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2026 Legal Updates: An Overview of New Laws, Regulations, and Legal Issues Facing Illinois Community Colleges

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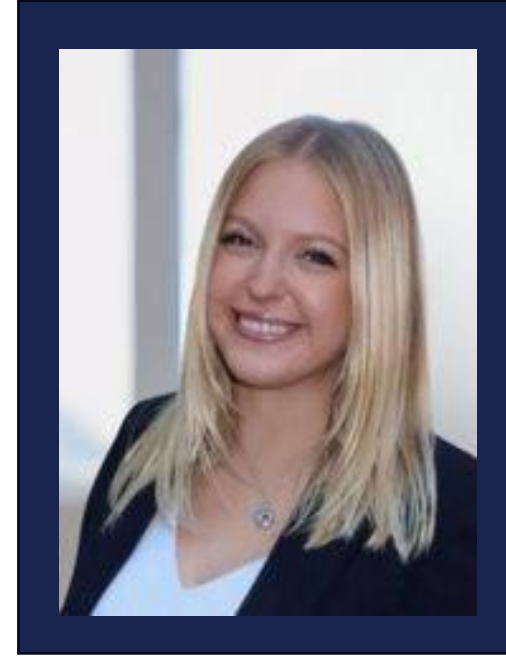
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Although the information contained herein is considered accurate, it is not, nor should it be construed to be legal advice. If you have an individual problem or incident that involves a topic covered in this document, please seek a legal opinion that is based upon the facts of your particular case.

Introduction



Katie N. DiPiero
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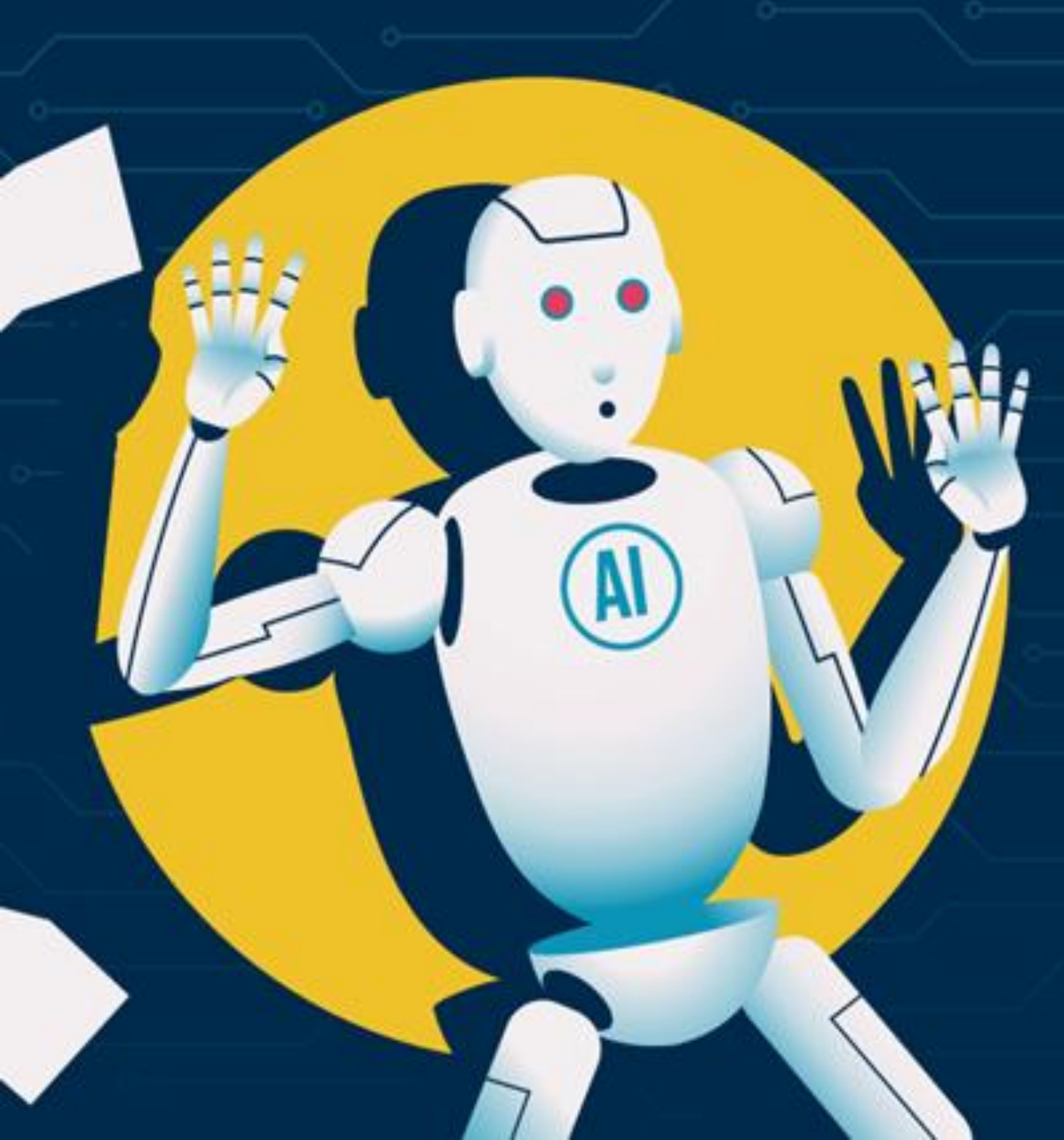


