

**CO HR Rules
to Know
for 2021**



Today's Trainer

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Agenda

- **COMPS Order #37**
- **Equal Pay for Equal Work Act**
- **Public Health Emergency Whistleblower Act**
- **FFCRA**
- **Healthy Families and Workplaces Act**
- **CROWN Act of 2020**
- **CO Proposition 118**



Colorado Overtime and Minimum Pay Standards Order #37 "COMPS"

Minimum Wage

\$12.32 per hour

\$9.30 tipped employees

Effective January 1, 2021

Overtime

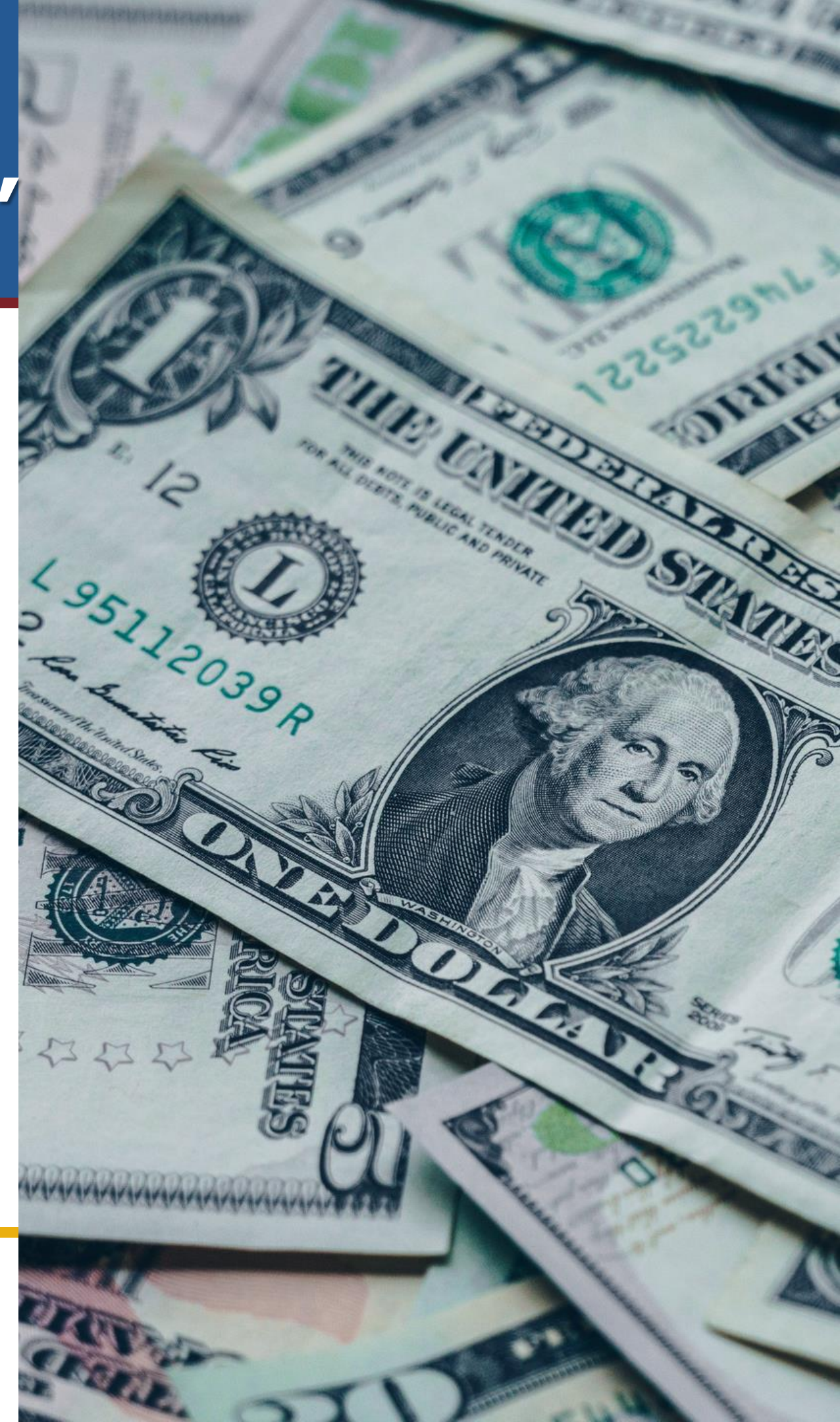
1.5 times all hours worked over 40 in a week, over 12 in a day, or over 12 consecutive hours

