



STATEMENT OF BASIS, PURPOSE, SPECIFIC STATUTORY AUTHORITY, AND FINDINGS

**State Labor Relations (“SLR”) Rules, 7 CCR 1103-12, as proposed October 29, 2021;
to be followed and replaced by a final Statement at the conclusion of the rulemaking process.**

I. BASIS. The Director (“Director”) of the Division of Labor Standards and Statistics (“Division”) has authority to adopt rules and regulations under the authority listed in Part II, which is incorporated into Part I as well.

II. SPECIFIC STATUTORY AUTHORITY. These rules are issued under the authority of, and as implementation and enforcement of, Colorado Revised Statutes (“C.R.S.”) Title 24, Article 50 (2022) (the “Colorado Partnership for Quality Jobs and Services Act,” C.R.S. § 24-50-1101 et seq.), as well as the general labor law implementation and enforcement authority of C.R.S. Title 8, Articles 1 and 3 (2022), and are intended to be consistent with the rulemaking requirements of the Administrative Procedures Act, C.R.S. § 24-4-103. These rules are promulgated pursuant to express authority including but not limited to in C.R.S. §§ 24-50-1103, -1106(4), and C.R.S. § 8-3-105.

III. FINDINGS, JUSTIFICATIONS, AND REASONS FOR ADOPTION. Pursuant to C.R.S. § 24-4-103(4)(b), the Director finds as follows: **(A)** demonstrated need exists for these rules, as detailed in the findings in Part IV, which are incorporated into this finding as well; **(B)** proper statutory authority exists for the rules, as detailed in the list of statutory authority in Part II, which is incorporated into this finding as well; **(C)** to the extent practicable, the rules are clearly stated so that their meaning will be understood by any party required to comply; **(D)** the rules do not conflict with other provisions of law; and **(E)** any duplicating or overlapping has been minimized and is explained by the Division.

IV. SPECIFIC FINDINGS FOR ADOPTION. The amendments are to only **Rule 4.1.2**, on the statute of limitation for unfair labor practice (“ULP”) charges the Colorado Partnership for Quality Jobs and Services Act, C.R.S. § 24-50-1101 et seq. (the “Act”). The Act provides a statute of limitations for ULP charges: any controversy concerning a ULP may be submitted to the Division “in a manner and with the effect” provided in C.R.S. Title 8, Article 3. (C.R.S. § 24-50-1113(3).) The section governing unfair labor practices in Article 3 of Title 8 states that the right to proceed “shall not extend beyond six months from the date of the specific act or unfair labor practice alleged.” (C.R.S. § 8-3-110(16).)

Amended Rule 4.1.2 thus simplifies and streamlines the rule on the limitations period for a ULP under the Act as follows: “An unfair labor practice complaint must be received by the Division no later than six months after the date that the alleged unfair labor practice occurred.” ULP complaints received by the Division will be reviewed on a case by case basis, to determine whether the receipt of the complaint complies with the rule, the Act, and other applicable law. Case by case review may include analysis of equitable tolling principles potentially applicable to statutes of limitations generally,¹ and whether a complaint filing was delayed by military service that may trigger limitations period tolling under federal law.²

V. EFFECTIVE DATE. These rules take effect as soon as rulemaking is completed and the rules can take effect.

Scott Moss
Director, Division of Labor Standards and Statistics
Colorado Department of Labor and Employment

December 3, 2021

Date

¹ See *R.G. Burns Elec., Inc.*, 326 NLRB 440, 446-47, 136 Lab. Cas. (CCH) ¶ 16629, 1998 WL 654435, *14 (1998) (“10(b) of the [National Labor Relations] Act provides ‘That no complaint shall issue based upon any unfair labor practice occurring more than 6 months prior to the filing of the charge’.... While the running of the limitations period can begin only when the unfair labor practice occurs, Section 10(b) is tolled until there is either actual or constructive notice of the alleged unfair labor practice. It is also firmly established that the 10(b) period commences only when a party has clear and unequivocal notice of the violation.”) (citing 29 U.S.C. § 160 (same six-month ULP limitations period as Labor Peace Act)).

² Servicemembers Civil Relief Act, 50 U.S.C § 3936(a) (“Tolling of statutes of limitation during military service. The period of a servicemember’s military service may not be included in computing any period limited by law, regulation, or order for the bringing of any action or proceeding in a court, or in any board, bureau, commission, department, or other agency of a State (or political subdivision of a State) or the United States by or against the servicemember”).