

Service

Labor & Employment

Professional

KEITH K. YBANEZ

DENVER:

303.749.7293

KEITH.YBANEZ@

HUSCHBLACKWELL.COM

Colorado Department of Labor Quietly Released New Unemployment Notice

In the last week, the Colorado Department of Labor and Employment (CDLE) quietly released a second version of the new Unemployment Notice that qualifying employers must provide to employees upon separation. The Colorado legislature enacted this requirement in May 2022 in Senate Bill 22-234, as we covered earlier this year, but the law became effective before the CDLE could compose the template form for employers to use. In late September, the CDLE released the long-awaited template for employers to use to comply with the law but has since revised the form to clarify that employers do not have to provide both a hard copy and electronic copy of the separation notice to the departing employee. Only one of those mediums is required as contemplated by the law's language.

If you missed the news of the law's passing earlier this year, it requires employers to provide a written notice to the employee with detailed and specific information—the most significant detail being the “reason the employee separated from the employer.” We flagged this for employers because of the legal risk posed by not accurately characterizing the reason for discharge in the notice. An inaccurate form may be used as pretext for a wrongful termination suit and undermine an employer’s defense in defending such litigation.

The CDLE’s updated form provides two key requirements: (1) the completed form must be provided to employees in written OR electronic form; and (2) employers must give the completed form “upon separation” from employment. The latter requirement creates an additional question as to what “upon separation” means in terms of a deadline to provide the form to employees. The CDLE has not provided guidance so the temporal parameters remain

ambiguous and further consultation with your Husch Blackwell attorney may be necessary to determine what is recommended for your unique situation.

What this means to you

Colorado employers should know about the many ways liability can arise if they do not comply with Colorado's ever-changing employment laws. To mitigate risk, employers should take care in completing the notice and ensure that it has an accurate description of the reason for discharge in the CDLE's form.

Contact us

For assistance in complying with Colorado Department of Labor and Employment's new regulations, please contact Sonia Ramirez Anderson, Keith Ybanez or your Husch Blackwell attorney.