



Social Media Complaint Instructions

(for use with violations of the Colorado Social Media and the Workplace Law, § 8-2-127, C.R.S.)

Colorado Department of Labor and Employment | Division of Labor Standards and Statistics

www.colorado.gov/cdle/socialmedia

What is a social media complaint?

A social media complaint is a written complaint filed with the Division against your current or prospective employer for violations of the Colorado Social Media and the Workplace Law. The complaint form may be used when an applicant or employee believes that their employer or potential employer improperly accessed their personal social media accounts, in violation of the law.

What is the Social Media and the Workplace law?

The Colorado Social Media and the Workplace Law prevents employers from accessing your personal social media accounts. The law applies to actions taken on or after May 11, 2013.

According to the law, employers may not:

- 1) suggest, request, or require that an employer 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 social media account;
- 3) require, request, suggest, or cause an employee or applicant to change privacy settings associated with a social networking account.

For more information on the Social Media and the Workplace Law, please refer to the Division’s Social Media Fact Sheet and Frequently Asked Questions on the website www.colorado.gov/cdle/socialmedia

Can I file a social media complaint with the Division?

Yes, if you are an applicant or employee working or applying to work in Colorado, and the employer is not the Department of Corrections, County Corrections Departments, or a state or local law enforcement agency.

| YES |
|---|
| The Division <u>may</u> have the authority to assist you on the following issues: |
| <ul style="list-style-type: none"> • Employer suggested, requested, or required that you disclose, or caused you to disclose any user name, password, or other means for accessing your personal social media account through your personal electronic communications device. • Employer compelled you to add anyone, including the employer or his or her agent, to your list of contacts associated with your personal social media account. • Employer required, suggested, or caused you to change the privacy settings associated with your personal social networking account. • Employer discharged, disciplined, or otherwise penalized or threatened to discharge, discipline, or otherwise penalize you (the employee) for your refusal to disclose social media information, or refusal to add |

| NO |
|--|
| The Division <u>does not</u> have authority to assist you on the following issues: |
| <ul style="list-style-type: none"> • Employer accessed information about you that is publicly available online. • Employer required you to disclose any user name, password, or other means for accessing <u>nonpersonal</u> (e.g., the employer’s) accounts or services that provide access to the employer’s internal computer or information systems. • Employer conducted 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 you for business purposes. • Employer investigated your electronic communications based on the receipt of information about the |

the employer to the list of your contacts, or to change the privacy settings associated with your personal social media account.

- Employer failed or refused to hire you (the applicant) because: you refused to disclose your personal social media information as specified in the law, or you refused to add the employer to your list of contacts, or you refused to change the privacy settings associated with your personal social media account.

If you are unsure whether your complaint is within the Division's authority, contact us at **(303) 318-3441** or **1-888-390-7936**.

unauthorized downloading of an employer's proprietary information or financial data to a personal website, internet website, web-based account, or similar account by you.

How do I file a social media complaint?

The Division only accepts complaints in writing or electronically. The complaint must be filed by the individual (or the individual's representative) who have been directly affected by the employer's prohibited social media practices.

If you believe your employer has violated the law, you may file a complaint by filling out the "Social Media Complaint" form. Please complete the form and answer all questions. If your complaint form is not completed, the process may be delayed.

May I file a complaint anonymously?

The Division does not accept anonymous complaints, or complaints from individuals not directly affected by the employer's practices. The individual needs to be the specific employee or applicant whose personal social networking account was involved.

How do I include supporting documentation?

You may mail, fax, or email all supporting documents to the Division. Attach copies of supporting documentation that may substantiate your complaint, such as request forms from the employer asking you for your personal social media information, employment handbooks, e-mails, letters, etc.

On all pages of your documents, please include your name and the name of the employer you are filing the complaint against. Do not send the originals; please make copies of all supporting documentation.

What is the next step after I've filed a complaint, and how long can an investigation take?

Once a complaint is received by the Division, it is assigned to an investigator and given a claim number. The investigator will contact you to follow up on the matter. The Division does not provide a specific timeframe for investigating a dispute. In general, the time it takes to resolve or complete an investigation depends on the complexity of each complaint and other factors.

What can I do to help expedite the process?

- Answer all questions on the "Social Media Complaint" form accurately and provide a detailed explanation where necessary.
- Provide all information in detail and supply supporting documentation with your initial written complaint. Failure to supply information may result in delays.
- Attach copies of any supporting documentation. **DO NOT SEND ORIGINALS.**
- Contact the Division immediately if your address or contact information changes.

What is the status of my complaint?

If you would like to inquire about the status of your complaint, please contact the Division to talk to an investigator.

What are the possible outcomes?

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.

How do I know the outcome?

The Division will notify you of the outcome of your complaint using the contact information you provided.

