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# Client Insight: New York's New Personnel Records Law – What Employers Should Do Now, Including for Year-End Reviews

Insights
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**New York employers are now required to provide copies of personnel records upon request and notify employees when negative information is added to their records. Here's what we know now, actions employers can take to prepare, and how this might impact upcoming year-end performance reviews.**

On September 9, 2026, Governor Hochul signed New York Labor Law § 210-b, which took effect on November 8, 2026. For the first time, New York requires employers to give current and former employees copies of their personnel records on request and to notify employees when certain negative information is added to their records. Employees have already begun making requests for copies of their personnel files. The Governor signed the law based on an agreement with the Legislature to pass clarifying amendments in the session beginning in January 2027, but the timing and final scope of those amendments remain uncertain. Employers should comply with the law as enacted now and pay particular attention to how the notice requirement affects year-end performance reviews.

## Key Takeaways

- **Who this applies to:** Applies to all New York employers, regardless of size, and covers current and former employees. Employers based outside New York should

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assume the law covers their New York-based employees, including remote employees.

- **Records requirement:** Requires free copies of personnel records within five business days of a written request.
- **Negative information notice requirement:** Requires notice to employees within 10 days after adding certain negative information to their personnel records, which likely includes many year-end reviews, performance improvement plans, and written warnings.
- **Employee right to dispute:** Gives employees the right to dispute information and, absent agreement on a correction, submit a written statement that must accompany the disputed information.
- **Retention:** Requires record retention during employment and for three years after separation.
- **No retaliation:** Prohibits employers from retaliating against employees for exercising their rights under the law.
- **Enforcement:** Provides for fines of $500 to $2,500 per violation, enforceable by the New York Attorney General.

## What Employers Should Do Now

Key requirements address maintaining personnel records, responding to employee requests, and handling negative or disputed information.

- **Understand which records are covered.** The law broadly covers records that identify an employee and are used, have been used, or may be used in or affect decisions about the employee's qualifications for employment, promotion, transfer, additional compensation, or discipline. It is not limited to documents kept in a designated personnel folder. The statute provides the following examples of records, to the extent prepared by an employer, that shall be included in a personnel file:
    - Basic employment and pay information, such as job titles, job descriptions, start dates, pay rates, and other compensation.
    - Hiring materials, including applications and résumés.

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- Performance and disciplinary materials, including evaluations, written warnings, probationary periods, disciplinary documents, and dated termination notices.
- Waivers signed by the employee.

Records that are not specifically referenced in the statute but are likely to be covered include:

- Records held by a payroll provider, PEO, HR platform, or other vendor that has a contract with the employer to keep or supply personnel records.
- Depending on their content and use, performance-related emails, chat messages, manager notes, and investigation materials, not just formal evaluations.

Certain personal information about other people is excluded when disclosure would constitute a clearly unwarranted invasion of their privacy. Before producing records, employers should review them to redact this type of information (for example, co-worker details in investigation materials) and to identify privileged communications with counsel, which the law does not address.

- **Respond to written requests within five business days.** Employees and former employees are entitled to a free copy of their personnel records. The clock starts when the written request is submitted, and a request need not follow any particular format; an email to a manager may be enough. The law permits employers to limit reviews to two per calendar year, but a review request triggered by a notice of negative information does not count toward that limit. A request from an employee in a performance dispute or separation discussion may signal a potential claim, so involve counsel early in those situations.
- **Give notice within 10 days after adding certain negative information.** This requirement covers information that is, has been, or may be used to negatively affect decisions about employment, promotion, transfer, additional compensation, or potential discipline. The law does not specify business days, so employers should treat this as 10 calendar days and the clock starts when the information is “placed” in the personnel record. The law also leaves important questions unanswered: it does not clearly define what makes information “negative” or specify what the notice must say or how it must be delivered.

