

New Massachusetts Law Requires Notice to Employees About the Addition of Negative Information to Their Personnel Records

August 19, 2010

Buried in the newly-enacted Massachusetts Economic Development Reorganization law is a significant change to the state law regarding employee personnel records. The new law requires employers to give notice to employees when certain information is added to their personnel records. Employers must notify an employee within ten days of adding any information that has been used or may be used in the future 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.”

This new notice requirement is effective immediately, meaning that employers must now notify employees whenever potentially negative information is added to their personnel records. The penalties for an employer’s non-compliance with the personnel records law remain unchanged. The Attorney General is empowered to enforce the law, and an employer that violates it may be subject to a fine of at least \$500 and not more than \$2500.

Further, the new law limits how often an employee may review his or her personnel records. The Massachusetts personnel records law has long permitted an employee to view upon request his or her personnel record. The new law leaves unchanged an employer’s obligation to provide a review within five business days of such a request. However, it states that the employer does not have to permit more than two separate reviews of the personnel records in a calendar year. Note that the employer’s notification to the employee that it has placed negative information in the records does not count toward the two annual reviews.

RELATED PRACTICES

- [Labor & Employment](#)

This communication is intended for general information purposes and as a service to clients and friends of Foley Hoag LLP. This communication should not be construed as legal advice or a legal opinion on any specific facts or circumstances, and does not create an attorney-client relationship.

United States Treasury Regulations require us to disclose the following: Any tax advice included in this document was not intended or written to be used, and it cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code.

Attorney advertising. Prior results do not guarantee a similar outcome. © 2017 Foley Hoag LLP. All rights reserved.