Notice

Employers must post & distribute COMPS Order #37 poster

Break Penalty

10 minutes of pay for every missed break



COMPS Poster & Notice



COLORADO
Department of
Labor and Employment

COLORADO OVERTIME & MINIMUM PAY STANDARDS ORDER (“COMPS Order”) #37 POSTER Division of Labor Standards & Statistics

Effective January 1, 2021
*Must be updated annually; new poster
available 1st week of each December*

Colorado Minimum Wage: \$12.32 per hour, or \$9.30 for Tipped Employees, effective 1/1/2021.

- The minimum wage adjusts annually by inflation; next year’s COMPS Order and Poster will provide the 2022 minimum wage.
- The minimum wage applies to all adults and emancipated minors, whether paid hourly or any other basis (salary, commission, piecework, etc.), unless exempted by COMPS Order Rule 2. Unemancipated minors may be paid 15% below the minimum.
- The federal minimum wage (\$7.25) and any local minimum wages (including \$14.77 in Denver as of 1/1/21) may also apply. If work is covered by multiple minimum or overtime wage rules, the rule with the higher wage or standard applies.

Overtime: 1½ times the regular pay rate for hours over 40 weekly, 12 daily, or 12 consecutive.

- Hours in two or more weeks cannot be averaged in computing overtime.
- Employers may not provide time off (often called “comp time”) instead of time-and-a-half premium pay for overtime hours.

Meal Periods: 30 minutes uninterrupted and duty-free, for shifts over 5 hours.

- Employees must be completely relieved of all duties, and allowed to pursue personal activities, for meal periods to be unpaid.
- If work makes uninterrupted meal periods impractical, eating an on-duty meal must be permitted, and the time must be paid.
- To the extent practical, meal periods must be at least 1 hour after starting and 1 hour before ending shifts.

Rest Periods: 10 minutes, paid, every 4 hours.

#Work Hours:	Up to 2	>2, up to 6	>6, up to 10	>10, up to 14	>14, up to 18	>18, up to 22	>22
#Rest Periods:	0	1	2	3	4	5	6

- Rest periods need not be off-site but must not include work and should be in the middle of the 4 hours to the extent practical.
- Two 5-minute rest periods, instead of one 10-minute, are permitted if employees and employers agree voluntarily and without coercion, and if 5 minutes is enough to go back and forth to a bathroom or other place where a genuine break would be taken. Additional flexibility with 5-minute periods applies to agriculture, Medicaid home care, and collectively bargained work.
- Employers that do not authorize and permit rest periods must pay extra for the work time that would have been rest periods.

Time Worked: Time employers allow performance of labor/services for their benefit must be paid.

- All time on-premises, on duty, or at prescribed workplaces (but not just letting off-duty employees be on-premises), including:
 - putting on or removing work clothes/gear (but not clothes worn outside work), cleanup/setup, or other off-the-clock duty;
 - awaiting assignments at work, or receiving or sharing work-related information; or
 - security/safety screening, clocking/checking in or out; or
 - waiting for any of the above tasks.
- Travel for employer benefit is time worked; normal home/work travel is not. For more on travel and sleep time, see Rule 1.9.2.

Deductions, Credits, & Charges from Wages: Subject to limits in C.R.S. 8-4-105 and below.

- Tip credits of up to \$3.02 per hour (lowering minimum wages to \$9.30) are allowed for those regularly, customarily receiving over \$30 per month in tips. If hourly pay plus tips is below the full minimum wage, the employer must pay the difference.
- Meal credits are allowed for the cost or value (without employer profit) of a voluntarily accepted meal.
- Lodging deductions are allowed only if housing is voluntarily accepted by the employee, primarily for the employee’s (not employer’s) benefit, recorded in writing, and limited to \$25 or \$100 per week (depending on the housing type).
- Uniforms that are ordinary clothes, without special material or design, need not be provided; other uniforms must be provided at no cost. Employers must pay for any special cleaning required, and cannot require deposits or deduct for ordinary wear and tear.

Exemptions from the COMPS Order: All listed in Rule 2; key exemptions listed below.