Before submitting the complaint:

By filling out, signing, and filing the “Social Media Complaint” form, you agree to the following:

- I have been notified and understand that any person providing false information to the Division in order to obtain and/or retain anything of value may be subject to criminal prosecution under the laws of the State of Colorado with possible penalties of fines, imprisonment, or both.
- I hereby certify that this is a true and accurate statement of the alleged violation, and authorize the Division of Labor to investigate and assist in this matter.
- I hereby certify that I have reviewed the Social Media and the Workplace Law Fact Sheet and Frequently Asked Questions on the Division’s website www.colorado.gov/cdle/socialmedia
- I understand that any information supplied to the Division may be provided to the employer, the agents of the employer involved in the dispute, and other agencies or individuals as the Division deems appropriate.
- I understand that this complaint and all associated documentation may be subject to the Colorado Open Records Act, and is potentially reviewable by the public.

What is the Division’s contact information if I have additional questions?

Contact the Division using the information listed below. You may also visit our website at www.colorado.gov/cdle/socialmedia

Mailing Address:

Colorado Division of Labor Standards and Statistics
633 17th Street, Suite 600
Denver, Colorado 80202-2107

Phone: (303) 318-3441

Toll Free: 1-888-390-7936

Fax: (303) 318-8400

Email: cdle_labor_standards@state.co.us



Colorado Division of Labor Standards and Statistics
SOCIAL MEDIA COMPLAINT FORM
(for use with violations of the Colorado Social Media and
Workplace Law, § 8-2-127, C.R.S.)

633 17th Street, Suite 600
Denver, Colorado 80202-2107
Telephone (303) 318-8441
Fax (303) 318-8400
Toll Free (888) 390-7936

www.colorado.gov/cdle/socialmedia

This form is to be used to report *employers, or potential employers*, who may be in violation of the Colorado Social Media and the Workplace Law, § 8-2-127, C.R.S. You must sign and date this form at the bottom.

Effective on and after May 11, 2013, the Social Media and Workplace Law, § 8-2-127, C.R.S. prohibits employers from accessing an employee's or applicant's personal social media accounts. For more information on the Colorado Social Media and the Workplace Law, go to www.colorado.gov/cdle/socialmedia

Section I: Contact Information for Complainant

(Your information is required. The Division does not accept anonymous claims.)

| | | |
|--|-------------------------|----------|
| Your First Name | Your Home Phone | |
| Your Last Name | Your Current Work Phone | |
| Your Mailing Address | Your Current Cell Phone | |
| City | State | Zip Code |
| Your Email Address | | |
| What is your relationship to the employer/business? (e.g., applicant, current employee, former employee) | | |

Section II: Contact Information for Employer, or Potential Employer Allegedly Violating § 8-2-127, C.R.S.

| | | |
|-----------------------------------|--------------------------|----------|
| Employer/Business Name | Employer Phone | |
| Owner or Supervisor's Name | Employer Alternate Phone | |
| Employer/Business Mailing Address | | |
| City | State | Zip Code |
| Employer/Business Email Address | | |

Section III: Description of the Alleged § 8-2-127, C.R.S. Violation *(Please check and complete the boxes that apply)*

| | |
|--|--------------------------|
| 1. Did your employer (or potential employer) suggest, request, or require you to disclose, or cause you to disclose your user name, password, or other means for accessing your personal social media account? | <input type="checkbox"/> |
| Please explain: | |

2. Did your employer (or potential employer) compel you to add anyone, including the employer or his or her agent, to your list of contacts associated with a social media account? (e.g., compelled you to add the employer to your Facebook friends, like the company's page on Facebook, etc.)

Please explain:

3. Did your employer (or potential employer) require, request, suggest, or cause you to change the privacy settings associated with your social networking account?

Please explain:

Section IV: Description of Employer's Actions

Did your employer discharge, discipline, or otherwise penalize or threaten to discharge, discipline, or otherwise penalize you, or fail or refuse to hire you because:

- a. you refused to disclose your personal social media information; or
- b. you refused to add employer to your list of contacts; or
- c. you refused to change the privacy settings associated with your personal social media account.

Please explain:

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Section V: Witnesses Who Have Evidence of the Violation *(Note: The Division may contact these individuals)*

Witness 1:

| | | |
|-----------------|--------------|----------|
| First Name | Relationship | |
| Last Name | Home Phone | |
| Mailing Address | Cell Phone | |
| City | State | Zip Code |
| Email Address | | |

Witness 2:

| | | |
|-----------------|--------------|----------|
| First Name | Relationship | |
| Last Name | Home Phone | |
| Mailing Address | Cell Phone | |
| City | State | Zip Code |
| Email Address | | |

Describe in detail any additional information for your allegation that this employer has violated the Colorado Social Media and the Workplace Law, § 8-2-127, C.R.S. Please include copies of any relevant documents or information and additional pages as necessary (i.e. request forms, employment handbook, letters, emails, etc.).

I declare under penalty of perjury § 18-8-501 et seq., C.R.S. that the information I have provided is true and correct.

Name

Signature

Date

Please mail or deliver this complaint and any attached documentation to:

Mailing Address:

Colorado Division of Labor Standards and Statistics
633 17th Street, Suite 600
Denver, Colorado 80202-2107

Fax: (303) 318-8400

Email: cdle_labor_standards@state.co.us