

Connecticut Amends Personnel Files Access Law, Specifies How Quickly Access Must be Provided

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The Connecticut Personnel Files Act gives employees in the state the right to inspect their personnel files. Governor Dannel Malloy has signed into law significant amendments to the Act that become effective October 1, 2013. Senate Bill 910 creates a distinction between current and former employees and expedites the time and manner in which both current and former employees are allowed access to their personnel files. Additionally, written disciplinary action carries with it added requirements. Significant changes are discussed below.

Expedited Timeframe for Current Employees

Under the Connecticut Personnel Files Act, an employer has a “reasonable time” to permit a current employee to inspect his or her personnel file. SB 910 replaces that requirement with a mandate that the employer allow an inspection within seven business days of a request. In addition to an inspection, employees will be able to request a copy of their personnel files under the new law.

Expedited Timeframe for Former Employees

An employer has 10 business days after receiving a written request from a former employee to allow the requestor to inspect or get a copy of his or her personnel file. The request must be made within one year of the date of the former employee's termination. As relationships with former employees occasionally are strained, an employer can comply with this provision by mailing a copy of the personnel file within the same period if the employer and former employee cannot agree “upon a location to conduct such inspection.”

Additional Requirements for Written Disciplinary Actions

SB 910 requires employers to provide a copy of any disciplinary action to the employee within one business day after the action is taken. Notably, on its face, this provision applies only to written disciplinary actions and does not require employers to produce or create documentation of disciplinary actions in the first instance.

Additionally, under SB 910, employers are required to provide an employee “immediately” with copies of any notices of the employee's termination of employment. Again, this provision does not require the documentation be produced or created in the first instance, but applies only if written documentation is made of the termination.

SB 910 also requires employers to include in an employee's personnel file “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.” This statement must be maintained as part of the employee's personnel file and be included in any transmittal or disclosure from the file.

Penalties

SB 910 grants the Connecticut Department of Labor discretionary power to establish an appropriate fine of up to \$500 for any first violation and \$1,000 for any subsequent violations. It provides that the DOL consider certain criteria (including the level necessary to achieve immediate compliance, the character and degree of the violation, and any prior history of the employer). Ultimately, however, the amount of the penalty is left to the discretion of the DOL. The new law states that DOL may consider “all factors which the commissioner deems relevant.”

What This Means for Employers

Employers should familiarize themselves with the new law and ensure that all applicable staff and compliance personnel are well-versed in the Act's new requirements. Employers also should consider amending their employee policies and training managers accordingly.

It is imperative to bear in mind that employers must provide a copy of any written disciplinary action to employees directly. Additionally, as employers will be held to a specified time frame for complying with personnel file requests, implementation of policies and procedures for responding to such requests may be beneficial.

Please feel free to contact your Jackson Lewis attorney, David R. Golder, at (860) 522-0404 or GolderD@jacksonlewis.com, or Beverly Garofalo, at (860) 522-0404 or GarofalB@jacksonlewis.com, to discuss the relationship between your workplace policies and Connecticut's newly enacted revisions to its Personnel Files Act. Additionally, Jackson Lewis is available to ease in the transition in implementing these procedures and training the appropriate staff in handling these matters.

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