



Labor & Employment @lert

October 2026

Reminder: New York's Personnel File Access Law Takes Effect in One Month

Key Notes:

- Employees will have access to personnel records for the first time.
- Employers must provide notice of negative information.
- HR teams should prepare necessary policies and procedures.

Effective November 8, 2026, one month from today, current and former employees of private employers in New York will gain broad new rights to access their personnel files. Because the law requires a quick response to employee requests, human resources teams should start preparing now.

Background

On September 9, 2026, New York Governor Kathy Hochul signed Senate Bill S3460 into law. The law applies to all private employers in New York and does three main things:

- It gives current and former employees the right to request access to their personnel files.
- It requires employers to notify employees when negative information is added to their files.
- It establishes record retention protocols.

Key Obligations for Employers

Under the new law, employers must:

- **Respond promptly to requests.** Employers must provide current and former employees with a copy of their personnel records within five business days of receiving a written request.

- **Allow periodic review.** Employees may review their personnel records up to twice per calendar year.
- **Give notice of negative information.** Employers must notify employees within 10 days of placing negative information in their personnel records. This applies to information that may affect employment, promotion, transfer, compensation or any other disciplinary issues.
- **Allow employees to respond.** Employees may submit written responses to dispute information contained in their personnel records.
- **Retain records.** Employers must maintain personnel records for three years post-separation.

What Constitutes a "Personnel Record"?

The law defines "personnel record" broadly. It covers any record that "identifies an employee, to the extent that the record is used or has been used or may affect or be used relative to that employee's qualifications for employment, promotion, transfer, additional compensation or disciplinary action." This definition also includes records maintained by third parties, such as Professional Employer Organizations (PEOs).

The law specifically lists the following as personnel records:

- The employee's name, address, date of birth, job title and job description
- The employee's rate of pay and any other compensation paid
- The employee's start date and job application
- Resumes or other employment inquiries the employee submitted to the employer in response to the employer's job advertisement

- All employee performance evaluations, including but not limited to, evaluation documents and written warnings of substandard performance
- Lists of probationary periods, waivers signed by the employee and copies of dated termination notices
- Any other documents relating to disciplinary action involving the employee

How Employers Should Prepare

- **Find every place personnel records are kept.** The HR team must identify all locations where potential personnel records are maintained. This may also include departmental files kept by managers, as well as records held by third parties such as PEOs.
- **Adopt a written policy and procedure.** The policy should identify which documents in the personnel file will be considered responsive to these requests, name a contact person to receive and route requests, assign an HR owner who will be responsible for timely responses and update record retention requirements to meet the new three-year rule.
- **Track every request.** Record when each request arrives, who reviewed it, which documents were located and when the response went out. Use a method of delivery that confirms receipt, such as a delivery service with a tracking number.
- **Set up a notice-and-response process for negative information.** Develop a procedure to notify employees when negative information is added to their personnel files and to accept their written responses. This is also a good opportunity to remind managers that performance reviews, disciplinary notices and similar documents should be objective and fact-based, without editorialization.
- **Train managers.** Managers should know the policy. If an employee asks about their personnel file, the manager must provide them with a copy of the policy and the name of the appropriate contact person. Employees should assume the five-business-day clock starts as soon as a manager learns of a request.

FOR MORE INFORMATION

For more information, please contact:

Steven R. Nevolis

212.908.3934

Steven.Nevolis@ThompsonHine.com

or any other member of our [Labor & Employment](#) group.

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