

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 13-176—sSB 910

Labor and Public Employees Committee

AN ACT CONCERNING EMPLOYEE ACCESS TO PERSONNEL FILES

SUMMARY: This act specifies how quickly an employer (individuals, corporations, partnerships, or unincorporated associations) must provide a current or former employee with access to his or her personnel file. It allows an employer to mail the file to a former employee if they cannot agree on a location for the former employee to inspect the files.

The act also requires employers to (1) provide employees with copies of any documentation of a disciplinary action or termination and (2) notify employees that they can include in their personnel file a written statement disagreeing with any information in the disciplinary, termination, or evaluation documents.

The act allows the labor commissioner to determine penalty amounts, within certain limits, for individual violations of the Personnel Files Act and specifies factors that she must consider when making this determination.

EFFECTIVE DATE: October 1, 2013

EMPLOYEE ACCESS TO PERSONNEL FILES

The law requires employers to let employees inspect their personnel files during regular business hours at a location at or reasonably near the employee's place of employment. Prior law required this inspection to occur within a reasonable time after the employer received a written request. The act requires employers to allow the inspection and, if requested, allow the files to be copied, within (1) seven business days for current employees and (2) 10 business days for former employees.

If an employer and former employee cannot agree on a location for the former employee to inspect the files, the act allows the employer to mail a copy of the file to the former employee within 10 days of receiving the written request for the file. Under the act, former employees must request their files within one year of their termination from the employer. By law, employers must keep a former employee's records for at least one year.

DISCIPLINE, TERMINATION, AND EVALUATION DOCUMENTS

The act requires employers to provide an employee with a copy of any documentation for any disciplinary action imposed on that employee within one business day. It also requires employers to immediately provide an employee with a copy of any documented notice of the employee's termination from employment.

Under the act, whenever an employer documents an employee's disciplinary action, termination notice, or performance evaluation, the employer must include

OLR PUBLIC ACT SUMMARY

in the document a statement in clear and conspicuous language that the employee can submit a written statement disagreeing with anything in the disciplinary action, termination notice, or performance evaluation. The employer must keep the employee's statement in the personnel file and include it whenever the file is transmitted or disclosed to a third party.

PENALTIES

Prior law required the labor commissioner to issue a \$500 civil penalty for the first violation of the Personnel Files Act against a particular employee and a \$1,000 penalty for any subsequent violations related to the same employee. The act instead allows the commissioner to issue penalties of up to \$500 for first violations and up to \$1,000 for subsequent violations related to an employee or former employee.

When determining a penalty's amount, the act requires the labor commissioner to consider (1) the penalty level needed to insure immediate and continued compliance with the Personnel Files Act, (2) the violation's character and degree of impact, (3) any prior violations of the Personnel Files Act by the employer, and (4) any other factors she deems relevant.

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