- Executives/supervisors, decision-making administrative employees, and professionals (Rule 2.2.1-3) paid the exempt salary:

2021	2022	2023	2024	Each Year After 2024
\$40,500	\$45,000	\$50,000	\$55,000	Prior year’s salary, inflation-adjusted

- 20% owners, or at a nonprofit the highest-paid/highest-ranked employee, if actively engaged in management (2.2.5).
- Highly technical computer-related employees (defined in 2.2.10), if paid at least \$28.38 per hour.
- Various in-residence workers, including property managers, range workers, and camp/outdoor education field staff (2.2.7).
- Various, but not all, types of salespersons (2.2.4, 2.4.1, 2.4.2) and taxi drivers (2.2.6).
- Certain medical transportation and hospital/nursing home employees have modified overtime rules (2.4.4, 2.4.5).
- Downhill ski/snowboard employees, including on-mountain food but not lodging, are exempt from 40-hour overtime (2.4.3).
- Agriculture (2.3) and some transportation (2.4.6) jobs are exempt from overtime and meal periods, and have more flexible rest periods (agriculture) or no (transportation) rest periods.

Complaint & Anti-Retaliation Rights.

- The Division of Labor Standards and Statistics (contact info at the bottom of this Poster) accepts complaints and tips as to violations of COMPS or other wage rights under federal, state, or local law. Alternatively, employees may file lawsuits in court.
- Parties liable for unpaid wages include the employer as an entity, and individuals with operational control over the entity.
- Employers cannot retaliate by threatening, coercing, or discriminating for purposes of reprisal, interference, or obstruction, as to actual or anticipated wage investigations, hearings, complaints, or proceedings.
- Violations of wage or anti-retaliation provisions may be reported to the Division as complaints or anonymous tips.
- Immigration status is irrelevant to wage rights. The Division will investigate and rule on complaints without asking, reporting, or considering status. Using status to interfere with rights is illegal under Wage Protection Rule 4.8 and other applicable law.

This poster must be displayed where easily accessible to workers, included in any existing employee handbook or manual, shared with remote workers, provided in languages other than English as needed, and replaced annually.

This Poster summarizes key wage rules in the COMPS Order, but not all, and should not be relied upon as complete information. For the full Order, more detailed fact sheets, or for questions, information, or complaints as to wage or other labor laws, contact:

Division of Labor Standards and Statistics, coloradolaborlaw.gov, cdle_labor_standards@state.co.us, 303-318-8441 / 888-390-7936.

Colorado Exempt Criteria

- Employees are considered NON-Exempt (and must track hours and be paid OT) unless you can prove they are Exempt.
- CO's test should be used with FLSA Fact Sheet 17A

Must meet ALL criteria under at least one category: *Executive, Professional, Administrative, Outside Sales*



Date

Weekly Overtime-Exempt Salary (& Rounded Annual Equivalent)

July 1, 2020	\$684.00/week (\$35,568 per year)
January 1, 2021	\$778.85/week (\$40,500 per year)
January 1, 2022	\$865.38/week (\$45,000 per year)
January 1, 2023	\$961.54/week (\$50,000 per year)
January 1, 2024	\$990.38/week (\$55,000 per year)
January 1, 2025	Prior year's salary, inflation adjusted

Equal Pay for Equal Work Act



Effective January 1, 2021

Prohibits employers from discriminating on the basis of sex (or sex in combination with another protected status) by paying employees of different sexes differently for substantially similar work.

Penalties after complaint, investigation, and violation range from \$500-\$10,000

Requirements

The act requires an employer to announce to all employees employment advancement opportunities and job openings and the pay range for the openings.

Employers are required to maintain records of job descriptions and wage rate history for each employee while employed and for 2 years after the employment ends.

Applications

Equal Pay for Equal Work

January 1, 2021

Prohibits employers from inquiring through applications, background checks, or reference checks applicants' prior salary history

Ban The Box

Effective September 2019

The act prohibits an employer from enquiring about previous convictions on applications.



Job Descriptions

01

Job Analysis

Determine the knowledge, skills, abilities, physical characteristics, environmental factors, and credentials/ experience of the position.

02

Essential Functions

Establish the essential functions necessary or required to perform the job.

03

Organize Data

Structure to include title, classification, pay range, summary, essential functions, competency, environment, physical demands, preferred/ required education and experience, and EEO and at-will statements.

