

2023
WEBINAR

Colorado Compliance & Trending Topics

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QUICK UPDATES FOR 2023



Colorado Minimum Wage

Beginning Jan. 1:

2023 Minimum Wage	\$13.65	2023 Exempt Salary Threshold	\$50,000
2023 Tipped Minimum Wage	\$10.62		

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[See All States Minimum Wage Here](#)

[See All States Exempt Salary Threshold](#)

Note: Different municipalities might have different minimum wages. Minimum wage in Denver is increasing from \$15.87 per hour to \$17.79 per hour on January 1, 2023.

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QUICK UPDATES FOR 2023: FSA

Health Flexible Spending Account (FSA) Contribution Changes for 2023

- Maximum salary deferral increasing to \$3,050
 - *Up \$200 from \$2,850*
- Maximum carryover amount increasing to \$610
 - *Up \$40 from \$570*
- Dependent Care FSA Contribution for 2023 - Maximum salary deferral stays the same
 - *\$5,000 for single taxpayers and married couples filing jointly*
 - *\$2,500 for married couples filing separately*

QUICK UPDATES FOR 2023: HSA

Health Savings Account (HSA) Contribution Changes for 2023

- HSA contribution limit (employer + employee)
 - *Self: \$3,850 (increasing by \$200)*
 - *Family: \$7,750 (increasing by \$450)*



QUICK UPDATES FOR 2023: 401K



401(k) Contribution Limit Changes for 2023

- Maximum employee elective deferral (age <50) increasing to \$22,500
 - *Up \$2,000 from \$20,500*
- Employee catch-up contribution (age 50+) increasing to \$7,500
 - *Up \$1,000 from \$6,500*
- Defined contribution maximum employee + employer (<50) increasing to \$66,000
 - *Up \$5,000 from \$61,000*
- Defined contribution maximum employee + employer (age 50+) increasing to \$73,500
 - *Up \$6,000 from \$67,500*
- Increases in employee compensation limit (\$330,000), key employees' compensation threshold for top-heavy plan testing (\$215,000) and highly compensated employees' threshold for nondiscrimination testing (\$150,000)

PREPARING FOR 2023

If you are an HR client with Vida HR – we can help with:

Labor Law Posters

Annual Training for Employees:

- *Harassment*
- *Cybersecurity*
- *OSHA requirements*

Updating Your Employee Handbook

- *Including new FAMILI rules coming into effect on January 1, 2023.*
- *Adding language about Colorado's Wage Deduction notice requirements.*
- *Updating the COMPS and Paid Leave & Whistleblower policies/posters for 2023 versions.*



PUBLIC HEALTH EMERGENCY LEAVE IN COLORADO

Public Health Emergency (PHE) Leave (**Updated to Include Similar Respiratory Illnesses**)

Update - November 11, 2022 - Public Health Emergency Leave is Still in Effect – and has Expanded from Just COVID to Flu and RSV Too!

In addition to “accrued paid sick leave” (addressed below), all Colorado employers, regardless of size or industry, still must provide employees with public health emergency (“PHE”) leave (two weeks – 80 hours, or less for part-time employees) under the Colorado Healthy Families and Workplaces Act (HFWA). **Colorado’s 80-hour PHE leave is ongoing:** It continues as long as a federal or state PHE is declared (C.R.S. § 8-13.3-402(9)) – and while state public health orders have been scaled back, currently federal and Colorado PHEs both remain declared.

As of November 11, 2022, the conditions covered by [Colorado’s latest PHE declaration](#) include health needs related to **not just COVID, but also flu, respiratory syncytial virus (“RSV”), and similar respiratory illnesses**. Those with flu or RSV symptoms **already were likely covered** as having COVID symptoms – so a key impact of this expansion may be that coverage remains even if testing confirms someone has flu or RSV rather than COVID. The expansion beyond COVID doesn’t give employees an extra 80 hours for those conditions, it just means they can use their 80 hours for a broader range of conditions.

PHE leave is usable for a range of PHE-related needs, not just for confirmed cases. PHE-related needs include:

- Symptoms of COVID, flu, RSV or other similar respiratory illnesses
- Quarantining or isolating due to exposure
- Testing for COVID or similar respiratory illnesses
- Vaccination and its side effects
- Inability to work due to health conditions that may increase susceptibility or risk of COVID, flu, RSV or similar respiratory illnesses
- Needs to care for family (illness, school closure, etc.)

Employers cannot require documentation from employees to show that leave is for PHE-related needs.

This 80-hour PHE leave will continue until four weeks after all applicable PHE declarations end or are suspended. Based on the current emergency declarations, **PHE emergency leave will continue at least into February 2023**, but will continue longer if either the federal or the state PHE declaration is renewed further into 2023.

Leave does not renew – what is left from the original amount in 2021, is all the employee is eligible for.

60-day notice to end PHE – has not been given.

Monkeypox does NOT trigger PHE.

FAMLI

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COLORADO FAMILY AND MEDICAL LEAVE INSURANCE (FAMLI) PROGRAM

Colorado voters approved Proposition 118 in November of 2020, paving the way for a state-run Paid Family and Medical Leave Insurance (FAMLI) program.

The FAMLI program will ensure all Colorado workers have access to paid leave in order to take care of themselves or their family during life circumstances that pull them away from their jobs — like growing their family or taking care of a loved one with a serious health condition.

All Colorado employers must begin contributions to the Family and Medical Leave Insurance (FAMLI) program.

Employees will be eligible to access paid Family and Medical leave starting January 1, 2024, and will be compensated through the Colorado FAMLI Division.

Information about the program can be found on the FAMLI website:
<https://famli.colorado.gov/>.

[Access More Information Here](#)

FAMLI OVERVIEW – BEGINS JANUARY 1, 2023

HOW IS FAMILI FUNDED?

The insurance program is funded through contributions from both the employee and the employer, depending on the size of the employer.

***The initial rate for premium contributions is 0.9% for 2023 – 2024.

Employers with 9 or fewer employees will be responsible for deducting 0.45% of each employee's pay and submitting the premium to the state FAMILI fund on a quarterly basis.

