

ColoPA (effective July 1, 2023) governs certain entities that control (“controllers”) or process (“processors”) and, as applicable, sell, the personal data of Colorado residents, other than in the employment or business-to-business contexts (“consumers”). It also grants Colorado residents certain rights with respect to their personal data.

Applicability

ColoPA applies to persons or entities conducting business in Colorado or producing or delivering commercial products or services intentionally targeted to consumers, and who either:

- Control or process the personal data of at least **100,000** consumers during a calendar year, or
- Derive revenue or receive a discount on the price of goods or services from the sale of personal data and control or process the personal data of at least **25,000** consumers.

Practical Application for Businesses

Consumer Rights:

- (1) **Right to Access:** the right to confirm whether a controller is processing personal data and access such data.
- (2) **Right to Correct:** the right to correct inaccuracies in the consumer’s personal data.
- (3) **Right to Delete:** the right to delete personal data concerning the consumer.
- (4) **Right to Data Portability:** the right to obtain the personal data in a portable and, to the extent technically feasible, readily usable format that allows the consumer to transmit the data to another entity without hindrance.
- (5) **Right to Opt Out:** the right to opt out of the processing of personal data for purposes of (i) targeted advertising, (ii) the sale of personal data, or (iii) profiling for decisions that significantly affect a consumer.

Controller Obligations:

- Publish a privacy notice that contains requisite details and is reasonably accessible, clear, and meaningful.
- Obtain consent to collect sensitive data, including personal data of any consumers under **13**.
- Provide consumers with methods to exercise their rights, including, effective **July 1, 2024**, a universal opt-out.
- Act on consumer requests within **45 days**; provide notice of extensions and the appeals process as necessary.
- Enter into binding data processing agreements with requisite limitations for third-party processors.
- Conduct and document an impact assessment for each processing activity generated after **July 1, 2023** that poses a “heightened risk of harm” to the consumer (e.g., selling personal data, processing sensitive data, or targeted advertising or profiling with certain foreseeable risks).
- Comply with the seven privacy principles: (1) transparency; (2) purpose specification; (3) data minimization; (4) avoiding secondary use; (5) care; (6) avoiding unlawful discrimination; and (7) consent for sensitive data.

Recommendations for Controllers:

- Regularly update data maps to detail personal data collection, including sensitive data and targeted advertising.
- Train employees how to handle consumer inquiries and requests.
- Maintain clear and executable data retention policies and procedures.

Penalties:

- The Colorado Attorney General and district attorneys have exclusive enforcement authority. They may seek injunctive relief or monetary damages.
- A violation is considered a deceptive trade practice under the Colorado Consumer Protection Act, which may result in a fine up to **\$20,000 per violation, per consumer or transaction involved** and **up to \$50,000 if committed against a person over 60 years old.**