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Is Your Company Ready for New York's New Personnel Records Law?

On Sunday, November 8, 2026, New York Labor Law (NYLL) § 210-b takes effect. Section 210-b was enacted as Senate Bill S3460, which Governor Kathy Hochul signed on September 9 (Chapter 293 of the Laws of 2026). It is modeled on Massachusetts' Personnel Record Law. *See* Section 210-b.

The law gives current and former employees of every New York employer a statutory right to access their personnel records. Employers must provide a copy of an employee's personnel record within five business days of a written request; notify employees within 10 days when negative information is placed in their file; retain personnel records for three years after employment ends; and refrain from retaliation against employees who exercise their rights under the statute. Because the effective date is only days away, employers should strongly consider taking steps to come into compliance now.

Covered Employers and Employees: Section 210-b applies to every employer in New York. This includes private businesses and other commercial entities, labor organizations, and governmental and public employers, as well as agents of those employers. It protects both current and former employees.

Personnel Record: The law defines "personnel record" broadly as a record used, or that may be used, relative to an employee's qualifications for employment, promotion, transfer, additional compensation, or discipline. The statute included an illustrative, not exhaustive list of records including the employee's:

- Name,
- Address,
- Date of birth,

- Job title / description;
- Rate of pay and other compensation;
- Start date;
- Job applications, résumés, or other employment inquiries in response to the job advertisement;
- Performance evaluations;
- Written warnings;
- Probationary period records;
- Signed waivers;
- Termination notices; and
- Other disciplinary action documents.

The definition also covers records held by a third party, such as a payroll or HR vendor, that has a contractual agreement with the employer to keep or supply a personnel record. The statute excludes information of a personal nature about a person other than the employee if the disclosure of such information would constitute "a clearly unwarranted invasion of such other person's privacy." A personnel record must be maintained in typewritten or printed form, or may be handwritten in indelible ink.

Timing: Within five business days after receiving a written request from a current or former employee, the employer must provide a copy of the employee's personnel record at no cost to the employee.

Annual Limit: An employer is not required to allow an employee to review their personnel record more than twice per calendar year. A review prompted by the employer's notice of negative information (described below) does not count toward this two-time annual limit. The statute does not clearly distinguish between a request for a copy of an employee's personnel record and a request to review their records.

Notice of Negative Information: An employer must notify an employee within 10 calendar days of placing any information in the personnel record that is, has been, or may be used to negatively affect the employee's qualification for employment, promotion, transfer, or additional compensation, or impact the possibility that the employee will be subject to discipline. The statute does not define "negative"

information, state when information is considered "placed" in the record, specify what the notice must contain, or say whether handing a warning or evaluation directly to the employee satisfies the requirement. Employers should give this notice in writing and keep a record of when it was sent.

Record Disputes: If an employee disagrees with information in their personnel record, the employer and employee may mutually agree to remove or correct it. If they do not agree, the employee may submit a written statement explaining their position. The employer must keep that statement as part of the personnel record and include it whenever the record is shared with or transmitted to a third party. If an employer places in the record information that it knew or should have known to be false, the employee may seek to have that information expunged through a collective bargaining agreement, other personnel procedures, or judicial process.

Records Retention: Employers must retain the complete personnel record, without deletions, from the employee's date of hire until three years after termination of employment.

Anti-Retaliation Protections: Employers may not discharge, threaten, penalize, or otherwise discriminate or retaliate against an employee for exercising rights under this law, such as requesting access to or disputing information in their personnel record. The statute specifically identifies threats to contact or report, or actual reporting of, an employee's (or their family / household member's) immigration status to federal, state, or local authorities as a prohibited form of retaliation.

Written Personnel Policies: An employer that has a written personnel policy regarding the terms and conditions of employment must continuously maintain that policy at the office where personnel matters are administered.

Collective Bargaining Agreements: This law does not supersede a collective bargaining agreement (CBA) that provides employees substantially similar access rights to their personnel records.

Penalties and Enforcement: The New York attorney general enforces this law and has discretion to bring an action against violators. Violations are punishable by a fine of $500 to $2,500.

Private Litigation Exposure: Employees may seek injunctive relief against their employer to remove false information from their personnel file. In addition, employees who allege retaliation for exercising their rights under § 210-b may be able to assert claims under other provisions of the NYLL, such as the general anti-retaliation provision in NYLL § 215.

Recommended Next Steps for Employers

1. **Inventory personnel records** across all New York worksites, including for employees who work remotely from New York, and confirm what qualifies as a "personnel record" under the law's broad definition. Include records held by third-party vendors (e.g., payroll, background check, or performance-management providers) and confirm that those vendors can supply records fast enough for you to meet the five-business-day deadline.
2. **Update policies and procedures** to establish a process for receiving, verifying, and responding to employee record requests within the five-business-day deadline. Confirm that any written personnel policy is maintained at the office where personnel matters are administered.
3. **Build a negative information notice protocol** so that HR and managers send a written notice within 10 days whenever adverse information is added to a file and keep a record of each notice.
4. **Train HR and supervisory staff** on the two-review-per-year limit; the separate review right triggered by a negative-information notice; the process for handling an employee disputing information in the record; and the broad definition of "personnel record." Reinforce anti-retaliation safeguards, particularly around immigration-status-related threats, in your anti-retaliation and whistleblower policies.
5. **Revise retention schedules** to ensure personnel records are preserved, without deletions, from the date of hire until three years post-termination.
6. **Audit collective bargaining agreements** covering New York employees, if any, to confirm whether they provide substantially similar access rights to those in the law.

Conclusion

NYLL § 210-b (S3460) significantly expands employee rights in New York, and its core obligations begin on November 8, 2026. There are a number of ambiguities in the law as currently enacted, and employers are cautioned to seek counsel to ensure proper compliance. New York employers, whether public or private, should move quickly to audit their personnel recordkeeping practices, update internal policies, and train HR personnel to avoid exposure to attorney general enforcement and fines and to reduce the risk of related employment claims.

This client alert was drafted by Esther Feuer, an attorney in the Spencer Fane Labor and Employment group. For more information, please visit www.spencerfane.com.

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