***The employer does not need to make a matching contribution to the state FAMILI fund for each employee if they have 9 or fewer employees.

Employers with 10 or more employees will be responsible for deducting 0.45% of each employee's pay, and a matching amount of 0.45% from the employer, and submitting the total combined premium of 0.9% to the state FAMILI fund on a quarterly basis.

Self-employed individuals who opt-in to the FAMILI program only pay 50% of the premium (0.45% of their wages) but still receive full benefits.



FAMLI CONTRIBUTIONS

FAMLI premium contributions from both the employee and employer side go into a public FAMLI fund. The funds are available to all eligible employees in Colorado as of 01/01/2024.

The Colorado FAMLI Division will update the premium percentage starting in 2025 and each year thereafter and will provide notice prior to January 1 of each year.

The premiums deducted from the employee's wages each pay period will need to be detailed on the employee's paystubs, just like other deductions for benefits, taxes, etc. according to the Colorado requirement for pay statements.

TYPES OF PAYMENTS CONSIDERED WAGES

WAGES (subject to FAMILI Premiums)	NOT WAGES (exempt from FAMILI Premiums)
Payments defined as wages under the Federal Unemployment Tax Act (FUTA)	Payments for moving expenses if deduction is allowed in the federal Internal Revenue Code (IRC), IRC 127
Tips	Group Term Life Insurance
Employee contribution to 401(k) or IRC 408 simplified Retirement Plans	Employer contribution to 401(k) or IRC 408 simplified Retirement Plans, all PERA contributions
Disability payments paid in first 6 months after an employee worked for you	Amounts paid or incurred for a dependent care plan (IRC 129) or a educational assistance program (IRC 127)
Employer contributions to a Medical Savings Account	Employee Contributions to a Medical Savings Account
Employee-matching contributions into IRC 219 simplified employee pension plan	Employer contributions into IRC 219 simplified employee pension plan
Payments made by public school or 501(c)(3) into annuity contract or by governmental entity into deferred compensation plan because of a salary-reduction agreement	Payments into a deferred compensation plan if you are a government entity
Payments for personal services, including anything other than cash that has cash value (except payments to agricultural or domestic workers, which must be cash to be wages)	Value of meals or lodging furnished by employer if such items are excluded from income as described in IRC 119
Employee contributions to a Salary Reduction Simplified Employee Pension Plan (SARSEP)	Employer contributions to a Salary Reduction Simplified Employee Pension Plan(SARSEP)
125 Cafeteria Plan if cash is chosen	125 Cafeteria Plan if qualified benefit chosen

The definition of wages included is identical to the definition of wages under Unemployment.

Employers who are exempt from paying unemployment premiums are NOT exempt from paying FAMILI premiums.



FAMILY AND MEDICAL LEAVE INSURANCE (FAMLI) PROGRAM



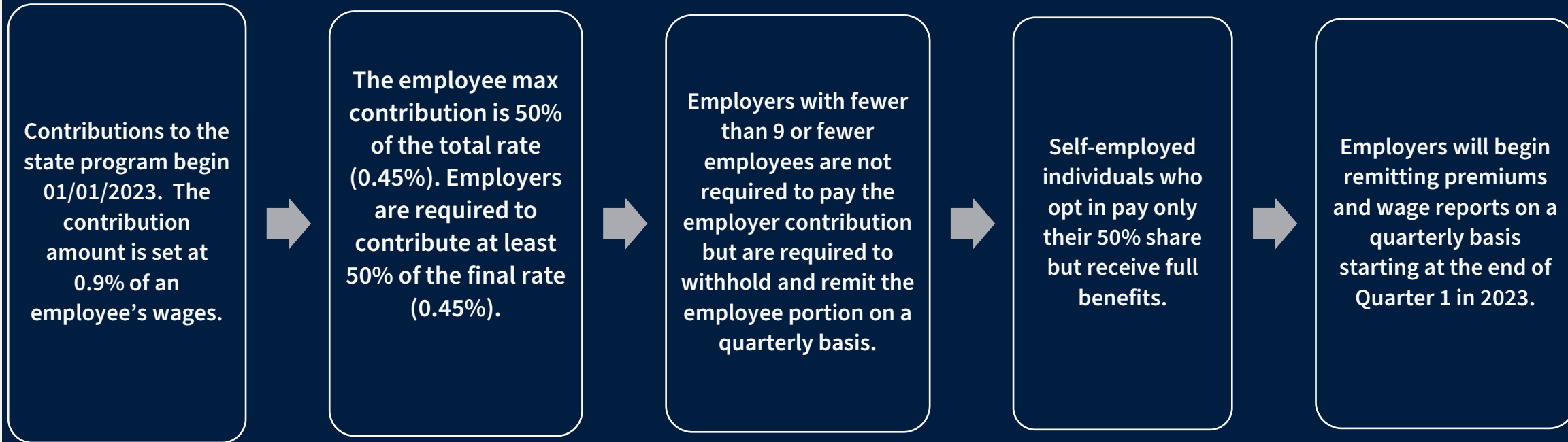
There are two options for employers:



- Sign up to cover your employees through the Colorado FAMLI State Plan.
- Offer an equivalent Private Plan benefit to your employees.



EMPLOYERS MAY CHOOSE TO PAY A PORTION OF OR ALL OF THE EMPLOYEE CONTRIBUTION AMOUNT AS AN EMPLOYMENT PERK.



IF YOU CHOOSE TO SIGN UP FOR THE STATE FUNDED PLAN

IF YOU CHOOSE TO OFFER A PRIVATE PLAN TO YOUR EMPLOYEES

Employee pay deductions still begin 01/01/2023 – even if you sign up for a Private Plan.

Employers intending to meet their FAML I obligations through a private plan must apply for and obtain a private plan exemption from the Division in accordance with Private Plan Rules.

Private plans must be approved by the FAML I Division in order to satisfy an employer's obligations under the FAML I Program.

Private plan approval must be renewed each year at least 60 days prior to expiration of the current approval.

The private plan must provide at least the same protections and coverage as the FAML I plan, including the same qualifying reasons for leave, same number of weeks available for leave, wage replacement of at least the FAML I amount, allowing intermittent leave, no additional restrictions, costs, or fees, and must be offered to all employees.

