



## **Colorado Social Media and the Workplace Law: § 8-2-127, C.R.S.**

### Frequently Asked Questions

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**Overview:** An employer may not access an employee’s or applicant’s personal social media accounts. The law applies to Colorado employers on or after May 11, 2013. For more information, visit <https://cdle.colorado.gov/social-media-and-the-workplace-law>

#### **1. Which employers does the law cover?**

The law applies to private and public employers in Colorado. See § [8-2-127\(1\)\(c\)](#), C.R.S.

The law does not apply to:

- i) The Department of Corrections;
- ii) County corrections departments;
- iii) Any state or local law enforcement agency.

#### **2. What are the core requirements of the law?**

An employer may not:

- i) Suggest, request, or require that an employee or applicant disclose, or cause an employee or applicant to disclose, any user name, password, or other means for accessing the employee’s or applicant’s personal account or service through the employee’s or applicant’s personal electronic communications device.
- ii) Compel an employee or applicant to add anyone, including the employer or his or her agent, to the employee’s or applicant’s list of contacts associated with a personal social media account.
- iii) Require, request, suggest, or cause an employee or applicant to change privacy settings associated with a personal social networking account. See § [8-2-127\(2\)\(a\)](#), C.R.S.

“Electronic communications device” means a device that uses electronic signals to create, transmit, and receive information, including computers, telephones, personal digital assistants, and other similar devices. See § [8-2-127\(1\)\(b\)](#), C.R.S.

#### **3. Are there exceptions to the core requirements of the law?**

An employer may:

- i) Access information about employees and applicants that is publicly available online.

ii) Require an employee to disclose any user name, password, or other means for accessing nonpersonal accounts or services that provide access to the employer's internal computer or information systems. See § [8-2-127\(2\)\(b\)](#), C.R.S.

iii) Conduct an investigation to ensure compliance with applicable securities or financial law or regulatory requirements based on the receipt of information about the use of a personal website, internet website, web-based account, or similar account by an employee for business purposes. See § [8-2-127\(4\)\(a\)](#), C.R.S.

iv) Investigate an employee's electronic communications based on the receipt of information about the unauthorized downloading of an employer's proprietary information or financial data to a personal website, internet website, web-based account, or similar account by an employee. See § [8-2-127\(4\)\(b\)](#), C.R.S.

#### **4. What employer actions are prohibited under the law?**

An employer shall not:

i) Discharge, discipline, or otherwise penalize or threaten to discharge, discipline, or otherwise penalize an employee for an employee's refusal to disclose any information as specified in the law or refusal to add the employer to the list of the employee's contacts or to change the privacy settings associated with a personal social media account. See § [8-2-127\(3\)\(a\)](#), C.R.S.

ii) Fail or refuse to hire an applicant because the applicant refuses to disclose any information as specified in the law or refuses to add the employer to the applicant's list of contacts or to change the privacy settings associated with a personal social media account. See § [8-2-127\(3\)\(b\)](#), C.R.S.

#### **5. What are the penalties for non-compliance?**

Employers who violate the law are subject to a fine of up to \$1,000 for the first offense and a fine not to exceed \$5,000 for each subsequent offense. See § [8-2-127\(5\)](#), C.R.S.

#### **6. How do I file a complaint against my employer or prospective employer?**

The Division accepts complaints from employees or applicants who have been subjected to alleged violations of the Colorado Social Media and the Workplace Law.

The Division only accepts complaints filed by individual employees or applicants who have been directly affected by the employer's alleged prohibited actions. The Division does not accept anonymous complaints, or complaints from individuals not directly affected by the employer's practices.

The Division investigates complaints, conducts hearings, and may issue a fine of up to \$1,000 for the first offense and a fine not to exceed \$5,000 for each subsequent offense. See § [8-2-127\(5\)](#), C.R.S.

Complaint forms and instructions are available at <https://cdle.colorado.gov/social-media-and-the-workplace-law>.

**7. How does the law impact an employer's enforcement of existing personnel policies?**The

Colorado Social Media and Workplace Law does not prohibit an employer from enforcing existing personnel policies that do not conflict with this law. See § [8-2-127\(6\)](#), C.R.S.

**8. Does the law permit employees to disclose confidential information?**

Nothing in the Colorado Social Media and Workplace Law permits an employee to disclose information that is confidential under federal or state law or pursuant to a contract agreement between the employer and the employee. See § [8-2-127\(7\)](#), C.R.S.

**9. Where can I obtain more information on the law?**

The Colorado Division of Labor Standards and Statistics enforces the provisions of this law. For more information, or to file a complaint against an employer or prospective employer, contact the Division at 303-318-8441, or visit <https://cdle.colorado.gov/social-media-and-the-workplace-law>