

State Resources

Illinois Department of Human Rights

<https://www2.illinois.gov/dhr/>

Illinois Department of Labor <https://www2.illinois.gov/idol>

Reviewing Your

ILLINOIS

Job Offer

Federal Resources

Equal Employment

Opportunity Commission

<http://www.eeoc.gov>

Does your job offer require you to sign a non-compete agreement?

A non-compete agreement is a contract or section in a contract that prohibits an employee from going to work for a competitor after leaving a job. Employees who earn more than \$13 per hour can be asked to sign a non-compete agreement. Generally, Illinois courts will only enforce a non-compete agreement if it: (1) is narrowly tailored to promote an employer's legitimate business interest; (2) does not impose an undue burden on the affected employee (usually by being limited in time and geography); and (3) does not injure the public interest. The non-compete should also be supported by "adequate consideration" to the employee such as two or more years of continuous employment or separate financial benefits. Applicable to agreements entered into after January 1, 2022, employers must give employees at least fourteen days notice in which to review the proposed agreement, and non-competition agreements with employees who have actual or expected earnings of \$75,000 per year or less (to increase by \$5,000 every five years) until \$90,000 will be unenforceable. Similarly, non-solicitation agreements with employees with actual or expected earnings of \$45,000 per year or less (also increasing \$5,000 every five years until \$52,500) are prohibited. Employers may not enforce a non-compete agreement against an employee covered by some collective bargaining agreements, or against many construction employees.

Does your salary match the salary of your co-workers?

Illinois employers are not required to provide you with the pay scale for the position offered to you. However, you can still ask for this information. You can also share your compensation details with co-workers and ask them if they are willing to share such details with you. Under federal and state law, most employers are prohibited from instituting policies that restrict employees from discussing pay or benefits with one another. Remember to consider not just salary, but also other compensation elements like equity, bonuses, moving expenses, or vacation time when evaluating whether your compensation package is fair. Illinois employers are prohibited from asking any prospective employees (as opposed to contractors) or their current/previous employers about the prospective employee's compensation or benefits history until after an offer of employment with compensation has been made, but employees may volunteer such information and employers may discuss the salary range for the position or employee's compensation expectations. In addition, Illinois law protects against some sex/gender- or race-based discrimination for "substantially similar work," i.e., work that requires substantially similar skill, effort, and responsibility and is performed under similar working conditions unless the employer demonstrates the wage difference is based upon a seniority system, a merit system, a system measuring earnings by quantity or quality of production, or other non-discriminatory factors.

Assuming your employment is "at will," can you negotiate for contractual protections?

Most employment in the private sector is "at-will." This means your employer can terminate your employment or change the terms of your employment whenever they want, for whatever reason they want, other than a few reasons that are illegal (i.e. unlawful discrimination and retaliation). Employees can try to negotiate for additional protection in their employment contract. For example, you can seek a provision requiring notice pay or severance pay if terminated or a provision barring termination absent "just cause."

Have you properly excluded your individual inventions prior to accepting your job offer?

Your employer may have you sign an agreement clarifying that any invention you develop while working for it becomes their property and/or that you are required to assign your rights to it. This agreement is limited to inventions that are "within the subject matter" of the employment relationship and does not apply to inventions you create before joining the employer. Usually, there is a place in the agreement to identify any such prior inventions and you should make sure you identify any such inventions and avoid using them or incorporating them in to work you do for the employer.

Does your job offer require that you sign a forced arbitration agreement?

Many employers require that employees sign arbitration agreements that waive the employee's right to pursue claims in court or to pursue claims collectively or through class actions as a part of the employment contract or in order to obtain a bonus or long-term incentive. In most cases, such agreements are enforceable. As a part of the Illinois Workplace Transparency Act, such agreements are void if it requires an employee to, as a condition of employment, unilaterally waive, arbitrate, or diminish rights or benefits related to unlawful employment practices. The Act does not prohibit mutual, written agreements that demonstrate actual, knowing and bargained-for consideration from both the employer and the employee and acknowledges the rights of the employee or prospective employee to report unlawful employment practices or criminal conduct to government officials and to participate in enforcement proceedings, investigations, or seek confidential legal advice. Some employers' agreements have opt-out provisions which allow you to opt-out of the arbitration process if you follow specific procedures. It is generally a good idea to opt-out if given the option. Additionally, some employers have elected not to force their employees to sign such agreements and whether a prospective employer requires that you sign an arbitration agreement can be one factor you consider when evaluating multiple job opportunities. Finally, employers are not allowed to require claims of sexual harassment or sexual assault **accruing after March 3, 2022**, to be brought in arbitration. Those types of claims may be brought in court, either individually or as collective or class claims, regardless of the existence of a **pre-dispute** arbitration agreement.

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