The FAML I Division will reimburse an employer for premiums paid in 2023, minus the required private plan administration fee, if the employer has an approved private plan with an effective benefits date of no later than January 1, 2024.

Employers will be responsible for refunding employee contributions.

Once an approved private plan is in effect, the employer is no longer required to submit premiums or wage reports to the FAML I Division but must continue to maintain internal records in accordance with forthcoming Private Plan Rules.

For private plan exemption approval in time for a January 1, 2024, effective date, employers must apply to the FAML I Division for private plan exemption approval by October 31, 2023.

Employer FMLA and/or Maternity/Paternity Paid Leave policies are not acceptable substitutes.



RESPONSIBILITIES UNDER THE FAMLI STATUTE

Employer Type	Employer Premium	Employee Premium	No Premium
9 or fewer employees		✓	
10 or more employees	✓	✓	
Voluntarily Participating Self-Employed		✓	
Participating Local Government Employer	✓	✓	
Voluntarily Participating Local Government Employee		✓	
Local Government Employer who has Voted to Opt Out			✓
Nonparticipating Self-Employed			✓
Employer with Approved Private Plan			✓

Counting Nationwide Employees for **FAMLI**



- » **Total nationwide employees: 15+**
- » **Colorado employees: 8**
- » Employer is required to pay and remit the full 0.9% premium for its **8** Colorado employees.

Q: Who counts toward the company's total number of employees if the employer is based outside of Colorado?

A: If the total number of employees working for the company nationwide is ten or greater, the employer is responsible for sending the full 0.9% premium (0.45% from employees and 0.45% from the employer) along with wage reports for its **Colorado** employees to the Division once a quarter.

HOW TO COUNT EMPLOYEES

Headcounts are based on total number of employees across all states of operation.

Premiums and matching contributions are only required for those employees living and working in Colorado.

On or after January 1, 2024, eligible employees can begin accessing benefits through the FAMLI Program.

After 180 days of employment (new hires) and after earnings of at least \$2500 in the past year (existing staff), employees will be eligible for up to twelve (12) weeks of paid family and medical leave annually and can access the paid FAMLI benefit for qualifying reasons.

Those experiencing pregnancy or childbirth complications are eligible for an additional four (4) weeks – a total of 16 weeks annually.

WHO IS ELIGIBLE?



QUALIFYING REASONS TO ACCESS FAMLI LEAVE

EMPLOYEE:

- Mental or physical illness, injury, or health condition that prevents employee from working;
- To obtain a medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or
- To obtain preventative medical care


EMPLOYEE'S FAMILY MEMBER:

- Has a mental or physical illness, injury, or health condition;
- Needs to obtain a medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or
- Needs to obtain preventative medical care


EMPLOYEE OR FAMILY MEMBER IS VICTIM OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR HARASSMENT:

- Seek medical attention for employee or family member to recover from a mental or physical illness, injury, or health condition caused by domestic abuse, sexual assault, or harassment;
- Obtain services from a victim services organization;
- Obtain mental health or other counseling;
- Seek relocation due to domestic abuse, sexual assault, or harassment; or
- Seek legal services including preparation for or participation in a civil or criminal proceeding relating to or resulting from the domestic abuse, sexual assault, or harassment.


FAMILY MEMBER DEFINITION




The law is specific on the definition of family member:




Regardless of age, a biological, adopted, or foster child, stepchild or legal ward, a child of a domestic partner, a child to whom the covered individual stands in loco parentis, or a person to whom the covered individual stood in loco parentis when the person was a minor;




A biological, adoptive, or foster parent, stepparent, or legal guardian of a covered individual or covered individual's spouse or domestic partner or a person who stood in loco parentis when the covered individual or covered individual's spouse or domestic partner was a minor child;



A person to whom the covered individual is legally married under the laws of any state, or a domestic partner of a covered individual as defined in section 24-50-603(6.5);



A grandparent, grandchild, or sibling (whether a biological, foster, adoptive or step relationship) of the covered individual or covered individual's spouse or domestic partner; or



As shown by the covered individual, any other individual with whom the covered individual has a significant personal bond that is or is like a family relationship, regardless of biological or legal relationship.

1

Employees will be eligible to apply for FAMLI benefits through the State of Colorado FAMLI Division website.

2

Employees will be paid through the Colorado FAMLI Division and will have to submit an application for the leave, similar to the Unemployment Insurance program.

3

Employers will be notified when an employee submits a claim, when the claim is approved, and an estimated return to work date for the employee.

4

Payments will be made to the employee directly, from the Division, within two weeks after a claim is filed and approved, and every two weeks after.

BEGINNING JANUARY 1, 2024

HOW IS THE EMPLOYEE BENEFIT DETERMINED?

The amount an employee may receive is determined by the FAML I Division

The weekly benefit shall be determined as follows:

- While an employee is out on FAML I leave, the FAML I Division pays the employee up to 90% of their wages based on a sliding scale and proportional to Colorado's average weekly wage.
- Colorado's average weekly wage as of July 2022 is \$1,350.55; however, benefits under FAML I are capped at \$1,100.00 per week.
- Example: an employee's weekly wage is \$1,000, their FAML I weekly wage at 90% would be \$768. An employee with a weekly wage of \$2,000 would be capped at receiving \$1,100.00.

IMPORTANT NOTE

Employee wages are paid by the FAMLI Division while out on a FAMLI approved Leave of Absence. Employers DO NOT pay employees during the leave.

Employers may not require an employee to use or exhaust any PTO, vacation, sick, or other leave benefit prior to accessing the FAMLI benefit.

Employers do have to option to allow employees to “top off” their FAMLI benefits with available paid leave balances, but there must be a signed agreement between the employee and employer to do so.

The leave taken under the FAMLI program runs concurrently with federal Family and Medical Leave Act (FMLA) and other types of leave the employer may offer.

Employers are obligated to inform employees who apply for FMLA about the Colorado FAMLI benefit.



RECENT FAMLI RULE UPDATES

Employees are not required to apply for FAMLI benefits and employers cannot require employees to apply.