04

Add Disclaimers

Include a statement that indicates job description is not a comprehensive list of responsibilities and may be subject to change at any time with or without notice.

05

Add Signature Lines

Having employees sign job descriptions indicates they understand the requirements, essential functions and duties of the position.

06

Requirement

Employers must have a job description for each position. Job descriptions can be used for job postings, interviews, accommodation requests, compensation reviews, and performance evaluations.

Pay Ranges

01 Job Analysis

Same process used in writing job descriptions.

02 Job Families

Decide whether to group jobs into families, i.e. administrative.

03 Market Research

Ensure what you pay is comparable to similar positions in the market.

04 Job Grades

Group positions with similar worth.

05 Salary Ranges

Establish minimum, midpoint, and maximum pay ranges. Use 30% or 40% calculation.

06 Update Ranges

Stay competitive with market and cost of living increases by updating pay ranges.

Sample Pay Scale

Title		Min	Mid	Max
Employee Title 1				
	Salary	\$44,200	\$52,000	\$59,800
	Hourly	\$21.25	\$25.00	\$28.75
Employee Title 2				
	Salary	\$26,520	\$31,200	\$35,880
	Hourly	\$12.75	\$15.00	\$17.25

* Calculations for a 30% salary range.

For example: $\$51,100$ (Mid) $\times 0.85 =$ Min

$\$51,100$ (Mid) $\times 1.15 =$ Max

Title		Min	Mid	Max
Employee Title 1				
	Salary	\$41,600	\$52,000	\$62,400
	Hourly	\$20.00	\$25.00	\$30.00
Employee Title 2				
	Salary	\$24,960	\$31,200	\$37,440
	Hourly	\$12.00	\$15.00	\$18.00

* Calculations for a 40% salary range.

For example: $\$51,100$ (Mid) $\times 0.80 =$ Min

$\$51,100$ (Mid) $\times 1.20 =$ Max

Public Health Emergency Whistleblower Act (PHEW)



Effective: July 11, 2020

Prohibits adverse action, discrimination, or retaliation against “workers” who, in good faith, raise “any reasonable concern about workplace violations of government health or safety rules, or an otherwise significant workplace threat to health or safety, related to a public health emergency.

Healthy Families and Workplaces Act (HFWA)

Health Emergency Leave with Pay (HELP) expired July 15th

PART 1

Emergency Paid Sick Leave (CO-EPSL)

July 15 - December 31, 2020

Colorado employers must comply with the federal Emergency Paid Sick Leave Act (EPSLA) under the FFCRA by extending the leave to employers with 500 or more employees.



Healthy Families and Workplaces Act (HFWA)

PART 3

Public Health Emergency Leave (PHEL)

January 1 – August 10th, 2021 (tentative end date)

In the event of a public health emergency, employers must supplement an employee's PSST with 80 hours for a Full-Time Employee, or equivalent of what employee was scheduled/normally works per 14-day period.

Employees may be required to use PTO or Paid Sick Time first.

Does NOT come with an employer tax credit.



Healthy Families & Workplaces Act (HFWA)

PART 2

Paid Sick & Safe Time (PSST)

January 1, 2021 for employers with 16 or more employees

January 1, 2022 for all employers

Employees must accrue at least one hour of PSST for every 30 hours they work, up to a maximum of 48 hours per year.



Paid Sick & Safe Time

Accrual starts on day one of employment.

For exempt employees, the accrual rate is based on a 40-hour workweek or their regular workweek if less than 40 hours.

Sick Time purposes:

- mental or physical illness, injury, or health condition of the employee or family member
- medical diagnosis, care, or treatment related to an employee's or family member's illness, injury, or condition
- preventive medical care

Safe Time purposes:

- seeking medical attention to recover from a mental or physical illness, injury, or health condition caused by the domestic abuse, sexual assault, or harassment
- obtaining services from a victim services organization
- obtaining mental health or other counseling
- seeking relocation due to the domestic abuse, sexual assault, or harassment
- seeking legal services, including preparing for or participating in a civil or criminal proceeding relating to or resulting from the domestic abuse, sexual assault, or harassment

CROWN Act of 2020



The **CROWN** Act

What is it?

