

New York State Overhauls Employee Access to Workplace Records

Employers in New York State will soon face extensive mandates that grant New York employees unprecedented access to their personnel records.

By **November 8, 2026**, employers must provide employees with copies of their personnel records within five days of request, notify employees when certain negative information is added to their files, and comply with new recordkeeping obligations. In a major expansion of employee rights, employers must also allow employees to dispute information contained in their file.

Background

On September 9, 2026, Governor Hochul signed [New York Senate Bill S3460](#) into law, effective November 8, 2026. The law is codified at New York Labor Law § 210-b. Prior to this legislation, an employee's personnel file was generally considered the property of the employer, who had no obligation to provide employees with access to those records. S3460 upends that convention.

Whom Does New York Senate Bill S3460 Cover?

The law applies to all employers (public and private) and to all employees (current and former).

What Are Employers' Obligations?

Personnel Records, Generally. The law's definition of "personnel record" is expansive and covers any record that may relate to an employee's "qualifications for employment, promotion, transfer, additional compensation or disciplinary action." § 210-b(1)(c).

Recordkeeping Requirements. To the extent the following documents or written information exist, they must be maintained and included in the employee's personnel record:

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

If the employer has a written personnel policy, that policy must be "continuously maintained" at "the office . . . where personnel matters are administered." § 210-b(5).

Retention. From the date of employment to **three (3) years** following an employee's termination, an employer must retain that employee's entire personnel record without modification. § 210-b(4).

Cost and Frequency of Employee's Review. Within **five (5) business days** upon receipt of an employee's written request, employers must provide a copy of the employee's personnel record **at no cost** to the employee. An employee is entitled to such access a minimum of **twice** per calendar year. § 210-b(2).

Negative Reports. Within **ten (10) business days** of the addition of any negative report to an employee's personnel record, employers must notify the employee. This includes any information that 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.

An employee's review of any newly added negative information does not count toward the two annually permitted reviews of the entire personnel record. § 210-b(2).

What Rights Do Employees Have?

Employee's Position Statement. If an employee disagrees with any information in their personnel record, the employee has a right to rebut that information via written statement. The employee's written position statement then becomes part of the personnel record. § 210-b(3).

Remedies—Expungement of False Information. The law provides the employee with recourse in the event the employer places information in the file that the employer "knew or should have known to be false." Specifically, the law identifies collective bargaining agreements, "other personnel procedures," or judicial process as mechanisms for having such information expunged. § 210-b(3).

Collective Bargaining Agreements. The law will not supersede a Collective Bargaining Agreement where it provides substantially similar or greater access to personnel records.

No Retaliation. Employers are prohibited from retaliating against employees who exercise their rights under this law. The law specifically notes that prohibited retaliation includes reporting or threatening to report an employee's "suspected citizenship or immigration status or the suspected citizenship or immigration status of an employee's family or household member." § 210-b(8).

What are the Consequences of Non-Compliance?

Violations of S3460 carry a fine of **\$500 to \$2,500** per violation, enforceable by the New York State Attorney General. § 210-b(7).

Notably, amendments to the law may be forthcoming. Governor Hochul has [reportedly expressed](#) that portions of the bill require clarification to avoid uncertainty for both employers and workers, and that the legislature has agreed to pursue amendments during the next legislative session.

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Key Takeaways

5-Day Turnaround for Access Requests: Employers should prepare to enhance recordkeeping practices and procedures, as they will need to respond swiftly to personnel record requests.

10-Day "Negative Information" Notice: Employers must notify an employee within ten (10) days of any negative information—including that regarding an employee's performance, compensation, or disciplinary action—placed in the employee's written personnel file. As a practical matter, employers may need to implement substantial tracking processes to stay abreast of new information that may

trigger the notice requirement and ensure compliance.

Furthermore, because the law defines “personnel records” broadly to include “any other documents relating to disciplinary action regarding the employee,” employers may wish to formally document all disciplinary processes and clearly memorialize all decision-making. If unsure how to proceed, it may be prudent to involve legal counsel to maintain attorney-client privilege with respect to certain disciplinary records.

Expanded Employee Access and Dispute Processes: Employees will have access to a vast amount of information regarding their employment. In addition, employees now have a legal right to submit a rebuttal statement in response to any disputed records. Because of this, Human Resources/People teams and supervisors can expect increased scrutiny of all written documentation.

3-Year Retention Requirement: Employers must retain personnel records for at least three years after termination of employment.

Please contact the firm if you have specific questions about how this law may apply to your business operations and workplace policies.

This alert is for general informational purposes only and should not be construed as specific legal advice. If you would like more information about this alert, please contact one of the following attorneys or call your regular Patterson contact.

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