While an employee is out on FAMLI leave, employers are still required to maintain employee health benefits and employees are still required to pay their portion of the health care premiums during their leave.

Employer have the option to count both the FAMLI wage replacement amount and the length of the FAMLI leave towards limits included in short-term or long-term disability policies but must first give written notice to employees.

FAMLI premiums are considered post-tax deductions and do not reduce an employee's taxable income.

FAMLI deductions should be reported on Form W-2 in Box 14 labeled as FAMLI.

The FAMLI Division will issue 1099-G forms to any employee who receives FAMLI benefits.

FAMLI benefits received by employees are not subject to state income tax, but clear guidance on federal income tax implications is not yet available.

EMPLOYER NEXT STEPS



Determine how FAML I impacts your business – how many employees do you have?

***When counting employees, be sure to count all employees, even those working outside of the State of Colorado, to get your full employee headcount.



The FAML I website has a [calculator](#) available to estimate the premium amount by employee, or you can use the formula and rate available to estimate the premium amount by your total number of employees.



Educate your staff on the changes they will see on their paycheck in 2023, and what the benefit will be for them in 2024.

1

In the last quarter of 2022, update your Employee Handbook with information about FAMLII premium contributions.

Contact your HR Business Partner with questions about making this update.

2

When the registration period for FAMLII enrollment with the State of Colorado opens, register your business. Or, if you are choosing a private plan, submit your application to the state for approval of the plan.

Vida HR can help with this!

3

No later than January 1, 2023, post the required FAMLII notice in a conspicuous place for employees to view, and provide the information to employees via electronic means such as email or an employee portal.

4

Begin deductions for employee premium contributions as of January 1, 2023, and remit collected contributions from the employee and employer (if applicable) to the FAMLII Division on a quarterly basis thereafter.

EMPLOYER NEXT STEPS CONTINUED

No later than 01/01/2023, employers are required to post the 2023 FAMLI Program Notice in a conspicuous place where employees regularly frequent – where other labor law posters are located.

For Fully remote employees, you should make this available digitally where employee have access at all times, e.g., email, employee portal, intranet, etc.

[Access the Document Here](#)

Deductions from Employee Wages start January 1, 2023

- The employee share of FAMLI premiums is set at 0.45% of employee wages through 2024. For 2025 and beyond, the director of the FAMLI Division sets the premium rate according to a formula based on the monetary value of the fund each year. Employers with ten or more employees must also contribute an additional 0.45% of wages for a total of 0.9%, but employers with nine or fewer employees are only responsible for the 0.45% employee share.
- Employers are not required to deduct FAMLI contributions from employees' wages. However, **starting in 2023, employers are allowed to deduct up to 0.45% from employees' wages for FAMLI contributions.** For every \$100.00 an employee makes, an employer may deduct up to \$0.45.

Benefits start January 1, 2024

- Starting in 2024, paid family and medical leave benefits are available to most Colorado employees who have a qualifying condition and who earned \$2,500 over the previous year for work performed in Colorado.
- The qualifying conditions for paid family and medical leave are:
 - Caring for a new child during the first year after the birth, adoption, or foster care placement of that child.
 - Caring for a family member with a serious health condition.
 - Caring for your own serious health condition.
 - Making arrangements for a family member's military deployment.
 - Obtaining safe housing, care, and/or legal assistance in response to domestic violence, stalking, sexual assault, or sexual abuse.
- Covered employees are entitled to up to 12 weeks of paid family and medical leave per year. Individuals with serious health conditions caused by pregnancy complications or childbirth complications are entitled to up to 4 more weeks of paid family and medical leave per year for a total of 16 weeks.
- Leave may be taken continuously, intermittently, or in the form of a reduced schedule.
- Leave will be paid at a rate of up to 90% of the employee's average weekly wage, based on a sliding scale. Employees may estimate their benefits by using the benefits calculator available at famli.colorado.gov.
- You don't have to work for your employer a minimum amount of time in order to qualify for paid family and medical leave benefits.
- If FAMLI leave is used for a reason that also qualifies as leave under the federal FMLA, then the leave will also count as FMLA leave used.
- Employees may choose to use sick leave or other paid time off before using FAMLI benefits, but they are not required to do so.
- Employers and employees may mutually agree to supplement FAMLI benefits with sick leave or other paid time off in order to provide full wage replacement.

Filing Claims

- Employees will not be able to file for benefits until the last quarter of 2023. Benefits will be available starting January 2024. Instructions on how to apply for benefits will be available on famli.colorado.gov in the last quarter of 2023.
- Employees or their designated representatives apply for FAMLI benefits by submitting an application, along with required documentation, directly to the FAMLI Division. Employers cannot make employees apply for FAMLI benefits.
- Applications may be submitted in advance of the absence from work, and in some circumstances, they may be submitted after the absence has begun.
- Approved applications will be paid by the FAMLI Division within two weeks after the claim is properly filed, and every two weeks thereafter for the duration of the approved leave.
- Employees can appeal claim determinations to the FAMLI Division.
- Individuals who attempt to defraud the FAMLI program may be disqualified from receiving benefits.

Job protection and continued benefits

- Employers must maintain health care benefits for employees while they are on FAMLI leave, and both the employer and the employee remain responsible for paying for those benefits in the same amounts as before the leave began.
- An employee who has worked for the employer for at least 180 days is entitled to return to the same position, or an equivalent position, upon their return from FAMLI leave.

Retaliation, Discrimination, and Interference Prohibited

- Employers may not interfere with employees' rights under FAMLI, and may not discriminate or retaliate against them for exercising those rights.
- Employees who suffer retaliation, discrimination, or interference may file suit in court, or may file a complaint with the FAMLI Division.

Other Important Information

- An employer may offer a private plan that provides the same benefits as the state FAMLI plan, and imposes no additional costs or restrictions. Private plans must be approved by the FAMLI Division.
- Employees and employers are encouraged to report FAMLI violations to the FAMLI Division.



