



The Colorado Equal Pay for Equal Work Act (“CEPEWA”) C.R.S. § 8-5-101, et seq.

C.R.S. § 8-5-101. Definitions.

As used in this article 5, unless the context otherwise requires:

- (1) Repealed.
- (1.3) “Career development” means a change to an employee’s terms of compensation, benefits, full-time or part-time status, duties, or access to further advancement in order to update the employee’s job title or compensate the employee to reflect work performed or contributions already made by the employee.
- (1.5) “Career progression” means a regular or automatic movement from one position to another based on time in a specific role or other objective metrics.
- (2) “Director” means the director of the division of labor standards and statistics.
- (3) Repealed.
- (4) “Employee” means a person employed by an employer.
- (5) “Employer” means the state or any political subdivision, commission, department, institution, or school district thereof, and every other person employing a person in the state.
- (5.5)
 - (a) “Job opportunity” means a current or anticipated vacancy for which the employer is considering a candidate or candidates or interviewing a candidate or candidates or that the employer externally posts.
 - (b) “Job opportunity” does not include career development or career progression.
- (6) Repealed.
- (7) “Liquidated damages” means damages to compensate an employee for the delay in receiving amounts due as a result of an employer’s violation of this article 5. “Liquidated damages” does not constitute a penalty to the employer.
- (8) “Sex” means an employee’s gender identity.
- (8.5) “Vacancy” means an open position, whether as a result of a newly created position or a vacated position.
- (9) “Wage rate” means:
 - (a) For an employee paid on an hourly basis, the hourly compensation paid to the employee plus the value per hour of all other compensation and benefits received by the employee from the employer; and
 - (b) For an employee paid on a salary basis, the total of all compensation and benefits received by the employee from the employer.

C.R.S. § 8-5-102. Wage discrimination prohibited.

- (1) An employer shall not discriminate between employees on the basis of sex, or on the basis of sex in combination with another protected status as described in section 24-34-402 (1)(a), by paying an employee of one sex a wage rate less than the rate paid to an employee of a different sex for substantially similar work, regardless of job title, based on a composite of skill; effort, which may include consideration of shift work; and responsibility, except where the

employer demonstrates each of the following:

- (a) That the wage rate differential is based on:
 - (I) A seniority system;
 - (II) A merit system;
 - (III) A system that measures earnings by quantity or quality of production;
 - (IV) The geographic location where the work is performed;
 - (V) Education, training, or experience to the extent that they are reasonably related to the work in question; or
 - (VI) Travel, if the travel is a regular and necessary condition of the work performed;
- (b) That each factor relied on in subsection (1)(a) of this section is applied reasonably;
- (c) That each factor relied on in subsection (1)(a) of this section accounts for the entire wage rate differential; and
- (d) That prior wage rate history was not relied on to justify a disparity in current wage rates.

(2) An employer shall not:

- (a) Seek the wage rate history of a prospective employee or rely on the wage rate history of a prospective employee to determine a wage rate;
- (b) Discriminate or retaliate against a prospective employee for failing to disclose the prospective employee’s wage rate history;
- (c) Discharge, or in any manner discriminate or retaliate against, an employee for invoking this section on behalf of anyone or assisting in the enforcement of this subsection (2);
- (d) Discharge, discipline, discriminate against, coerce, intimidate, threaten, or interfere with an employee or other person because the employee or person inquired about, disclosed, compared, or otherwise discussed the employee’s wage rate;
- (e) Prohibit, as a condition of employment, an employee from disclosing the employee’s wage rate; or
- (f) Require an employee to sign a waiver or other document that:
 - (I) Prohibits the employee from disclosing wage rate information; or
 - (II) Purports to deny the employee the right to disclose the employee’s wage rate information.

C.R.S. § 8-5-103. Enforcement - rules - complaints.

(1)

- (a) The director shall:
 - (I) Create and administer a process to accept complaints and provide legal resources concerning alleged violation of section 8-5-102 and shall promulgate rules as necessary for this purpose;
 - (II) On or before July 1, 2024, create and administer a process to mediate complaints regarding alleged violations of section 8-5-102 and promulgate rules as necessary for this purpose
 - (III) Investigate complaints or other leads concerning employer violations of section 8-5-102, except if the complaint concerns the state of Colorado as the employer, that, in the director’s good faith discretion and judgment, warrant investigation;
 - (IV) Upon finding of a violation of section 8-5-102, order compliance and relief as authorized by this part

1; and

(V) Promulgate rules to enforce this article 5.

- (b) For the purpose of investigating a violation of this part 1, the director may apply the information-gathering provisions of article 1 of this title 8 to an employer, employee, or other person.
 - (c) The process created and administered by the director, including the rules for the investigation of alleged complaints for violations of section 8-5-102 and any fines levied or corrective action taken by the director, does not affect or prevent the right of an aggrieved person from commencing a civil action pursuant to subsection (2) of this section.
- (2) A person aggrieved by a violation of section 8-5-102 may commence a civil action in district court no later than two years after the violation occurs. A violation of section 8-5-102 (1) occurs on each occasion that a person is affected by wage discrimination, including each occasion that a discriminatory wage rate is paid.
 - (3) A person aggrieved by a violation of section 8-5-102 may obtain relief for back pay for the entire time the violation continues, not to exceed six years.
 - (4) If a civil action is commenced under this section, any party to the civil action may demand a trial by jury.
 - (5) Nothing in this section prevents an aggrieved person from filing a charge with the Colorado civil rights division pursuant to section 24-34-306.

