

# New law ups rights for current, former employees

Connecticut employers should take note of a new employment law expanding the rights of current and former employees to access and modify their personnel files, particularly regarding disciplinary issues.

In addition to addressing access to personnel files, the new law, effective Oct. 1, requires employers to provide their employees with copies of any written documentation of disciplinary actions or terminations and to make employees aware of their right to file rebuttals.

The new rules grant current employees the right to inspect or copy their files within seven business days of making a written request. For former employees, employers have 10 business days to respond. Former employees must make a request within one year of termination of employment.

Previously, employers were required to provide current and former employees with the right to inspect and obtain a copy of their personnel files "within a reasonable time" after the receipt of written requests. The changes to the law now define what constitutes a "reasonable time."

Also included in the new legislation is a requirement that employers provide employees with a copy of "any documentation of any disciplinary action" within one business day of imposing the action,

whether or not employees request a copy of the documentation. "Disciplinary action" is not defined in the new rules, but presumably includes warnings, suspensions and demotions.

Employers also must immediately provide employees with a copy of any documented notice of termination.

Interestingly, the amendment does not expressly require that an employer prepare a written notice of termination or disciplinary action. It only requires that, if documentation is produced by the employer, it must be provided to the employee and not simply placed in the employee's personnel file.

It appears that employers can avoid this requirement by taking action verbally and not making a written record of it. However, this approach could be detrimental to employers in a later lawsuit if they don't have a contemporaneous record of the circumstances leading to the disciplinary action or termination.

Additionally, the new law addresses employers' affirmative obligation to inform employees that they have a right to submit information to their personnel files. Previously, employees had the right to ask an employer to remove or correct information in an employee's personnel file. If the employee and employer couldn't agree on the change, employees were permitted to submit a written statement for placement in the personnel file explaining their position on the matter. The employer was required to maintain the statement as part of the employee's personnel file and the statement was to accompany any transmittal of or disclosure to a third party.

Under the amended law, an employer must include a clear and conspicuous notice in all documented disciplinary actions, notices of termination, and performance evaluations stating that if the employee disagrees with any statement in the document, the employee may submit a written statement explaining the employee's position. Again, employers must keep these employee statements in the employee's personnel file and include them whenever the file or a portion thereof is transmitted or disclosed to a third party.

Failure to comply with the law as updated can result in penalties of up to \$500 for the first violation and \$1,000 for each subsequent violation.



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