EMPLOYEE PAY STUB

Last Name, First
POSITION TITLE
Payment Period
04/01/2023 - 05/01/2023

KAA EMPLOYEE ID
990000000
Payment Date
05/04/2023

Earnings	Pay Period Hours	Pay Period Gross	YTD
	168.00	5,000.00	20,000.00

Deductions	Info	Pay Period	YTD
Not subject to FAMILI Premiums	Kaiser Cafe 125 Medical	55.00	220.00
Not subject to FAMILI Premiums	EyeMed Cafe 125 Medical	5.00	20.00
Not subject to FAMILI Premiums	FSA Cafe 125 Medical	20.00	80.00
Not subject to FAMILI Premiums	Group Term Life Cafe 125	20.00	80.00
	401K Retirement Contribution	700.00	2,800.00
	Medicare	65.00	260.00
	Federal Tax	600.00	2,400.00
	State Tax	225.00	900.00
	Local Tax	5.00	20.00
	Social Security Tax	310.00	930.00
	FAMILI Premium	22.05	88.20
Total Deductions:		2,027.05	7,798.20
Net Pay:		2,972.95	12,201.80

Example of FAMILI deduction
0.45% of wages
(Gross wages—deductions not
subject to FAMILI premiums)

Sample paystub
from the FAMILI
Division that shows
employees what
the FAMILI premium
deduction might
look like.

Optional Paycheck Stuffer to provide to employees for more information about the deductions from their paychecks for FAML I premiums.

[Access the Document Here](#)

Your FAML I Contributions Start in January.



Starting January 1, 2023, most Colorado workers (full-time, part-time and seasonal) will see a new deduction on their paychecks of 0.45% of their wages.

This small deduction covers your contribution to Colorado's new, voter-approved Paid Family and Medical Leave Insurance Program (FAML I). For someone making \$45,000/year that's a deduction of less than \$8 per biweekly paycheck. To see what your estimated deduction will be, visit famli.colorado.gov.

You will be able to apply for FAML I benefits—like paid leave for up to 12 weeks when you or a family member experiences a qualifying health issue—starting in January 2024.

Frequently Asked Questions

Why am I paying now for a benefit I cannot use for a year?

The FAML I program is funded by premiums made by both employers and employees. Contributions made in 2023 will establish the fund that will eventually pay out benefits to Colorado workers in 2024. The gap year is needed to build the funds before benefits can be paid.

I did not vote for this, why must I contribute part of my paycheck?

When Colorado voters passed Prop 118 in 2020, that established the FAML I Act for all of Colorado. With the law now in effect, most businesses and most workers across the state are required to comply.

Can I opt out?

No. The FAML I Act does not allow employees to opt out of the program.

I don't plan on ever using this benefit, do I still need to contribute?

Yes. The FAML I program is a social insurance program, and does not operate like a personal health savings account. Your individual contributions are not tied to when you apply for benefits. Contributions made by both employees and employers will fund the social insurance pool that will eventually pay out benefits in 2024.

Can I file a claim now?

No. FAML I benefits will not be available until 2024. We are in the process of building the technology and corresponding processes to accept claims. Expect to see more guidance from the FAML I Division on how to apply for benefits in the second half of 2023.

famli.colorado.gov



We're @ColoradoFAML I on Social!



COLORADO
Family and Medical Leave
Insurance Program (FAML I)
Department of Labor and Employment



COLORADO SECURESAVINGS ACT

**Colorado SecureSavings
Act (CSSA) requires
qualified Colorado
businesses to facilitate
employee participation
in the program.**

WHAT IS THE COLORADO SECURESAVINGS ACT (CSSA)?

Colorado SecureSavings Program makes it easier for employees to save for retirement, and automatic retirement savings through the workplace can help them have a more financially secure future.

The program uses automatic enrollment through payroll contributions to help employees save.

Employees can opt out if they don't want to participate or prefer to save another way.



COLORADO SECURESAVINGS ACT

Qualified Employers	Registration/Exemption
Have been in business for two (2) or more years.	Employers will be notified by the Colorado SecureSavings Program when it is time for the business to register. To register, you will need:
Have five (5) or more employees.	Federal Employer Identification Number (EIN)
Do not already have a qualified employer-sponsored retirement savings plan for any employees.	Colorado SecureSavings Access Code (provided at time of notification from CSS by either mail or email)



WHAT IS A QUALIFIED EMPLOYER- SPONSORED RETIREMENT PLAN?



An employer-sponsored retirement plan includes a plan qualified under Internal Revenue Code sections 401(a) (including a 401(k) plan), qualified annuity plan under section 403(a), tax-sheltered annuity plan under section 403(b), Simplified Employee Pension plan under section 408(k), a SIMPLE IRA plan under section 408(p), or governmental deferred compensation plan under section 457(b).



It does not include payroll deduction IRAs.

EMPLOYER RESPONSIBILITIES UNDER CSSA

All Colorado business owners will be able to register when the program launches in 2023.

No later than 30 days after receiving the official registration notice from CSS, employer will need to either register or certify their exemption.



Upload your employees' payroll information and submit employees' savings contribution levels.

This can be completed by internal personnel or can be outsourced to a TPA.

If you are a Vida HR client, contact us to learn more.



Keep employee records up to date, including submitting payroll details each pay period and keeping employees' payroll contributions and staff list up to date.

COLORADO SECURESAVINGS EXEMPTIONS



Employers that offer a qualified retirement plan are not required to participate in the program.



In order to be approved for exemption from the CSS program, employers need to certify their exemption on the CSS website.



To certify the exemption, the employer will need their EIN and the CSS-provided Access Code.

CSSA FAQs



There are no employer fees.



Employers are not required or permitted to match employee contributions to the program.



CSS retirement plans do not replace or compete with 401(k)s or other qualified retirement plans.



Went into effect on May 25, 2022, after it was signed into law by Governor Polis.

Built on existing requirement under Colorado law to provide information about eligibility for Unemployment Insurance benefits at separation of employment.

COLORADO SEPARATION NOTICE REQUIREMENT SB 22-234

COLORADO SEPARATION NOTICE REQUIREMENTS

Employer's name.

Employer's address.

Employee's name.

Employee's address.

Employee's ID number or the last four digits of their Social Security number.

Employee's start date, end date, year-to-date earnings, and wages for the last week worked.

