

Colorado Social Media and the Workplace Law

“Facebook Law” §8-2-127, C.R.S.

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 the [Job Postings and Hiring website](#).

Coverage:

8-2-127(1)(c)

Applies to public and private employers in Colorado.

Does not apply to:

- The Department of Corrections
- County Corrections Departments
- Any state or local law enforcement agency.

Employer Actions:

8-2-127(3)

- Discharge, discipline, or otherwise penalize or threaten to discharge, discipline, or otherwise penalize an employee for an employee’s refusal to disclose personal social media information, 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.
- Fail or refuse to hire an applicant because: the applicant refuses to disclose personal social media information as specified in the law, or the applicant 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.

Employer Prohibitions:

8-2-127(2)(a)

An employer may not:

1. 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.
2. 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.
3. Require, request, suggest, or cause an employee or applicant to change privacy settings associated with a personal social networking account.

Exceptions to Prohibitions:

8-2-127(2) & (4)

An employer may:

1. Access information about employees and applicants that is publicly available online.
2. Require an employee to disclose any user name, password, or other means for accessing on personal accounts or services that provide access to the employer’s internal computer or information systems.

3. 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.
4. 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.

Complaints and Penalties:

8-2-127(5)

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 investigates complaints, conducts hearings of appeals, 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. Complaint forms and instructions are available at the [Job Postings and Hiring website](#).