

BLOGS

Employment Law Updates

Important Colorado Law Changes for Multi-State Employers

Employers should be aware of Colorado law changes that may impact their job postings and other practices, including some changes that are likely a welcome roll-back of some prior requirements. On January 1, 2024, the amendment to Colorado's Equal Pay for Equal Work Act (the "Act") took effect. As background, the Act applies to (1) all public and private employers that employ at least one person in Colorado and (2) all employees of those employers. The Act requires covered employers to include certain information in each job posting, including the hourly rate or salary compensation (or a range) that the employer is offering for the position, a general description of any bonuses, commissions, or other forms of compensation that are being offered, and a general description of all employment benefits offered. As explained further below, the amendment to the Act and the final [Equal Pay Transparency Rules](#) (the "EPT Rules") adopted by the Colorado Department of Labor and Employment (the "CDLE") modify and include new disclosure requirements for employers.

Notification of Job Opportunities: Previously, the Act required covered employers to notify Colorado employees of "all opportunities for promotion," which included lockstep and in-line promotional opportunities. Under the amended Act, covered employers must notify Colorado employees of "each job opportunity." A "job opportunity" means "a current or anticipated vacancy for which the employer is considering a candidate or candidates or interviewing a candidate or candidates or that the employer externally posts." A job opportunity "does not include career development or career progression." Under the Act, "career development" means "a change to an employee's terms of compensation, benefits, full-time or part-time status, duties, or access to further advancement in order to update the employee's job title or compensate the employee to reflect work performed or contributions already made by the employee." The EPT Rules further explain that "such existing work or contributions" must be (1) part of the employee's existing job, and (2) not within a position within a current or anticipated vacancy. "Career progression" is defined as "a regular or automatic movement from one position to another based on time in a specific role or other objective metrics." Accordingly, covered employers no longer must notify Colorado employees of lockstep and in-line promotional opportunities.

When employers provide notice of job opportunities, those notices must include:

- The hourly rate or salary compensation (or a range thereof) that the employer is offering for the position;
- A general description of any bonuses, commissions, or other forms of compensation that are being offered for the job;
- A general description of all employment benefits the employer is offering for the position, including health care benefits, retirement benefits, any benefits permitting paid days off, and other benefits that must be reported for federal tax purposes;
- The application deadline; and

- How to apply for the job opportunity.

If a job opportunity does not have an application deadline because the employer accepts applications on an ongoing basis, the notice must say so and a deadline does not need to be included in the notice.

Employers with no Colorado site and fewer than 15 remote Colorado-based employees: The Act provides a limited exemption to the requirement that employers provide notice of each job opportunity for certain employers. Previously, covered employers were required to notify all Colorado employees about all promotional opportunities. Now, employers with no Colorado site and fewer than 15 remote, Colorado-based employees are required to notify their Colorado employees only of *remote* job opportunities.

Acting, interim, or temporary (“AINT”) hires: Previously, employers were not required to issue a notice of job opportunity to fill a position on an AINT basis for up to six months. The current EPT Rules have expanded that exception to AINT positions lasting up to nine months. Now, employers are not required to issue a notice of job opportunity to fill a position on an AINT basis for up to nine months if (1) the AINT hiring is not expected to be permanent, and (2) the same or a substantially similar position was not held at any time in seven or more of the preceding 12 months by another AINT hire for which there was no job opportunity posting. In cases in which an AINT hire leaves after more than seven months from a position expected to last up to nine months, then employers do not have to post for a replacement to finish their term. If an AINT hire may become permanent, the required job opportunity posting must be made in time for employees to apply for the permanent position.

Notice of Selected Candidate: The amendment to the Act adds a new requirement that employers must announce internally the identity of the selected candidate for each job opportunity within 30 calendar days after the selected candidate’s start date in that new role. The notice must include, subject to certain exceptions:

- The name of the selected candidate;
- The selected candidate’s former job title if selected while already employed by the employer;
- The selected candidate’s new job title; and
- Information on how employees may demonstrate interest in similar job opportunities in the future, including identifying individuals or departments to whom the employees can express interest in similar job opportunities.

The notice must be provided, at minimum, to the employees with whom the selected candidate is intended to work with regularly. The EPT Rules explain that “work with regularly” means employees who, as part of their job responsibilities, either (1) collaborate or communicate about their work at least monthly, or (2) have a reporting relationship (i.e., supervisor or supervisee). Employers may provide a post-selection notice of each individual selection or of multiple selections, so long as the notice is provided no later than 30 days after any selection included in the notice.

Career Progression Notices: The Act also requires that, for positions with career progression, employers disclose to all eligible employees the requirements for career progression. “Eligible employees” are those in the position that, when the requirements in the notice are satisfied, would move from their position to another position listed in the notice as a career progression.

Geographic Limitations: The EPT rules clarify that employers are not required to issue job opportunity notices, post-selection notices, and career progression notices to employees entirely outside Colorado. In addition, postings for job opportunities to be performed entirely outside Colorado and positions physically located outside Colorado and not accessible online in Colorado are exempt from the disclosure requirements regarding compensation, benefits, how and when to apply.



Statute of Limitations and Enforcement: Finally, the Act extends the statute of limitations for wage discrimination claims from three years to six years. It also requires the CDLE to create a process to investigate and mediate claims of sex-based wage discrimination, which is set forth in the EPT Rules.

Employers should review their postings and develop a process for notifying employees of selected candidates to ensure that they comply with the Act's requirements.