Interpretive Notice & Formal Opinion (“INFO”) # 9:

Hiring & Screening: What Employers Must Disclose, & Information They Must Not Ask or Use

Overview

- Job applications and postings have no required form — but employers must disclose some information, and not ask or use other information, under Posting, Opportunities, Screening, and Transparency (“POST”) laws.
- This one-page INFO summarizes only the basics of Colorado’s POST laws. For the details, including coverage and exceptions, review each POST law, and the Division guidance on that law — all linked below.¹

Pay & Job Opportunity Transparency under the Equal Pay for Equal Work Act (INFO #9A)

- All job postings must disclose the pay (or a range of possible pay), and a general description of the benefits, to be offered, as well as how and by what deadline to apply.
- Employers must disclose all job opportunities to all employees — then disclose who was hired, and how to express interest in similar opportunities, to everyone the hiree will regularly work with, within 30 days.
  - Some jobs and promotions are exempt — for example, regular or automatic promotions based on objective metrics — but employers must disclose to employees which promotions and metrics.
- Employers must not ask an applicant, or require them to disclose, their wage history — and also must not act against anyone for disclosing or discussing their own wage rate.

Asking about Age under the Job Application Fairness Act, effective July 1, 2024 (INFO #9B)

- Employers must not ask an applicant’s age, or dates of schooling (attendance, graduation, etc.).
- Employers must notify applicants they may redact age information from requested items like transcripts.
- Employers may ask applicants to verify compliance with certain legal or safety-based age requirements.

Screening Applicants Based on Criminal History under the Chance to Compete Act (INFO #9C)

- Employers must not ask about, or require disclosing, criminal history in an initial job application — or say in an application or posting that those with criminal history can’t apply or won’t be considered.
- Employers may use criminal history later in the hiring process — for example, they can do a criminal background check, or require disclosure by the applicant, after a “conditional” offer, subject to the employer deciding whether they still want to hire the applicant after receiving that information.

Using Credit History in Hiring under the Employment Opportunity Act (fact sheet)

- Employers must not request or use credit information — credit reports, bankruptcy records, etc. — in hiring or other employment decisions, unless credit information is substantially related to the job.

Accessing Personal Social Media under the Social Media and the Workplace Law (fact sheet)

- Employers must not ask an applicant or employee to give access (or the username or password) to, change privacy settings of, or add anyone to the contacts list of, their personal social media accounts.

For More Information: Visit the Division website, call 303-318-8441, or email cdle_labor_standards@state.co.us.

¹ Other laws may apply that this Division doesn’t enforce, like discrimination laws covered by the Colorado Civil Rights Division (“CCRD”) and federal Equal Employment Opportunity Commission ("EEOC"), for example, see the EEOC disability guidance, Pre-Employment Inquiries and Medical Questions & Examinations (“An employer may not ask a job applicant ... if he or she has a disability,” ask “medical questions,” or ask for “a medical exam before making a job offer.”)

INFOs are not binding law, but are the officially approved Division opinions and notices on how it applies and interprets various statutes and rules. The Division continues to update and post new INFOs: email cdle_labor_standards@state.co.us with any suggestions. To be sure to reference up-to-date INFOs, rules, or other material, visit ColoradoLaborLaw.gov.