



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

### Restrictions on Age Information in Job Applications: the Job Application Fairness Act (“JAFA”)

#### Overview

As of July 1, 2024, the [Job Application Fairness Act \(“JAFA,” S.B. 23-058\)](#) restricts employers from obtaining a job applicant’s age, with limited exceptions for age requirements based on legal or safety needs.

#### Coverage

JAFA covers all employers in Colorado, public or private, of all sizes and in all industries.<sup>1</sup> Individual persons who are “an agent, a representative, or a designee of the employer” are also covered.<sup>2</sup>

#### What Employers *May Not Do*:

- Employers **can’t ask** applicants to **disclose their age**, which includes not asking their:
  - date of **birth**;
  - dates of **attendance** at an educational institution;
  - dates of **graduation** from an educational institution; or
  - **other inquiries similarly** disclosing age — for example, asking which election an applicant first voted in would, like asking when they graduated high school, give information on when they likely turned 18.

#### What Employers *May Do*:

- Employers **may** request **additional application materials** — certifications, school transcripts, etc.
  - **But** if employers do so, they must **notify applicants** that applicants **may redact age-related information** — dates of school attendance or graduation, etc.
- Employers **may verify compliance** with **age requirements** imposed by or pursuant to:
  - (1) a bona fide occupational qualification related to public or occupational **safety**;
  - (2) a **federal** statute or regulation; or
  - (3) a **state or local** statute or regulation based on a bona fide occupational qualification.
  - **But** an employer verifying compliance in an initial application **must not** ask an individual’s **specific age** — including age-disclosing information like date of birth, school attendance, or school graduation.

**Example 1:** Federal and state law disallow minors from performing certain work — including that no minor can sell or serve alcoholic beverages. A restaurant hiring someone to serve alcoholic beverages:

- (A) **may** ask in an **application** whether the applicant will be at least 18 when they would start work; and
- (B) **may** ask, **after** extending a job offer, the applicant to provide evidence of their **specific age**, like a driver’s license, without redacting age information like date of birth; but
- (C) **may not** ask an applicant to disclose their **specific age**, or to produce **evidence** of their age like an unredacted driver’s license, in or with **their application**.

<sup>1</sup> C.R.S. 8-2-131(2)(b) (“‘Employer’ means a person engaged in a business, industry, profession, trade, or other enterprise in the state or a unit of state or local government.”). JAFA does not reach the federal government itself as an employer, but that exclusion doesn’t apply to private sector employers who are federal contractors.

<sup>2</sup> C.R.S. 8-2-131(2)(b) (“‘Employer’ includes an agent, a representative, or a designee of the employer.”).

**Enforcement:**

- **Filing:** Complaints may be filed with the Division (not a court) within 12 months of an alleged violation.
- **Investigation:** The Division will investigate any complaint, unless the complaint is without merit.
- **Remedies** if a violation is found include **orders** requiring the employer to:
  - **comply** with Jafa **within 15 business days**; and
  - **pay a penalty**, up to \$1,000 for a second violation, or \$2,500 for a later violation, if the employer either
    - **failed to comply** with an order requiring Jafa compliance within 15 business days, or
    - **complied** with an order requiring Jafa compliance, then committed **another violation**.<sup>3</sup>

**Rulemaking to Provide Further Details:**

- By no later than March 31, 2024, **proposed rules will be published** to implement Jafa.
- Then, before final rules are adopted, **input from Coloradans** will be invited on the proposed rules, in both **public meetings** and **written comments** the Division will review.
- Visit the Division **rules page**, [cdle.colorado.gov/LaborRules](https://cdle.colorado.gov/LaborRules), for all proposed and final rules, all information on the public meetings (schedule, how to join, etc.), and how to submit comments.

**For More Information:** Visit the Division [website](#), call 303-318-8441, or email [cdle\\_labor\\_standards@state.co.us](mailto:cdle_labor_standards@state.co.us).

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<sup>3</sup> Each distinct job *posting or application* that violates Jafa is a separate violation — but each instance of an individual *responding* to a job posting is not a separate violation.