



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

### Access to Personal Social Media: Colorado Social Media and the Workplace Law

#### Overview

The [Social Media and the Workplace Law](#) (“**Social Media Law**”) C.R.S. § 8-2-127, implemented by the [Posting, Screening, and Transparency Rules \(“POST Rules”\)](#) (7 CCR 1103-18), regulates Colorado employers’ access to an employee’s, or applicant’s, **personal social media** accounts.

#### Coverage

- The Social Media Law applies to all **public and private** employers in Colorado, including an employer’s agents, representatives, and designees.
  - The Social Media Law does **not** apply to the Department of Corrections, County Corrections Departments, or any state or local law enforcement agency.
  - Social Media Law protections apply to employees and job applicants.

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

- **Suggest, request, or require** that an employee or applicant disclose any user name, password, or other means to access their personal social media account through their personal device.

**Example 1:** An employer asks that its social media manager provide her username and password for her personal Facebook account to link the personal account with the employer’s Facebook page for managing the employer’s Facebook posts. Since this requires an employee to **disclose a personal username and password**, this **violates** the Social Media Law.

- **Compel** an employee or applicant to add anyone to their list of contacts on a social media account.
- **Require, request, suggest, or cause** an employee or applicant to change privacy settings associated with a personal social media account.

**Example 2:** An employer, concerned about the public image of its employees, implements a policy that requires employees to set their social media settings to **private**. Conversely, another employer rewards employees who set their accounts to **public**, and who then promote the employer to a wider audience. **Both of these scenarios violate the Social Media Law** because they require or suggest that employees change their privacy settings on their social media accounts.

- **Discharge, discipline, or threaten** to discharge, discipline, or otherwise penalize an employee, **or refuse to hire** an applicant, for the employee’s or applicant’s refusal to:
  - disclose personal social media information, including usernames or passwords;
  - add the employer to their list of contacts; or
  - change the privacy settings associated with a personal social media account.

**What Employers *May* Do:**

- Require an employee to disclose any username, password, or other means for accessing non-personal accounts that provide access to the employer's internal computer or information systems.
- Conduct an investigation to ensure compliance with applicable legal or regulatory requirements under securities or financial law based on information the employer receives about an employee's use of websites, or accounts for business purposes.
- Conduct an investigation of an employee's electronic communications based on information the employer receives about an employee's unauthorized downloading of an employer's proprietary information or financial data to websites or accounts.

**Enforcement**

- The Division accepts [complaints](#) (under "Job Postings and Hiring") from employees or applicants who have been subjected to alleged violations of the Social Media Law. The Division accepts anonymous complaints.
- The Division investigates complaints and may issue a fine of up to \$1,000 for the first violation and up to \$5,000 for each subsequent violation.

**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).