

**WHAT'S NEW:** New York Governor, Kathy Hochul signed legislation creating new employer obligations as it pertains to employee and former employee personnel records. The new law takes effect on **November 8, 2026**.

**WHY IT MATTERS:** Under the new law, the term “employee” is defined to include both current and former employees. The new law establishes obligations and prohibitions for employers as follows:

### ***Notice to Employees***

- If an employer places anything in an employee’s personnel record that has been used or may be used to negatively affect the employee’s qualification for employment, promotion, transfer, additional compensation or the possibility that the employee will be subject to disciplinary action, the employer must notify the employee within 10 days of adding the documentation.

### ***Providing Access to Records***

- If the employer receives a written request from an employee to access the employee’s own personnel records, the employer must provide a copy at no cost to the employee within five business days of the request.
- An employee is entitled to access their personnel file no more than two separate times per calendar year. There is one exception. If an employee requests their file after learning that negative information was added, the request does not count toward the two-request annual limit.

### ***Maintaining Personnel Records***

- “Personnel Record” means a “record kept by an employer that identifies an employee, to the extent that the record is used or has been used, or may affect or be used relative to that employee’s qualifications for employment, promotion, transfer, additional compensation or disciplinary action.”
- An employer must retain a complete personnel record of any employee from the date of employment until three years after the termination of the employee.
- If there is a disagreement as to information contained in a personnel record, removal or correction may be mutually agreed upon. If an agreement is not reached, the employee may submit a written statement explaining their position. The statement must be added to the personnel file.

### ***Anti-Retaliation***

- Employers are prohibited from retaliating against an employee for exercising their rights under the new law.
- Retaliation includes, among other things, threatening to contact or contacting the United States immigration authorities or otherwise reporting or threatening to report an employee’s suspected citizenship or immigration status or the suspected citizenship or immigration status of an employee’s family or household member.

**WHAT EMPLOYERS SHOULD DO:** Employers should update policies and train managers on the new requirement. A sample policy can be found [here](#).

**If you have any questions, please contact your HR Business Partner/Consultant.**