The reason the employee separated from the employer.

The notice must be written, in either electronic or hard copy format, and must be provided to all employees at termination, regardless of the reason for the employment separation.



Colorado Department of Labor and Employment issued their own version of the Separation Notice in October 2022.

The notice includes all of the required information from SB 22-234 and incorporates the law's previous requirements of notifying exiting employees about their Unemployment Rights.

[Access the Document Here](#)



NOTICE OF POTENTIAL AVAILABILITY OF UNEMPLOYMENT INSURANCE BENEFITS

ATTENTION EMPLOYER: You are legally required to provide a form, in hard copy or electronic format, to an employee upon separation. Please complete the form using information that matches your employee payroll records.

ATTENTION EMPLOYEE: Below is information from your previous employer at the time of separation from employment. If you received \$2,500 or more in payroll wages from any employer where taxes were withheld in the last 18 months, you may be eligible to file a claim for unemployment benefits. Before you file a claim, gather your income and related information, such as pay stubs and this form. You can file a claim by visiting the website at <https://cdle.colorado.gov/unemployment> or by calling the Unemployment Insurance Division at 303-318-9000 (Denver Metro) or 1-800-388-5515 (toll free).

Employee Name:	Employee SSN (last four digits only)/ or Individual Taxpayer Identification Number (ITIN):
Employee Address:	
Employee Start Date of Employment:	Employee Last Date Worked:
Employee Year-to-Date Earnings:	Earnings for the Last Week Worked:
Employer Legal Business Name:	Federal Employer Identification Number (FEIN):
Employer Trade Name/Doing Business As Name (if applicable):	Employer Address:
Reason the employee separated from employment (Please select only one option and limit free-form responses to one sentence. If an unemployment claim is filed, the Division will reach out to both parties for additional information about the separation):	
<input type="checkbox"/> Quit Employee's reason for quit: _____	
<input type="checkbox"/> Layoff	
<input type="checkbox"/> Discharge Reason for discharge: _____	
<input type="checkbox"/> Other: _____	

**COLORADO WAGE THEFT
AND UPCOMING
WAGE DEDUCTION
NOTICE
SB 22-161**

**Covers all Colorado Private
& Public Sector Employees.**

**Some provisions took place
August 10, 2022, most
significant changes take
effect January 1, 2023.**



COLORADO WAGE THEFT PENALTIES

PREVIOUS PENALTIES FOR NON-COMPLIANCE WITH WAGE DEMANDS:

- SB 22-161 increased the penalties employers may owe to employees if they do not pay wages owed within 14 days following a written demand or if they file suit.
- The previous penalties were the greater of:
 - 125% of the first \$7,500 owed and 50% of any amount above \$7,500 owed.
 - Or the employee's average daily earnings for 10 days.

THE NEW PENALTIES ARE THE GREATER OF:

- Two times the amount of the unpaid wages.
- Or, \$1000.00

WILLFUL VIOLATIONS:

- Previous penalties: 50% increase in the penalty amount.
- New penalties: If the employee can show the employer's refusal to pay was willful, the penalty is the greater of:
 - Three times the amount of the unpaid wages
 - Or, \$3,000

COLORADO WAGE DEDUCTION NOTICE

REQUIRED JANUARY 1, 2023

As of January 1, 2023, in order to deduct from an employee's final pay, employers must provide a notice to the employee within 10 days of separation.

- The notice must contain:
 - A written accounting specifying the amount of money or the specific property that the employee failed to pay or return.
 - The replacement value of the property.
 - When the money or property was provided to the employee.
 - And, when the employer believes the employee should have paid the money or returned the property.
- Only after sending the notice, is the employer able to deduct the amount from the employee's final wages – STILL WITHIN 10 DAYS.
- If the employee pays the money or returns the property within 14 days of the employer's notice, the employer must pay back the amount of the deduction to the employee within 14 days of receiving the money or property.



DEVELOP A WAGE DEDUCTION NOTICE*:

- The notice must meet the requirements from the previous slide and be sent to employees within 10 days of separation.

*For Vida HR Clients: Contact your HR Business Partner for a Wage Deduction Notice.

DO NOT DEDUCT FROM WAGES UNTIL AFTER THE NOTICE IS SENT:

- After sending the notice (within 10 days) employers can deduct the amount of unreturned funds or the value of unreturned property from the employee's final check – payment must be made within ten (10) days of separation.

WHAT IF THE EMPLOYEE RETURNS THE FUNDS OR PROPERTY?

- If the employee returns the funds or property within 14 days of the notice being sent – reimburse the employee for the full value of the deduction – within 14 days of receiving the returned funds or property.
- If you do not reimburse the employee within 14 days of receiving the funds or property, there are penalties.

COLORADO WAGE DEDUCTION NOTICE NEXT STEPS

COLORADO'S UPDATED RESTRICTIVE EMPLOYMENT AGREEMENT LEGISLATION (HB 22-1317)

Signed into law June 8, 2022, went into effect August 10, 2022.

Limits Colorado employers in the use of Restrictive Covenants in employment agreements.

Does not impact or effect agreements signed prior to August 10, 2022.

Restrictive Covenants include Non-Compete, Non-Solicit, Non-Disclosure, and Confidentiality Agreements.

Amended C.R.S. 8-2-113 which previously allowed executive and management personnel exceptions.

RESTRICTIVE EMPLOYMENT AGREEMENT LEGISLATION

New law only allows non-compete agreements for workers who make \$101,250 or more annually (highly compensated employees) in 2022.

Non-solicit, non-disclosure, and confidentiality agreements are only allowed for employees earning equal to or greater than 60% of the highly compensated threshold, approximately \$60,750 in 2022.

- The threshold amounts must be met at the time of signing and at separation of employment.

