

# New Colorado Law Grants Employees Access to Personnel Files

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Colorado Governor John Hickenlooper has signed into law new requirements specifying when and how private-sector employers must respond to their employees' requests for inspection and copying of their personnel files. Prior to this law, Colorado had no law granting private-sector employees access to their personnel records.

The new law goes into effect on January 1, 2017.

## Employer Obligations

Upon a current employee's request, an employer must allow that employee to inspect and obtain a copy of any part of the employee's personnel file at least once annually. A former employee, however, may make only one inspection of his or her personnel file after termination of employment.

The employee must inspect and obtain his or her personnel file at the employer's office and at a time convenient to both the employer and the employee. The new law also permits an employer to restrict an employee's review of his or her personnel file to be only in the presence of an individual designated by the employer. The employer also may require the employee or former employee to pay the reasonable cost of duplication of documents.

The new law does not require employers to create, maintain, or retain a personnel file on an employee or former employee. It does not require an employer to retain for a specific period of time documents that are or were contained in an employee's personnel file.

Further, the law does not create a private right of action for employees alleging violations of the law.

## Definitions

The law defines "personnel file" as those records "that are used or have been used to determine the employee's qualifications for employment, promotion, additional compensation, or employment termination or other disciplinary action."

The definition of "personnel file" specifically excludes the following:

1. Documents or records required to be placed or maintained in a separate file from the regular personnel file by federal or state law or rule;
2. Documents or records pertaining to confidential reports from previous employers of the employee;
3. An active criminal investigation, an active disciplinary investigation by the employer; or an active investigation by a regulatory agency; and
4. Any information in a document or record that identifies any person who made a

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4. Any information in a document or record that identifies any person who made a confidential accusation against the employee who requests his or her personnel file.

Finally, the new law does not apply to public employees because they have access to their personnel files under the Colorado Open Records Act. Additionally, the law does not apply to financial institutions chartered and supervised under state or federal law, including banks, trust companies, savings institutions, and credit unions.

If you have any questions, please contact the Jackson Lewis attorney with whom you regularly work.

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