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Labor & Employment Update

October 1, 2026

New York Enacts Employee Personnel Records Access Law, Effective November 8, 2026

The law will provide current and former employees with rights to obtain, review, and dispute the contents of their personnel records and will impose related access, notice, retention, and anti-retaliation requirements on employers.

On September 9, 2026, Governor Hochul signed [Senate Bill S3460](#) into law, adding a new Section 210-b to the New York Labor Law that imposes new requirements concerning employee personnel records. The law goes into effect on November 8, 2026. Once in effect, it will provide current and former employees with rights to obtain, review, and dispute the contents of their personnel records and will impose related access, notice, retention, and anti-retaliation requirements on employers.

Amendments to the new law are expected during the Legislature's next legislative session, scheduled to begin in January 2027. In her approval memorandum, Governor Hochul stated that she had "reached an agreement with the Legislature to address [her] concerns in the upcoming legislative session" and signed the bill "on the basis of this agreement." The memorandum states that the amendments will clarify "that employers are not required to create a personnel file or produce new documents beyond the records they currently maintain, and that personnel files only include records or documents used to determine an employee's qualifications for hiring, retention, promotion, transfer, additional compensation, or disciplinary action." In the meantime, employers may want to begin preparing for the November 8 effective date based on the law as enacted, while continuing to monitor for amendments and additional guidance.

Employer and employee coverage. Section 210-b applies to all public and private employers in New York, without any employee count threshold, and defines “employee” to include both current and former employees.

Definition of “personnel record.” Section 210-b defines a “personnel record” as “a record kept by an employer 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.”

The law sets out a non-exhaustive list of documents that qualify as personnel records “to the extent prepared by an employer regarding an employee:”

- the employee’s name, address, date of birth, and job title and description;
- rate of pay and any other compensation paid to the employee;
- the starting date of employment and copies of dated termination notices;
- the employee’s job application, and resumes or other employment inquiries submitted in response to the employer’s advertisement;
- all employee performance evaluations, including but not limited to, employee evaluation documents;
- written warnings of substandard performance and any other documents relating to disciplinary action regarding the employee; and
- lists of probationary periods and waivers signed by the employee.

The definition includes records held by third parties, such as payroll and HR vendors, under contract with the employer to keep or supply personnel records.

The definition excludes information of a personal nature concerning someone other than the employee where disclosure would constitute a “clearly unwarranted” invasion of that person’s privacy.

Ten-day notice requirement for certain negative information. Under the new law, when an employer places any information in a personnel record that is, has been, or may be used to “negatively affect” the employee’s qualifications for employment, promotion, transfer, or additional compensation, or the possibility of disciplinary action, the employer must notify the employee **within ten calendar days**. The law neither defines “negatively affect” nor prescribes the form of notice.

Five-day response period for access requests. Separately, the law requires that upon receipt of a written request, an employer must provide a copy of the employee’s personnel record at no cost **within five business days**. Employers need not permit review more than twice per calendar year, though a review prompted by a negative information notice does not count toward that limit.

Employees may dispute information in their personnel record. The law provides a mechanism for employees to challenge information in their personnel record. Specifically, if an employee disputes information in their personnel record, the employer and employee may mutually agree to remove or correct any disputed information. If they do not reach an agreement, the employee may submit to their employer a written statement explaining their position, which becomes part of the personnel record and must accompany the disputed information whenever it is transmitted to a third party.

Employees' right to expunge false information. Separately, "[i]f an employer places any information in a personnel record which such employer knew or should have known to be false," the employee may seek expungement through a "collective bargaining agreement, other personnel procedures, or judicial process." The law does not require an employee to use the dispute process described above before seeking expungement, nor does it prescribe a separate procedure or other notice requirement before pursuing relief through "judicial process."

Retention obligations. The law requires employers to retain each employee's complete personnel record, without deletion or expungement, from the date of hire through three years after separation. The law separately provides that personnel records must be maintained in typewritten or printed form, or handwritten in indelible ink, but does not expressly address electronic-only recordkeeping.

Maintenance of written personnel policies. If an employer has "a written personnel policy regarding the terms and conditions of employment," the law requires that the employer continuously maintain that policy "at the office of such employer where personnel matters are administered." The law does not further define the phrase "written personnel policy regarding the terms and conditions of employment" or expressly address whether it encompasses employee handbooks.

Anti-retaliation protections. The law prohibits discharging, threatening, penalizing, or otherwise discriminating or retaliating against an employee for exercising their rights under the new law. The law defines prohibited retaliation to include contacting or threatening to contact United States immigration authorities, and reporting or threatening to report the suspected citizenship or immigration status of an employee or an employee's family or household member.

Penalties. Section 210-b provides for fines of \$500 to \$2,500 per violation and authorizes enforcement by the New York Attorney General. The law does not expressly create a private right of action for violations of its access, notice, or retention provisions.

Preparing for the November 8 effective date. New York employers may want to consider the following steps before the law takes effect on November 8:

- identifying the systems and third-party vendors that maintain personnel records and confirming the ability to retrieve covered records promptly;
- reviewing processes for responding to written personnel-record requests and providing required notices concerning negative information;

- reviewing applicable record-retention practices in light of the three-year post-separation retention requirement;
- educating appropriate HR personnel and managers regarding the new access, notice, and anti-retaliation requirements; and
- monitoring for chapter amendments or guidance regarding their obligations under the new law.

The following Gibson Dunn lawyers prepared this update: Mylan Denerstein, Harris Mufson, Eliza Kaiser, Danielle Moss, Grace Hart, Alex Downie, and Ignacio Martínez Castellanos.

Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding these developments. To learn more, please contact the Gibson Dunn lawyer with whom you usually work, the authors, or any leader or member of the firm's Labor and Employment practice group:

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