



## Is Personnel File Access Coming to New York?

New York employers may soon face expanded obligations regarding employee personnel records. On May 19, 2026, the New York State Assembly and Senate passed legislation that would grant current and former employees access rights to their personnel files and require employers to notify employees whenever negative comments or information are placed in those records. While the bill is still awaiting delivery to Governor Hochul, it would take effect just 60 days after her signature – leaving employers with a short window to prepare for compliance.

### What's Changing

The bill creates a fundamental shift in how personnel records are treated in New York. Historically, employees have not had a statutory right to inspect or obtain copies of their personnel files. Under the proposed legislation, both current and former employees would be entitled to access their personnel records, and employers would be required to retain each employee's complete personnel file for three years following separation from employment. Upon receiving a written request, employers must provide a copy of the personnel record within five business days and at no cost to the employee. Employees may make up to two such requests per calendar year.

Importantly, the bill would also require employers to notify employees within ten days whenever negative information is placed in their personnel file – that is, 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.” Following such notice, employees are entitled to review their file, and that review does not count toward their two annual requests. In addition, employees would be permitted to dispute any information contained in their personnel records – not just negative information. While the employer and employee may mutually agree to correct or remove the disputed material, if no agreement is reached, the employee may submit a written statement explaining their position. That statement must be maintained as part of the personnel record and must be included whenever the disputed information is transmitted to a third party.

Further, the bill prohibits employers from discharging, threatening, penalizing, or otherwise discriminating or retaliating against any employee who exercises their rights under this legislation. Notably, the anti-retaliation provisions expressly prohibit threatening to contact or actually contacting immigration authorities, or threatening to report an employee’s (or their family member’s) suspected citizenship or immigration status, as a form of retaliation.

## **Important Definitions**

The bill provides detailed definitions of key terms, including “employee,” “employer,” and – most importantly – “personnel record,” leaving little room for ambiguity. A personnel record is broadly defined 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 bill specifies that personnel records include: name, address, date of birth, identifying information, job title and description; rate of pay and any other compensation; starting date of employment; job applications; resumes or other forms of employment inquiry; performance evaluations; written warnings of substandard performance; lists of probationary periods; waivers signed by the employee; copies of dated termination notices; and any other documents relating to disciplinary action. Given this broad definition, employers should not assume that excluding documents from a formal personnel file will avoid production; instead, they should carefully consider what information is documented and how it is written. Further, the bill’s time constraints (detailed below) apply even to personnel records maintained by a third party.

## **Enforcement and Penalties**

The New York Attorney General would be responsible for enforcement. The bill provides for fines ranging from \$500 to \$2,500 per violation.

## **Recommended Employer Actions**

As the bill does not appear to provide employers with any extension to the five business-day response deadline, employers should begin preparing now for the possibility that this legislation becomes law. Proactive planning will be particularly important during the initial implementation period, when employers may face a significant volume of requests from both current and former employees.

For more information about this bill or for assistance with any employment law matters, please contact:

**Kimberly B. Malerba, Esq.**  
(516) 663-6679  
[kmalerba@rmfpc.com](mailto:kmalerba@rmfpc.com)

**Nicole E. Osborne, Esq.**  
(516) 663-6687  
[nosborne@rmfpc.com](mailto:nosborne@rmfpc.com)

**\*\*** *Cassandra Axis, a summer associate at Ruskin Moscou Faltischek, also contributed to the drafting of this article.*