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Agenda

- AI Laws Impacting Colleges
- ADA Web Accessibility Compliance
- State and Federal Funding and Grant Updates
- SURS Questions
- Immigration Laws and Updates
- FOIA Updates
- Pending Bills to Watch
- Q&A



Artificial Intelligence Laws Impacting Colleges

Artificial Intelligence: Public Act 103-0804

- Illinois Human Rights Act - 775 ILCS 5/2-102(L).
 - Sec. 2-102. Civil rights violations; employment. It is a civil rights violation:
 - (L) Use of artificial intelligence.
 - (1) 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, **for an employer to use artificial intelligence that has the effect of subjecting employees to discrimination** on the basis of protected classes under this Article or to use zip codes as a proxy for protected classes under this Article.
 - (2) For an employer **to fail to provide notice to an employee that the employer is using artificial intelligence for the purposes described in paragraph (1)**. The Department shall adopt any rules necessary for the implementation and enforcement of this subdivision, including, but not limited to, rules on the circumstances and conditions that require notice, the time period for providing notice, and the means for providing notice.

Artificial Intelligence: Public Act 103-0804

- IDHR is required to promulgate rules regarding notice requirements and other compliance components.
- Draft Rules were released at the end of 2025.



Artificial Intelligence: Draft Rules Highlights



- Maintain specific notices, postings, disclosures and records related to AI use pursuant to the Act for a period of four years following such use.

Artificial Intelligence: Draft Rules Highlights

- Defines "use" of AI to include any instance in which the output of an AI system influences or facilitates a covered employment decision
 - Covered employment decisions: recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure, or the terms, privileges, or conditions of employment
- Notice is required:
 - When an employer is using AI to influence or facilitate a covered employment decision
 - Required "regardless of whether the employer's use of AI has the purpose or effect of subjecting employees to unlawful discrimination"

Artificial Intelligence: Draft Rules Highlights

- Examples in the rules of when notice is required:
 - Using a computer-based assessment or test, such as questions or puzzles, to:
 - Make predictive assessments;
 - Measure skills, dexterity, reaction time and/or mental or physical abilities or characteristics;
 - Measure personality trait, aptitude, attitude, and/or cultural fit;
 - Screen, evaluate, categorize, and/or recommend prospective or current employees.
 - Using AI to direct job ad or recruiting materials targeted to a specific group
 - Screening resumes for patterns or specific terms
 - Analyzing virtual interviews, videos, or interview transcripts
 - Analyzing data acquired from third parties regarding prospective or current employees

No AI Instructors: P.A. 104-0201

Effective date: January 1, 2026

- Amends the Public Community College Act
- No college course may use AI, in lieu of a faculty member, as the sole source of instruction for students
- Does not prohibit a faculty member from using AI to augment instruction



ADA Web Accessibility

ADA Title II Final Rule

- Purpose: Ensure that no qualified individual with a disability is excluded from participation in or denied the benefits of government services provided via the web or mobile apps
- Establishes requirements for making services, programs and activities accessible to the public through the web and apps
- Effective June 24, 2024
 - Compliance deadlines:
 - Public entity with population $> 50,000$: April 24, 2026
 - Public entity with population $< 50,000$: April 26, 2027