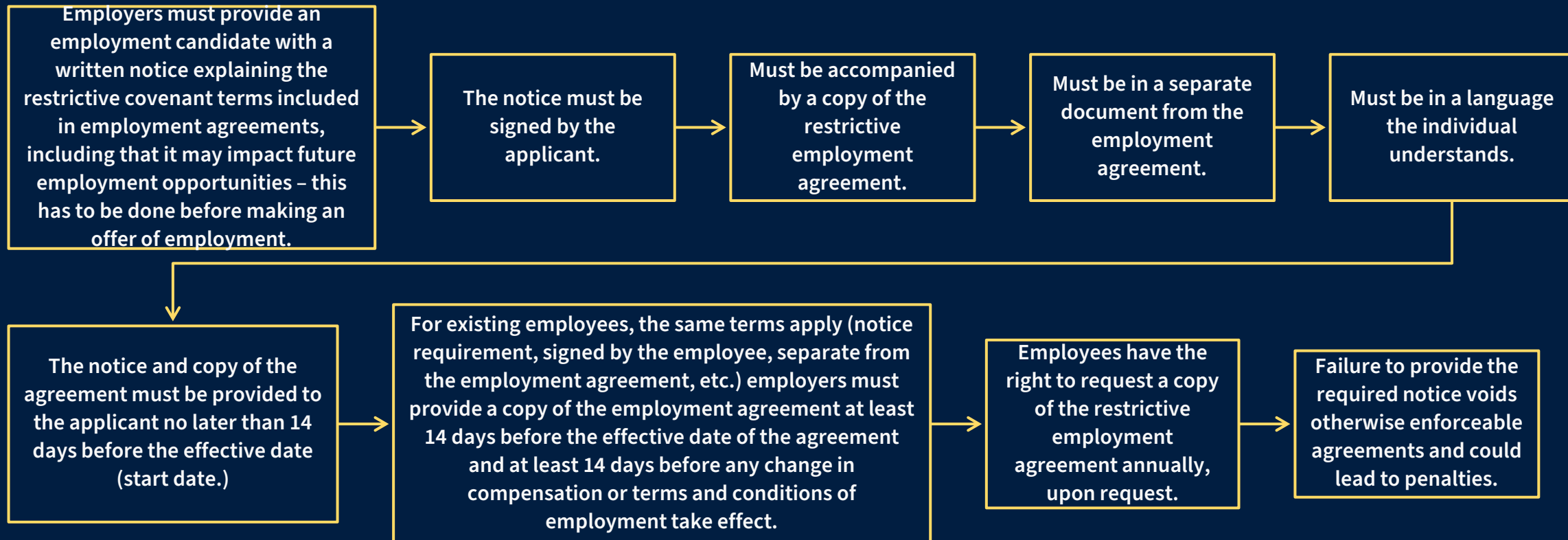
RESTRICTIVE EMPLOYMENT AGREEMENT LEGISLATION

Limits enforceability of restrictive employment agreements to those which are “no broader than reasonably necessary to protect the employer’s legitimate interest in protection of trade secrets.”

Trade secrets are defined by Colorado’s Uniform Trade Secret Act (CUTSA) as “the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, improvement, confidential business or financial information, listing of names, address, or telephone numbers, or other information relating to any business or profession a) which is secret and of value; and b) the owner must have taken measure to prevent the secret from becoming available to persons other than those selected by the owner to have access for limited purposes.

Confidentiality agreements may not prohibit disclosure of information from an employee’s general training, knowledge, skill, or experience, or prohibit disclosure of information that is available to the general public or that the employee has a legal right to disclose.

RESTRICTIVE EMPLOYMENT AGREEMENT LEGISLATION



**RESTRICTIVE
EMPLOYMENT
AGREEMENT
LEGISLATION
PENALTIES**

PENALTIES FOR VIOLATING THE NEW LAW INCLUDE:

- Employer liability for actual damages;
- Additional \$5,000 per worker or prospective worker penalty;
- Violations of the statute by an individual or by an employer is considered a Class 2 misdemeanor and are subject to a \$750.00 fine or 120 days' imprisonment.
- Employers who have “reasonable grounds for believing the employer’s act or omission was not a violation of this section” may be found to have acted in “good faith” but that is ultimately up to the Court’s discretion.

RESTRICTIVE EMPLOYMENT AGREEMENT LEGISLATION

Employers may have training/education reimbursement agreements with employees for the employer's recovery of the expense of educating and training a worker.



The law requires that:

- (1) the training is distinct from ordinary on-the-job training;
- (2) the employer's recovery is limited to the reasonable costs of the training and decreases over the course of the two (2) years following the training proportionately based on the number of months that have passed since the completion of the training; and
- (3) the employer recovering for the costs of the training would not violate the Fair Labor Standards Act, 29 USC §§ 201 et seq., or article 4 of title 8.



