



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

Restrictions on Age Information in Job Applications: the Job Application Fairness Act (“JAFA”)

Overview

As of July 1, 2024, the [Job Application Fairness Act \(“JAFA,” S.B. 23-058\)](#), implemented by the [Posting, Screening, and Transparency Rules \(“POST Rules”\)](#) (7 CCR 1103-18), restricts employers from asking about a job applicant’s age, with limited exceptions for age requirements based on legal or safety needs.

Coverage

JAFA covers all employers in Colorado, public or private, of all sizes and in all industries.¹ Individual persons who are “an agent, a representative, or a designee of the employer” are also covered.²

What Employers *May Not Do*:

- Employers **can’t ask** applicants to **disclose their age** in initial applications, which includes not asking their:
 - date of **birth**;
 - dates of **attendance** at an educational institution;
 - dates of **graduation** from an educational institution; or
 - **other inquiries similarly** disclosing age — for example, asking which election an applicant first voted in, or when an applicant graduated high school, would give information on when they likely turned 18.

What Employers *May Do*:

- Employers **may** request **additional application materials** — CVs, certifications, school transcripts, etc.³
 - **But** if an employer does so, it **must notify** applicants that they **may redact age-identifying information** — date of birth, dates of school attendance or graduation, etc.

Example 1: In addition to questions in an online application, an employer requires a resume from applicants. The employer is compliant because it provides the following notice on the job application:

“Colorado Residents: In any materials you submit, you may redact or remove age-identifying information such as age, date of birth, or dates of school attendance or graduation. You will not be penalized for redacting or removing this information.”

- Employers **may verify compliance** with **age requirements** imposed by or pursuant to:
 - (1) a bona fide occupational qualification related to public or occupational **safety**;
 - (2) a **federal** statute or regulation; or
 - (3) a **state or local** statute or regulation based on a bona fide occupational qualification.
 - **But** an employer verifying compliance in an initial application **must not ask** an individual’s **specific age** — including age-disclosing information like date of birth, school attendance, or school graduation.

¹ [C.R.S. § 8-2-131\(2\)\(b\)](#) (“Employer” means a person engaged in a business, industry, profession, trade, or other enterprise in the state or a unit of state or local government.”). JAFA does not reach the federal government itself as an employer, but that exclusion doesn’t apply to private sector employers who are federal contractors.

² [C.R.S. § 8-2-131\(2\)\(b\)](#) (“Employer” includes an agent, a representative, or a designee of the employer.”).

³ [POST Rule 12.1.1](#).

Example 2: Federal and state law disallow minors from performing certain work — including that no minor can sell or serve alcoholic beverages. A restaurant hiring someone to serve alcoholic beverages:

- (A) **may** ask in an **application** whether an applicant will be at least 18 when they would start; and
- (B) **may** ask, **after** extending a job offer, the applicant to provide evidence of their **specific age**, like a driver’s license, without redacting age information like date of birth; but
- (C) **may not** ask an applicant to disclose their **specific age**, or to produce **evidence** of their age like an unredacted driver’s license — with their application.

Example 3: A Colorado employer copies this [State Application for Employment](#) that another state uses for various government jobs. The application unlawfully asks for dates of school attendance and graduation, or expected graduation, from each educational institution. It also asks whether the applicant is at least age 17, which is permissible only *if* that age is a bona fide occupational qualification related to safety, or to comply with a statutory or regulatory age requirement. It also may violate other Colorado laws that protect against certain screening or questioning of applicants.⁴

Initial Employment Applications

- The ban on asking for age-identifying information, and the duty to notify applicants that they may redact age-identifying information from additional materials, are limited to initial employment applications.⁵
 - An “**initial employment application**” includes “all items the employer requires in order for an applicant to submit complete application materials for a position.”⁶
 - **Splitting** an initial employment application into multiple parts or steps, and asking for age-identifying information after the first part, still violates JAJA.⁷

Example 4: An employer’s application starts with a three-question form asking applicants their name, whether they’re over 18, and which store location they prefer. Days after an applicant submits that first form, the employer asks them to submit a second form with 20 more questions, including date of birth. This second form violates JAJA because it is still part of the initial application.

Enforcement

- **Filing** of complaints must be with the Division (not courts) within 12 months of violations.
- **Investigation:** The Division investigates any complaint by a named complainant unless it is without merit. Anonymous complaints are accepted, and serve as tips that the Division may investigate at its discretion.
- **Remedies** if a violation of JAJA is found include **orders** requiring the employer to:
 - **comply** with JAJA **within 15 business days**; and
 - **pay a penalty**, up to \$1,000 for a second violation, or \$2,500 for a later violation, if the employer either
 - **failed to comply** with an order requiring JAJA compliance within 15 business days, or
 - **complied** with an order requiring JAJA compliance, then committed **another violation**.⁸
- **Visit** cdle.colorado.gov/Postings for instructions on how to file a complaint, and other information on JAJA and related laws.

For More Information: Visit the Division [website](#), call 303-318-8441, or email cdle_labor_standards@state.co.us.

⁴ See [INFO #8](#) (Colorado Equal Pay for Equal Work Act, which limits “seek[ing] the wage rate history” of a job applicant); [INFO #9C](#) (Colorado Chance to Compete Act, which limits criminal history screening in initial applications).

⁵ [C.R.S. § 8-2-131\(3\)\(a\)–\(b\)](#).

⁶ [POST Rule 2.13](#).

⁷ Compare [Brinkerhoff](#), DLSS Claim CtC-0001-24 (Citation, Feb. 20, 2024) (under Chance to Compete Act, which limits criminal history screening in initial applications: an employer’s “online questionnaire” wasn’t the full “initial application,” because it wasn’t the “entire process of initially applying”; and employers can’t avoid restrictions on “initial applications” by splitting an initial application into two forms, because “[l]abor laws generally are not opt-out suggestions”), with [Performance Driven Workforce](#), DLSS Claim CtC-0001-22 (Notice of Closure, Mar. 21, 2024) (no violation where “the initial application process had ended” after the employer reviewed it, then made a good-faith conditional job offer).

⁸ Each illegal *posting or application* is a separate violation, but each *response* to a posting is not. [C.R.S. § 8-2-131\(5\)\(e\)](#).