Compliance with the Final Rule

- Web Content Accessibility Guidelines (“WCAG”) 2.1
 - Internationally recognized accessibility standard for web access
 - Technical standard adopted by the Title II Final Rule for web content and mobile app accessibility
 - Requirement: comply with the WCAG 2.1 Level AA success criteria and conformance requirements



Content Exempt from Compliance

1. Archived web content
2. Preexisting conventional electronic documents
 - Unless such documents are currently used to apply for, gain access to, or participate in the public entity's services, programs or activities
3. Content posted by a third party
 - Unless the third party is posting due to contractual, licensing, or other arrangements with the public entity
4. Conventional electronic documents that are about a specific individual, their property, or their account and that are password-protected or otherwise secured
5. Preexisting social media posts

Alternate Versions of Web and Mobile Content

- Conforming alternate versions are only permissible when it is not possible to make web content directly accessible due to technical or legal limitations



Exceptions to Conformance

- Conformance not required if it would result in:
 - (1) A fundamental alteration in the nature of a service, program or activity of the public entity; OR
 - (2) Undue financial and administrative burden
- Entity can also show that nonconformance would result in a very minimal impact to individuals with disabilities

State and Federal Funding and Grants

Government Services Administration System for Award Management Certification Proposed Language

- GSA proposed new requirements for their System for Award Management (SAM)
 - Current and potential federal government awardees of federal financial assistance must register in the SAM
- Requirement to certify compliance with federal antidiscrimination laws
 - Compliance with all laws and executive orders prohibiting unlawful discrimination on the basis of race or color
 - Applies to programs or initiatives that involve discriminatory practices including DEI programs

Government Services Administration System for Award Management Certification Proposed Language

- Examples of practices that may violate applicable federal anti-discrimination laws:
 - Granting preferential treatment based on race or color, such as race-based scholarships or programs, preferential hiring or promotion practices, or access to facilities or resources based on race or ethnicity, including through the use of “cultural competence” requirements, “overcoming obstacles” narratives, or “diversity statements”
 - Unlawful use of race or color as criteria for program participation or resource allocation
 - Retaliation by taking adverse actions against employees, participants, or beneficiaries because they engage in protected activities related to opposing DEI practices they reasonably believe violate federal anti-discrimination laws

Title IX and Federal Funding Threats

- San José State University (SJSU)
 - March 24, 2026: “Letter of Impending Enforcement” threatening loss of federal funding for noncompliance within 10 days
 - OCR investigation concluded SJSU violated Title IX by allowing males to compete in women’s sports and access female-only facilities
 - Resolution Agreement required:
 - Separating male and female athletes based on biological sex
 - Keeping men out of women’s locker rooms and bathrooms
 - Restoring rightfully-earned titles and accolades to female athletes
 - Apologizing to the women forced to forfeit competitions to protect themselves
- SJSU refused the proposed Resolution Agreement
 - Lawsuit filed against OCR

Illinois Fiscal Year 2027 Proposed Budget

- Governor Pritzker's Fiscal Year 2027 Proposed Budget (February 2026)
 - \$3 million (1% increase) in operating funding for community colleges, adult education, and career and technical education
 - \$721.6 million to maintain the Monetary Award Program (MAP)
 - \$2 million funding for the Diversifying Higher Education Faculty in Illinois program
 - \$1.4 billion bond-backed funding for Capital Development Board (CDB) deferred maintenance, including institutions of higher education
 - \$3 million funding for Common App simplified admissions
 - Continued funding for dual credit and non-credit workforce grant programs



SURS Tier II

SURS

- Why we are seeing questions about Tier II
 - Applies to employees hired on or after January 1, 2011
 - Tier II members are often non-coordinated (no Social Security)
 - Federal law requires a “Safe Harbor” retirement benefit
 - Purpose: Exempt employers and employees from 6.2% Social Security (FICA)
 - Tier II pensionable salary cap is \$129,192, while current Social Security Taxable Wage Base is \$184,500.

SURS

- What Safe Harbor means and why it is being discussed
 - Safe Harbor compares the value of the pension to Social Security
 - It is an actuarial equivalency test, not a single formula
 - Tier II includes:
 - Later normal retirement age (67)
 - Salary caps with limited growth
 - Reduced early-retirement benefits
- Concern is prospective, not retroactive

SURS

- Current Status & Employer Responsibility
 - Tier II is currently treated as meeting Safe Harbor, generally.*
 - Employers do not withhold Social Security
 - Employers are responsible for FICA determinations
 - Currently not aware of any enforceable determination that Tier II fails Safe Harbor.
 - Any fix would require a statewide legislative solution

SURS: What is being done?