C.R.S. § 8-5-104. Employer liability - awards.

- (1)
 - (a) An employer who violates section 8-5-102 (1) is liable for economic damages in an amount equal to the difference between the amount that the employer paid to the complaining employee and the amount that the employee would have received had there been no violation plus liquidated damages in an amount equal to the employee’s economic damages, except as provided in subsection (1)(b) of this section.
 - (b)
 - (I) If the employer demonstrates that the act or omission giving rise to the violation was in good faith and that the employer has reasonable grounds for believing that the employer did not violate section 8-5-102 (1), the court shall not award liquidated damages.
 - (II) In determining whether the employer’s violation was in good faith, the fact finder may consider evidence that within two years prior to the date of the commencement of a civil action pursuant to section 8-5-103, the employer completed a thorough and comprehensive pay audit of its workforce, with the specific goal of identifying and remedying unlawful pay disparities.
- (2) An employer who violates any provision of section 8-5-102 is liable for:
 - (a) Legal and equitable relief, which may include employment, reinstatement, promotion, pay increase, payment of lost wage rates, and liquidated damages; and
 - (b) The employee’s reasonable costs, including attorney fees.
- (3) Nothing in this section precludes an employee from asserting any other available statutory or common-law claims.

C.R.S. § 8-5-105. Records open to inspection - repeal.

(Repealed)

C.R.S. § 8-5-106. Colorado pay equity commission - creation - duties - cash fund - report - repeal.

(Repealed)

C.R.S. § 8-5-201. Employment opportunities - opportunities for promotion or advancement - pay rates in job listings - rules.

- (1) An employer shall make reasonable efforts to announce, post, or otherwise make known each job opportunity to all employees on the same calendar day and prior to the date on which the employer makes a selection decision; except that, if an employer is only physically located outside of Colorado and has fewer than fifteen employees working in Colorado, all of whom work only remotely, then through July 1, 2029, the employer is only required to provide notice of remote job opportunities. The Department of Labor and Employment shall promulgate rules for temporary, interim, or acting job opportunities that necessitate immediate hire.
- (2) An employer must in good faith disclose the following in the notification of each job opportunity;
 - (a) The hourly or salary compensation or the range of the hourly or salary compensation;
 - (b) A general description of the benefits and other compensation applicable to the job opportunity; and
 - (c) The date the application window is anticipated to close.
- (3) An employer shall make reasonable efforts to announce, post, or otherwise make known, within thirty calendar days after a candidate who is selected to fill a job opportunity begins working in the position, the following information to, at a minimum, the employees with whom the employer intends the selected candidate to work with regularly;
 - (a) The name of the candidate selected for the job opportunity;
 - (b) The selected candidate’s former job title if selected while already employed by the employer;
 - (c) The selected candidate’s new job title; and
 - (d) Information on how employees may demonstrate interest in similar job opportunities in the future, including identifying individuals for departments to whom the employees can express interest in similar job opportunities.
- (4) For positions with career progression, an employer shall disclose and make available to all eligible employees the requirements for career progression, in addition to each position’s terms of compensation, benefits, full-time or part-time status, duties, and access to further advancement.
- (5) Nothing in this section requires an employer to identify a selected candidate for a job opportunity in any manner that violates the candidate’s privacy rights under applicable local, state, or federal law or in a manner that would place at risk the selected candidate’s health or safety.

C.R.S. § 8-5-202. Record keeping.

An employer shall keep records of job descriptions and wage rate history for each employee for the duration of the employment plus two years after the end of employment in order to determine if there is a pattern of wage discrepancy.

C.R.S. § 8-5-203. Enforcement - rules.

- (1) The director has the power to administer, carry out, and enforce all of the provisions of this part 2 and may promulgate rules for that purpose. The director shall provide written copies of rules promulgated pursuant to this section to all employees and employers upon written request.
- (2)
 - (a) A person who claims to be aggrieved by a violation of section 8-5-201 or 8-5-202 may file a written complaint with the director within one year after the date that the person learned of the violation. The written complaint must state the name and address of the employer and a detailed account of the alleged violation.
 - (b) An employer’s failure to comply with section 8-5-201 (1) for one promotional opportunity is considered one violation.
 - (c) An employer’s failure to comply with section 8-5-201 (2) for one job opening is considered one violation

regardless of the number of postings that list the job opening.

- (3) The director shall investigate complaints of violations of this part 2 and shall promulgate rules necessary to govern the investigations.
- (4) Upon finding that an employer has violated this part 2, the director may order the employer to pay a fine of no less than five hundred dollars and no more than ten thousand dollars per violation.
- (5) If an employee bringing suit for a violation of section 8-5-102 demonstrates a violation of this part 2, and the court finds a violation of this part 2, the court may order appropriate relief, including a rebuttable presumption that records not kept by the employer in violation of section 8-5-202 contained information favorable to the employee’s claim and an instruction to the jury that failure to keep records can be considered evidence that the violation was not made in good faith.