

Connecticut General Assembly Passes Legislation Modifying Employer Obligations Under the Personnel Files Act

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On June 2, 2013, the Connecticut General Assembly gave final approval to Senate Bill 910, titled "[An Act Concerning Employee Access to Personnel Files](#)" ("Act"). The Act sets specific limits as to the number of days within which an employee or former employee has a right to inspect and copy his or her personnel file, requires employers to provide employees with any documentation of disciplinary action and termination, and sets forth penalties for failure to comply with the Act's requirements. While Governor Dan Malloy has not yet done so, it is expected that he will sign the Act into law, which will go into effect October 1, 2013.

Specifically, the Act requires employers, **within seven business days** after receiving a written request from an employee, to permit the employee to inspect **and, if requested, copy** the employee's personnel file (which must be kept by the employer for at least one year following the termination of the employee's employment). The Act also requires employers, **within 10 business days** after receiving a written request from **a former employee**, to permit the former employee to inspect **and, if requested, copy** the former employee's personnel file, provided that the request is made within one year following the termination of employment. Previously, employers were only required to permit inspection of personnel files by employees "within a reasonable time" following a request.

Most notably, the Act requires employers to provide an employee with **a copy of any documentation of any disciplinary action within one business day** after imposing such action. Each employer is also required to "**immediately** provide an employee with a copy of **any documented notice of that employee's termination of employment.**" In addition, the employer must include . . .

a statement in clear and conspicuous language in any documented disciplinary action, notice of termination of such employee's employment or performance evaluation that the employee may, should the employee disagree with any of the information contained in such documented disciplinary action, notice of termination or performance evaluation, submit a written statement explaining his or her position.

The Act fails to define "disciplinary action," and guidance from the Connecticut Department of Labor is not expected to be issued.

Employees or former employees claiming a violation of the Act may file a complaint with the Connecticut Labor Commissioner. The Labor Commissioner may impose a civil penalty on any employer found to be in violation of the law. In setting the penalty, the Labor Commissioner is to consider “all factors” deemed relevant, including (1) the level of assessment necessary to ensure immediate and continued compliance, (2) the character and degree of impact of the violation, and (3) whether the employer has a history of wage and hour violations.

What Employers Should Do Now

The law will not go into effect until October 1, 2013. As such, in preparation for the passage of the law, employers may wish to consider the following actions:

- Prepare protocols for how to address and respond to requests from employees and former employees for access to their personnel files.
- Prepare a policy and procedures for providing employees with documentation of any disciplinary action and termination from employment.
- Include in the documentation of disciplinary action, notice of termination, and performance evaluations a standard notice advising that the employee may submit a written rebuttal explaining his or her position if the employee disagrees with any information contained in the documentation.
- Train managers and human resources personnel on the substantive requirements of the law.

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