- FY 2026 budget (Public Act 104-0002) appropriated \$75 million to new Tier II SSWB Reserve Fund
- May be used if:
 - enforceable determination that Tier II fails Safe Harbor, or
 - pensionable salary cap is changed to match Social Security.



SURS: Pending Legislation

- HB 2332 – Allows SURS Tier II police and firefighters to retire at age 55 with 20 years of service
- HB 2477 – Allows SURS Tier II police officers to retire at age 55 with 20 years of service
 - Explicitly excludes the change from being treated as a “new benefit increase”
- HB 2540 – Tier II Omnibus Proposal
 - Broad Tier II reform proposal affecting multiple retirement systems
 - Raises the Tier II pensionable salary cap toward the Social Security Wage Base
 - Revises Final Average Salary (FAS) calculations
 - Adjusts Tier II retirement ages and cost-of-living adjustments (COLAs)
 - Includes funding and actuarial framework changes
- HB 2711 – Broad Tier II restructuring proposal
 - Aligns many Tier II benefit components more closely with Tier I
 - Includes salary cap increases, revised FAS calculations, enhanced COLAs, and earlier retirement eligibility for public safety employees
- HB 3113 – Establishes a Social Security benefit floor for non-coordinated Tier II members
 - If a non-coordinated Tier II pension is actuarially less than Social Security, the benefit must be increased to exceed the Social Security value by \$1
- HB 4673 – Modified We Are One Coalition Tier II reform
 - Comprehensive changes to Tier II retirement ages and service requirements
 - Aligns the Tier II pensionable salary cap with the Social Security Wage Base, beginning January 1, 2028
- HB 5909 – Modeled Tier II reforms addressing salary caps, FAS calculations, retirement age, and COLAs to mitigate long-term Safe Harbor risk
 - Raises the Tier II pensionable salary cap toward the Social Security Wage Base
 - Revises Tier II FAS calculations
 - Lowers the Tier II Normal Retirement Age (currently 67)
 - Increases Tier II COLAs

Immigration Laws and Updates



Suspension of Visa Issuance to International Student Applicants

- Presidential Proclamation 10998, effective January 1, 2026
- Full or partial suspension of entry for and visa issuance to nationals of 39 countries
- Bars international students and scholars from the identified countries who are outside the U.S. and do not currently hold a valid visa from entry
 - Affects F-1, J-1, and M-1 visa applicants

Illinois Immigration Laws: P.A. 104-0455

- Amended the Illinois Right to Privacy in the Workplace Act
 - Prohibits employers from taking adverse actions based on receipt of a notification indicating a discrepancy in the employee's identification documents
 - Notice requirement: upon receipt of such notification, the employer must provide notice to the employee and their Association representative (if applicable) within 5 business days after receipt or determination that the employee must respond to the notification
 - If possible, notify the employee in person and deliver the notification by hand
 - Upon request, provide the original notification
 - Employee may have representative of their choosing in any meetings, discussions, or proceedings with the employer

Illinois Immigration Laws: P.A. 104-0440

- Amended the Illinois Public Higher Education Act
 - Effective December 9, 2025
 - Protects students, employees, and persons associated with a student or employee from colleges disclosing or threatening to disclose their actual or perceived citizenship or immigration status
 - Requires schools to develop procedures for reviewing and authorizing requests from law enforcement agents attempting to enter a school's campus
 - Reminder: Submit to the ICCB a copy of the procedures developed. ICCB is required to submit report of each college's procedures by July 1, 2026

Illinois Immigration Laws: P.A. 104-0440

- Policy & Procedure Reminders – Must include, at minimum:
 - Procedures for reviewing and contacting authorized person(s) and legal counsel upon receipt of a request from law enforcement to enter campus;
 - Procedures for documenting interactions with law enforcement;
 - Procedures for notifying the student or employee and seeking consent;
 - Procedures to determine if an immigration enforcement activity is occurring, including identifying lead law enforcement agent; and
 - Procedures to notify impacted area if an immigration enforcement activity is occurring.
- Colleges must provide information on their website:
 - who to contact if law enforcement seeks to enter campus; and
 - clear and easily accessible immigration enforcement resources.