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- **Plan for year-end performance reviews.** Written warnings, performance improvement plans, and below-expectations ratings are likely covered. Mixed reviews, documented coaching conversations, and manager emails about performance are less clear. Until amendments or guidance narrow the requirement, a practical approach is to give New York employees a copy of any written review or disciplinary document when it is placed in their record, together with a brief written statement that it has been added to their personnel record. Documenting that delivery creates a clear record of notice without a separate process. Managers should continue to document performance candidly; the goal is timely notice, not less documentation.

- **Give employees an opportunity to respond.** An employee can challenge information received through a negative information notice or found elsewhere in their personnel records. The parties can agree on a correction or removal. Otherwise, the employee may provide a written explanation that the employer must keep with the challenged material and include whenever sharing that material with a third party for as long as the challenged material is retained. The law also permits the employer and employee to agree to remove information for any reason, which may be relevant in negotiated separations.

- **Preserve the complete record during employment and for three years after departure.** The law generally prohibits deleting or expunging material during this period, subject to its provisions allowing correction or removal. Do not routinely delete older reviews or warnings; consult counsel before removing disputed material. Other legal requirements or a duty to preserve evidence may require keeping records longer. The law also states that personnel records must be typewritten, printed, or handwritten in indelible ink, and does not expressly address electronic-only records, so employers should confirm that electronic records can be readily produced in printed form.

- **Keep written personnel policies available.** If an employer has written personnel policies regarding the terms and conditions of employment, the law requires that they be continuously maintained at the office where personnel matters are administered. The law does not define this phrase or address remote workforces, so employers should keep current handbooks accessible both at that office and through the company's HR platform or intranet.

Employers may not fire, threaten, penalize, or otherwise retaliate against current or former employees for requesting records, disputing information, or otherwise exercising their rights under the law. Prohibited retaliation expressly includes

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contacting or threatening to contact immigration authorities, or reporting or threatening to report the suspected immigration status of an employee or their family or household member. The law does not specify how the anti-retaliation provision is enforced, and employees may seek to assert retaliation claims in court.

## Expected Changes and Enforcement

According to Governor Hochul's approval memorandum, the amendments will clarify that employers are not required to create a personnel file or produce new documents beyond the records they currently maintain, and that personnel files include only records used to determine an employee's qualifications for hiring, retention, promotion, transfer, additional compensation, or disciplinary action. The memorandum does not indicate changes to the five-business-day deadline, the notice requirement, the retention period, or the anti-retaliation protections. Employers should not postpone compliance while awaiting changes.

Violations can result in fines of $500 to $2,500 per violation, enforced by the New York Attorney General. The law does not expressly create a private right of action for violations of its access, notice, or recordkeeping requirements. However, if an employer places information in a personnel record that it knew or should have known was false, the employee may seek to have it expunged through a collective bargaining agreement, other personnel procedures, or the courts.

## Practical Steps for Employers

- **Designate a point person.** Assign responsibility for tracking requests and deadlines. Make sure supervisors promptly forward written requests, even if an employee does not use a company form or designated contact.
- **Locate relevant records.** Identify where hiring, pay, performance, and disciplinary documents are stored, including email, chat, and HR systems, and confirm how quickly payroll providers, PEOs, or other vendors can supply records.
- **Establish a simple notice and response process.** Instruct supervisors to promptly flag potentially covered negative information, and work with counsel on a short standard notice. Before year-end reviews go out, build a copy-and-acknowledgment step into the review process for New York employees. Keep employee responses with disputed material so they accompany any later disclosure of that material.

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- **Update policies and train managers.** Add a personnel records section to New York handbooks or state supplements, and train managers and HR on what may trigger notice, how to route requests, and the anti-retaliation rule.
- **Review retention practices and monitor developments.** Check that routine deletion or overwriting will not remove required records prematurely. Update procedures as amendments or guidance become available.

Please contact your Gunderson Dettmer attorney to discuss your obligations under the new law, address questions about its application, or obtain assistance developing practical compliance procedures.

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