 22, 2017 – U.S. Department of Education releases Dear Colleague Letter formally withdrawing two key Obama-era guidance documents:
 - OCR's April 4, 2011 Dear Colleague Letter on Sexual Violence
 - OCR and U.S. Department of Education's April 29, 2014 Q&A on Title IX and Sexual Violence

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Background and Timeline

- November 16, 2018 – U.S. Department of Education releases proposed Title IX regulations
- January 20, 2019 – end of 60 day public comment period
- 105,842 public comments received

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Key Provisions

- Would require significant policy and procedure revisions related to:
 - Institution's definition of sexual harassment
 - Reporting process
 - Investigatory obligations when reporting party elects not to file a formal complaint

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Key Provisions

- Would require significant policy and procedure revisions related to:
 - Grievance procedures, which must include a live hearing with cross-examination
 - Parties' access to investigatory materials
 - Due process protections for the accused

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What Happens Next?

- Following the comment period, the Department of Education can:
 - Terminate the rule-making process (unlikely)
 - Publish a supplemental proposed rule
 - Proceed with a final rule
- No set timeframe on next steps

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Public Act
101-0001



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Public Act
101-0001

- The following table illustrates the applicable state minimum wage rates starting January 1, 2020:

Date	State Minimum Wage (per hour)
January 1, 2020	\$9.25
July 1, 2020	\$10.00
January 1, 2021	\$11.00
January 1, 2022	\$12.00
January 1, 2023	\$13.00
January 1, 2024	\$14.00
January 1, 2025	\$15.00

Equal Pay Act

Public Act 101-0177



**EQUAL WORK
DESERVES
EQUAL PAY !**

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Public Act
101-0177

- Effective September 29, 2019, the Equal Pay Act prohibits employers from asking job applicants about their salary history.
- Aimed at closing the wage gap between men and women.

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Public Act
101-0177

- The Prohibitions:
 - Discriminating on the basis of sex, where employees are performing substantially similar work on jobs that require “substantially similar skill.”
 - Requiring an employee to sign a contract or waiver that would prohibit the employee from disclosing or discussing information about the employee's wages, salary, benefits, or other compensation.

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Public Act
101-0177

• The Prohibitions:

- Screening job applicants based upon their current or prior wages or salary histories.
- Requesting or requiring wage or salary history as a condition of any step in the hiring process.
- Requesting or requiring wage or salary history as a condition of employment.
- Seeking wage or salary history from a job applicant's current or former employer(s), unless it is a matter of public record or an internal applicant.

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*Illinois Wage
Payment and
Collection Act*



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Public Act
100-1094

- The *Illinois Wage Payment and Collection Act* now imposes an affirmative duty on Illinois employers to reimburse certain expenses incurred by its employees.

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Public Act 100-1094

- Employers must reimburse employees for “all reasonable expenditures or losses required of the employee in the discharge of employment duties” that “inure to the primary benefit of the employer.”
- An employer is not responsible for losses due to an employee's own negligence, losses due to normal wear, or losses due to theft unless the theft was a result of the employer's negligence.

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*Budget
Implementation
Bill*



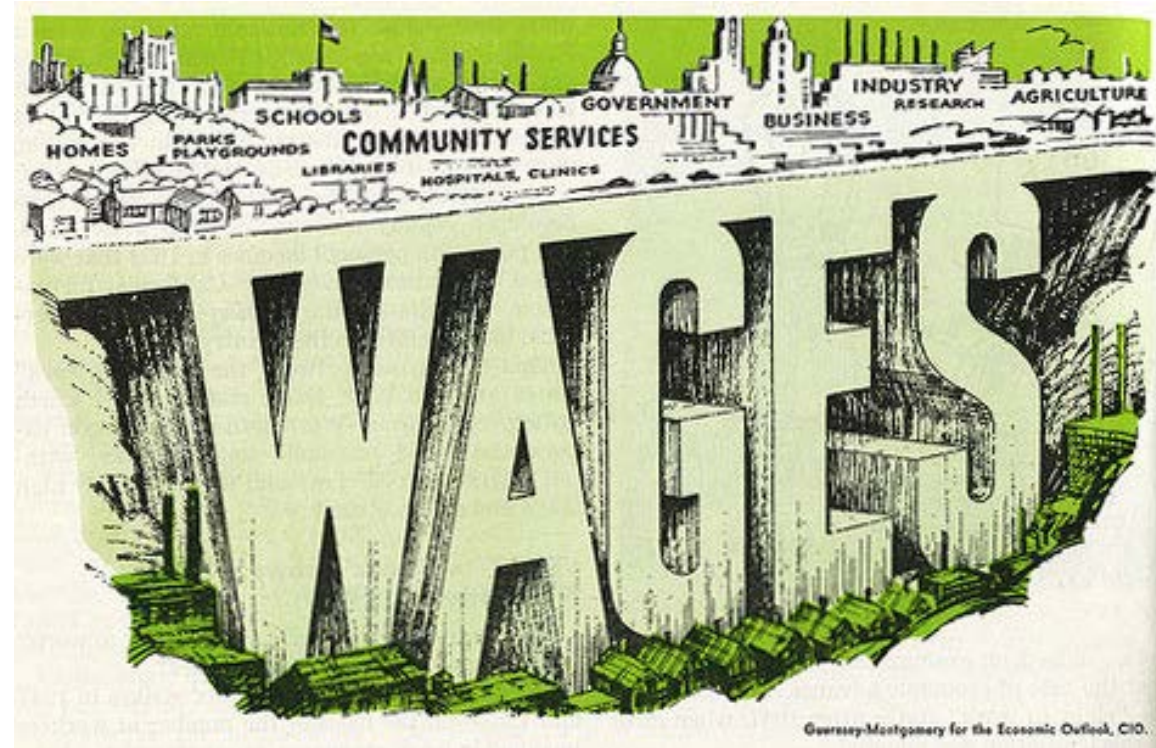
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Public Act
101-0010

- The *Budget Implementation Bill* included amendments to the SURS Articles of the *Illinois Pension Code* to revert back to the 6% rule for end-of-career earnings increases for participants.
- The reversion from 3% to 6% was retroactive to June 2018 – it is as if 3% never happened.

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Prevailing Wage Requirements



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Public Act 100-1177

- Effective June 1, 2019, this amendment means public bodies no longer need:
 - To determine the prevailing wage rate. Instead, the IDOL will set the applicable wage rates for each locality.
 - To approve an annual prevailing wage ordinance or resolution each June.
 - To receive objections to the prevailing wage schedule or participate in hearings. The IDOL will hear all objections.

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Public Act 100-1177

- In addition, by April 1, 2020, the IDOL is required to develop and maintain an electronic database capable of accepting certified payrolls to the online database.
- This new process will eliminate the record-keeping requirements for the public body to keep certified payroll records for a period of 5 years from the last payment for work.

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Questions??



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