Freedom of Information Act Updates



Current FOIA Issues

- Increases in mass requests and requests that are voluminous, unduly burdensome, and/or generated with the assistance of AI
- Responding to unduly burdensome requests:
 1. Identify if part or all of a request may be unduly burdensome
 2. Begin any necessary searches or review of files to assess the burden of complying
 3. Offer the opportunity to narrow/confer and claim an extension before the initial deadline
 4. Respond or issue a formal denial of the request as unduly burdensome (if applicable) by the statutory deadline

Freedom of Information Act Bills Pending

- HB4681, HB4682, HB4683, HB4684
 - Specify additional days that are not business days for public educational institutions
 - Add "mass requester" or "purposeless mass request" status with additional time to comply
 - Add "vexatious requester" designation process
 - Expand the definition of "commercial purpose" to include using records to provide services to a specific customer or client
 - Deem commercial purpose requests unduly burdensome if they are repeated by the same person and seek similar or updated records
 - Require plaintiffs to provide an opportunity to confer before filing a lawsuit
 - Limit attorney fee-shifting in litigation for some requesters, or allow fee-shifting for public bodies

A hand is shown in the upper right corner, holding a single sheet of white paper. Below the hand are several stacks of white paper of varying heights, arranged in a row. The stacks are positioned on a light-colored surface against a plain, light background. The overall scene suggests a process of sorting or reviewing documents.

Pending Illinois Bills to Watch

Pending Bills

- **HB4196 Local Government Credit Card Statements**
 - Amends the Public Community College Act to require the board of trustees to vote to verify the validity of an itemized statement of all purchases made using a college-issued credit card in the preceding month
 - Vote is solely for approval of the itemized statement of all purchases made using the credit card and shall not include any other expense approval
 - House Committee Amendment
 - “May not be redacted in a manner inconsistent with the Freedom of Information Act”



Pending Bills



- **HB5319 & SB4034 Community College Baccalaureate Degree Program**
 - Amends the Public Community College Act to allow a Community College to establish and offer a baccalaureate degree program and confer a bachelor's degree if specific conditions are met.
 - Applied Baccalaureate degree program that is based on a curriculum that incorporates both theoretical and applied knowledge and skills in a specific vocational or technical field.
 - Prohibits a Community College from using semester credit hours generated in a baccalaureate degree program for certain grants.

Pending Bills

- **HB4491 Public Employee Disability**

- Amends the Public Employee Disability Act to require continued salary for injury or illness suffered during the line of duty which results in the inability to work. Effective January 1, 2027, if passed before June 1.

- **SB2413 Family and Medical Leave Program Insurance Program**

- Creates the Paid Family and Medical Leave Insurance Program Act. Effective Immediately.

- **SB2967 Menstrual Health Paid Leave**

- Allows an employee who experiences a menstrual health condition to use up to 40 hours of paid leave per year that the employee is entitled to under the Paid Leave for All Workers Act for menstrual health reasons. Effective Immediately.

- **SB2888 Paid Leave for All Workers – Student Exceptions**

- Amends the Paid Leave for All Workers Act to except certain student workers from coverage. Effective January 1, 2027, if passed before June 1.

Pending Bills

- **SB2977 School Counselor Stipend Program**

- Subject to appropriation, amends the Board of Higher Education Act to require the Board of Higher Education to create a school counselor stipend program to alleviate the financial burden of becoming a school counselor and encourage pursuit of careers in school counseling to address state shortage. Effective Immediately.

- **HB5042 Amends the Public Construction Bond Act**

- Under the proposed amendment, local governmental units shall require a bond for public works projects costing over \$5,000,000, replacing the current limit of \$150,000).

- **HB4938 Amends the Prevailing Wage Act**

- Provides that if a prevailing wage worker is classified in two or more trade titles, they shall receive the prevailing rate of wages that is the highest for all hours worked that day. Provides that a prevailing wage worker may be paid at an apprentice rate if enrolled in an apprenticeship program. Provides for the withholding of payments for violations of the Act. Makes other changes. Effective immediately.



Question & Answer

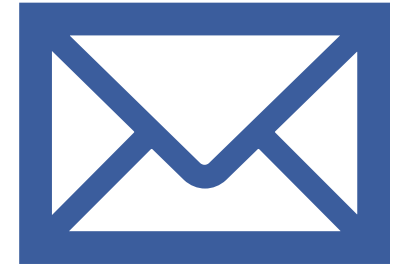
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