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New York Requires Expanded Rights to Personnel Records

Starting November 8, 2026, New York requires employers to provide employees with expanded access to their personnel records. The new obligations arise from New York Labor Law (“NYLL”) Section 210-b recently signed into law by Governor Kathy Hochul.

Background

According to the New York legislature, the goal of the amendment is “recognizing the basic right of employees to know what kind of reports are being officially filed about them and how this will impact their future employment prospects.”

The new employer obligations follow a national trend. In recent years, states and cities have passed laws aimed at increasing employee awareness of the terms of their employment, including pay transparency laws, expanded wage disclosure requirements, and as here, laws requiring employers to provide employees with access and input to their own personnel files. New York’s newly enacted personnel records law is similar to those currently in effect in Massachusetts and California.

Covered Employers and Employees

As of the November 8, 2026 effective date, employers will be required to:

- Provide employees with a copy of their personnel records within five days of a written request, at no cost to the employee;
- Notify employees within ten days any time the employer adds to an employee’s personnel file any information that “is, has been used or may be used, to negatively affect the employee’s qualification for employment, promotion, transfer, additional compensation or the possibility that the employee will be subject to disciplinary action”;
- Allow employees to dispute the addition of any such information to their personnel file and submit a written statement of disagreement to be included in their personnel record; and
- Retain personnel records of employees for at least three years following separation from employment.

Employees are entitled to review their records twice per calendar year.



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“Personnel Records” Broadly Defined

NYLL § 210-b broadly defines personnel records to include job applications, resumes, compensation information, performance evaluations, disciplinary records, warning notices, probation records, waivers, and termination notices.

The law applies not only to internal records, but also information gathered by third-party vendors such as payroll providers, professional employer organizations, human resources information systems, or outside performance management platforms. An internal record that discloses information that would invade the privacy of other individuals is excluded from the definition. For example, if a requested record describes another employee’s workplace complaint or includes co-worker witness statements, the record does not need to be produced or may be redacted.

Consequences of Non-Compliance

Employees may seek judicial recourse to expunge any known false information that the employer included in their personnel record. The New York Attorney General also has discretion to impose fines between \$500 and \$2,500 on employers for violations.

How Employers Can Prepare

As November quickly approaches, employers should review their performance documentation processes to include disclosure of documents being placed in an employee’s personnel record, establish a system to field employee record requests, and train Human Resources and managers on how to respond to such requests and the deadline to respond.

Please contact an attorney in MSS’s Employment Group or Nashville office if you have any questions.

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