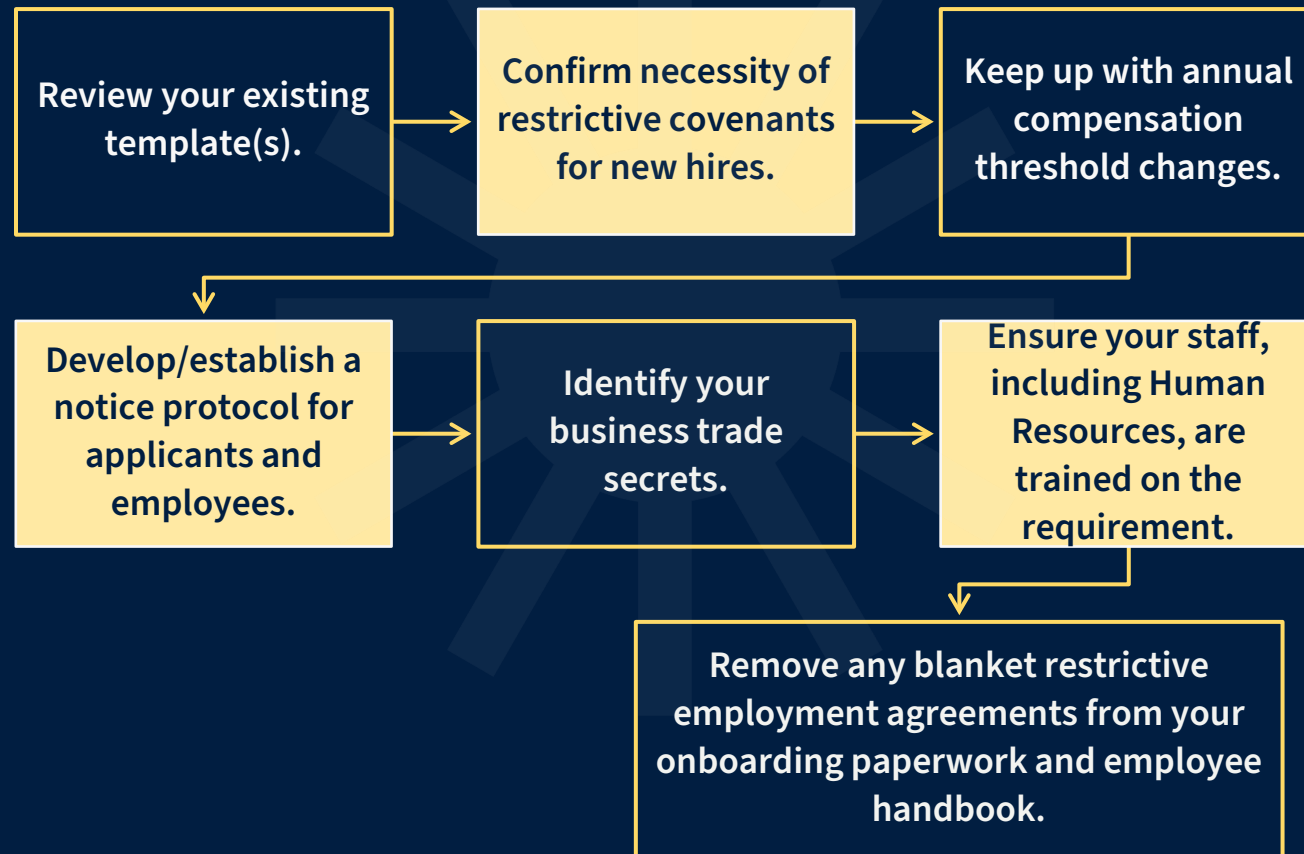
A training reimbursement agreement is only allowed for training that is not primarily for the benefit or convenience of the employer.

RESTRICTIVE EMPLOYMENT AGREEMENT LEGISLATION

For employees who primarily work or reside in Colorado “at the time of termination,” disputes over restrictive employment agreements are required to be heard in Colorado and governed by Colorado law.

The amended law protects “workers” instead of just employees. This has been interpreted to apply to independent contractors as well as employees.

RESTRICTIVE EMPLOYMENT AGREEMENT LEGISLATION



COLORADO'S ANTI- DISCRIMINATION ACT CHANGES (HB 22-1367)

As of August 9, 2022, significant changes were made to Colorado's Anti-Discrimination Act (CADA):

- The statute of limitations for filing a charge of discrimination increased from six (6) months to 300 days (10 months).
- This change brings CADA filing timelines in line with federal anti-discrimination laws.
- This only applies to claims filed on or after August 9, 2022.
- Broadened the definition of “employee” to include individuals who work in domestic service: nannies, housekeepers, in-home caretakers, gardeners, etc.
- Expanded remedies available for age discrimination claims under CADA instead of just under the Age Discrimination in Employment Act (ADEA). Colorado's Supreme court is still deciding if claims can be filed under both, or just one.

Creating a Respectful and Open World for Natural Hair (CROWN) ACT

Prohibits workplace discrimination based on an individual's hair texture, hair type, and/or hairstyle that is commonly or historically associated with a particular race or national origin.

Colorado's CROWN Act went into effect in September 2020 and details examples of protective hairstyles: braids, locs, twists, tight coils or curls, cornrows, Bantu knots, Afros, and headwraps.

States with Crown Act Laws:
California, Colorado, Connecticut, Delaware, Illinois, Louisiana, Maine, Maryland, Massachusetts, Nebraska, Nevada, New Jersey, New Mexico, New York, Oregon, Tennessee, Virginia, Washington.

Some State Municipalities have Crown Act Laws including Arizona, Florida, Georgia, Kentucky, Michigan, Missouri, North Carolina, Ohio, Pennsylvania, and Wisconsin.

Federal Legislation:
Passed in the House in March 2022 – still has not passed the Senate.

Employers should review Handbooks, policies, and training information, specifically surrounding dress code and grooming standards to ensure any language prohibiting workers from maintaining natural hairstyles is removed.



PAY TRANSPARENCY IN COLORADO

Colorado Equal Pay for Equal Work Act – Effective 01/01/2021

- Strictest Rules of all states so far with Pay Transparency Legislation.
- All employers, with at least (1) employee in the state, must provide pay range and general details about benefits and other compensation offered in all job postings.
- Retain job description and pay information for duration of employment and an additional two (2) years following separation of employment.



PAY TRANSPARENCY TRENDS



Recent Pay Transparency Laws



California Pay Transparency for Pay Equity Act

Effective 01/01/2023



Washington SB 5761

Effective 01/01/2023



Rhode Island Relating to Labor and Labor Relations – Fair Employment Practices

Effective 01/01/2023



PAY TRANSPARENCY TRENDS



Connecticut – Effective 10/01/2021

Maryland – Effective 10/01/2020

Nevada – Effective 10/01/2021



New Jersey (Jersey City) – Effective 04/13/2022

New York (New York City) – Effective 11/01/2022



New York (Ithaca) – Effective 09/01/2022

New York (Westchester County) – Effective 11/06/2022



Ohio (Cincinnati) – Effective 03/01/2020

[Paid Sick Leave under the Colorado Healthy Families and Workplaces Act \(HFWA\) | Department of Labor & Employment](#)

[Home | Family and Medical Leave Insurance \(colorado.gov\)](#)

<https://cdle.colorado.gov/colorado-overtime-minimum-pay-standards-comps-order>

<https://cdle.colorado.gov/infos>

<https://cdle.colorado.gov/posters-0>

<https://coloradosecuresavings.com/>

[Wage Theft Employee Misclassification Enforcement | Colorado General Assembly](#)

[2022a_1317_signed.pdf \(colorado.gov\)](#)

[Equal Pay for Equal Work Act, Part 2: | Department of Labor & Employment \(colorado.gov\)](#)

Resources