



Interpretive Notice & Formal Opinion (“INFO”) # 7:

Payment of Wages & Required Record-Keeping

Overview

This INFO addresses wages, timeliness of payment, different rates of pay, methods of payment, and record-keeping requirements.

Definition of Wages

[The Colorado Wage Act](#) defines “wages” and “compensation” to include all of the following:

- (I) All amounts for labor or service by employees, whether hourly wages, salaries, commissions, piece rates, or other pay method, and whether set by oral or written agreement of any kind, as long as the labor or service is performed personally by the person demanding payment. No amount is considered wages or compensation until earned, vested, and determinable, at which time it shall be payable to the employee.
- (II) Bonuses or commissions earned for labor or services performed in accordance with the terms of any employer-employee agreement, but not severance pay.¹
- (III) Vacation pay earned in accordance with the terms of any agreement. If an employer provides paid vacation for an employee, then when upon separation from employment, the employee shall be paid all earned and determinable vacation pay, in accordance with the terms of any employer-employee agreement.
- (IV) “Paid sick leave” as provided in the “[Healthy Families and Workplaces Act](#)” (HFWA). HFWA defines paid sick leave as wages, but does not require payment of unused paid sick leave upon separation.

Timely Payment of Wages

Every employer must establish regular pay periods of no longer than one calendar month or thirty days, whichever is longer, and regular pay days no later than ten days following the close of each pay period. An employer will be subject to penalties if on two or more occasions within any twenty-four month period, an employee is unable to cash or deposit its earned wages due to insufficient funds in the employer’s account.

Every employer must post a notice specifying the regular paydays, the time and place of payment, and any changes concerning them that may occur from time to time. The notice must be posted at the place of work, if practicable, or otherwise where it can be seen as employees come or go to their places of work, or at the office or nearest agency for payment kept by the employer.

When an employer **fires or lays off** an employee, the employer must pay all wages owed to the employee immediately. If the employer’s payroll unit is not regularly scheduled to be operational, then the wages shall be made available to the employee no later than six hours after the start of the unit’s next regular workday.²

Exception: If the payroll unit is off-site, the employer shall deliver the wages due no later than 24 hours after the start of the employer’s payroll unit’s next regular workday, to one of the following locations selected by the employer: (1) the worksite; (2) the employer’s local office; or (3) the employee’s last known mailing address.

An employer may take up to 10 days to audit to ensure that all property was properly returned if the terminated employee had been entrusted with collection, disbursement, or handling of money or property.³

Example: An employer that fires an employee, but does not pay them until three days later, after an audit to ensure that a computer entrusted to the employee was returned, is still considered to have paid timely. ([Marquez Environmental Services, DLSS Case #2650-17 \(Hearing Officer Decis. No. 18-049, Aug. 9, 2018\).](#))

¹ [C.R.S. 8-4-101\(14\)\(b\); Jeskis, Inc., DLSS Case #1468-18 \(Hearing Officer Decis. No. 19-034, Apr. 16, 2019\).](#)

² [C.R.S. 8-4-109\(1\)\(a\).](#)

³ [C.R.S. 8-4-105\(1\)\(e\).](#)

When an employee **quits or resigns**, the employer must pay all wages owed to the employee by the next regular payday to one of the three locations listed in the exception above.⁴

If an employer chooses options (1) or (2) above, but the employee has not received their wages within 60 days after they were due, the employer must mail the wages to the employee's last known mailing address.⁵

If an employee files a complaint against the employer or sends a written demand for payment of wages, the employer must pay all wages owed within fourteen days of receipt of the complaint or written demand or it may incur penalties on the unpaid wages. See [INFO #2: Wage Claim Investigation Process](#).

Different Rates of Pay

An employer may pay different rates for different work, if the employer and the employee agree to each rate **before the work is performed**.⁶ An employer may not unilaterally change an employee's pay rate retroactively (after the work has been performed for an agreed rate) for unsatisfactory work.⁷

Permissible and Impermissible Methods of Payment

An employer may choose to pay employees wages through check, cash, direct deposit, money order, or pay cards—but must ensure that employees have free access to the entire amount of net pay. An employer may **not** pay wages in the form of scrip, coupons, cards, or other things redeemable for merchandise, unless such methods of payment are redeemable for cash when payment is due.

Pay Statement and Record-Keeping Requirements

An employer must maintain records of the following:

- 1) name, address, occupation, and date of hire of the employee;
- 2) date of birth, if the employee is under 18 years of age;
- 3) daily record of all hours worked;
- 4) record of credits claimed and of tips;
- 5) regular rates of pay, gross wages earned, withholdings (including deductions by the employer), and net amounts paid each pay period;
- 6) the inclusive dates of the pay period; and
- 7) the name and address of the employer.⁸

Each pay period an employer must provide its employees with an itemized earning statement that contains:

- 1) the employee's and the employer's names;
- 2) total hours worked in the pay period;
- 3) record of the credits claimed and of tips; and
- 4) regular rates of pay, gross wages earned, withholdings made, and net amounts paid each pay period.⁹

An employer must retain these records for at least three years after the wages or compensation were due, and for the duration of any pending wage claim related to an employee.¹⁰ An employer must make these records available to the Division upon request, on penalty of fines of up to \$250 per employee per month.¹¹

Additional Information

Visit the Division's [website](#), call 303-318-8441, or email cdle_labor_standards@state.co.us.

⁴ [C.R.S. 8-4-109\(1\)\(b\)](#).

⁵ [C.R.S. 8-4-109\(1\)\(c\)](#).

⁶ [Mountain Top Venture, Inc., DLSS Case #5449-18 \(Hearing Officer Decis. No. 19-070, Oct. 1, 2019\)](#).

⁷ [Interim Healthcare, DLSS Case # 2711-17 \(Hearing Officer Decis. No. 18-059, Sept. 14, 2018\)](#).

⁸ [C.R.S. 8-4-103\(4\); Colorado Overtime & Minimum Pay Standards Order \("COMPS"\), 7 CCR 1103-1, Rule 7.1.](#)

⁹ [Colorado Overtime & Minimum Pay Standards Order \("COMPS"\), 7 CCR 1103-1, Rule 7.2.](#)

¹⁰ [Colorado Overtime & Minimum Pay Standards Order \("COMPS"\), 7 CCR 1103-1, Rule 7.3.](#)

¹¹ [C.R.S. 8-4-103\(4.5\)](#).