Creating a Respectful and Open World for Natural Hair Act of 2020

Prohibits discrimination on the basis of one's race including hair texture, hair type, or a protective hairstyle commonly or historically associated with race, such as braids, locs, twists, tight coils or curls, cornrows, Bantu knots, Afros, and headwraps.

Effective

March 6, 2020

CO Secure Savings Program

- Signed on July 14, 2020, Colorado Secure Savings Program will create a state-facilitated retirement savings program that automatically enrolls private-sector employees without access to employer-provided retirement benefits.
- A 2020 report found that 40% of private sector workers in CO did not have access to a workplace retirement plan.
- Employers with at least 5 employees must offer access to an IRA and may have the option to use the state plan.
- Employees will have automatic deposits into a Roth Individual Retirement Account (IRA).
- Employees can opt out and/or change options at regular intervals.
- CO is targeting mid-2021 for program implementation.

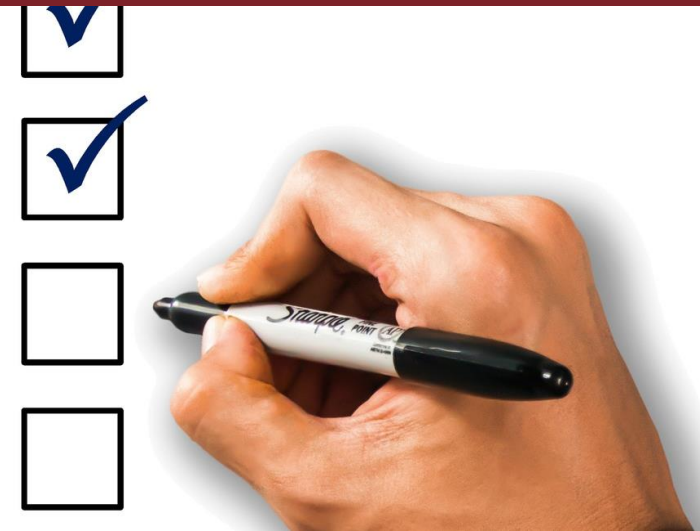


Paid Medical & Family Leave

- Colorado Proposition 118 will allow for 12 weeks of paid family and medical leave funded through a payroll tax paid by employers and employees in a 50/50 split. (0.45% each)
- An additional four weeks of leave would be allowed for pregnancy or childbirth complications.
- A covered individual would receive 90% of their weekly wage if their wage is less than 50% of the state average weekly wage (AWW) and 50% of wages that are 50% or more of the AWW, up to a maximum benefit of \$1,100 per week.
- The first premiums would be paid beginning on January 1, 2023, and benefits would begin to be available on January 1, 2024.



Your To-Do List



01

Job Descriptions

Ensure every job title has a job description that is accurate and current

02

Pay Scale

Create a pay scale to address every job title

Ensure exempt salaries meet the threshold

03

Paid Sick Leave

Revisit PTO or PSL policies to ensure they provide adequate time off to fulfill PSST requirements

04

EEO/Crown Act Policies

Include language for protections related to the CROWN Act

05

Audit Applications & new hire docs

Ensure applications do not ask for salary history or information on previous convictions.

06

Phone a Friend

Call simplyHR, CPA partners, payroll providers, etc. when you have questions about FFCRA and other rules

Questions



Larimer SBDC

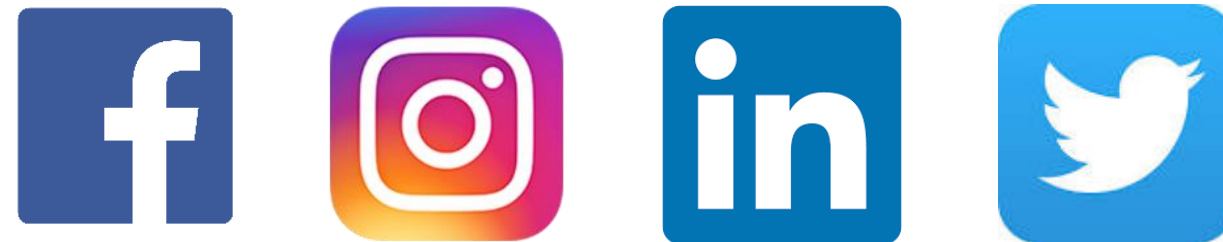
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