

October 23, 2026

NEW YORK EMPLOYEE RECORDS ACCESS LAW TAKES EFFECT NOVEMBER 8, 2026

Nonprofit organizations with employees in New York should start preparing for the new NY Employee Personnel Records Access Law.¹ This law will require all employers, regardless of size, to make certain types of employee records available to employees twice a year upon demand. It will also require employers to notify employees when negative information is placed in an employee's file and provide employees with a chance to respond. The law will take effect November 8, 2026. For employers with organized employees, this law does not supersede an existing collective bargaining agreement ("CBA") as long as the terms of the CBA provide substantially similar access to the organized employees' records.

Key points

Access to personnel files

- The law allows employees to access their personnel file twice a year by making a request to their employer. Upon receipt of a request, an employer must provide the records within five business days, at no cost to the employee.
- A document is part of the personnel file if it identifies an employee and may be used to assess the employee's qualifications for employment, promotion, transfer, additional compensation, or discipline. The following documents are considered part of the personnel file, if they exist:
 - Name, address, and date of birth
 - Job title and job description
 - Rate of pay and other compensation paid to the employee
 - Starting date of employment
 - Job application of the employee
 - Resumes or other employment inquiry forms submitted in response to the Organization's advertisement
 - All performance evaluations, including evaluation documents
 - Written warnings of substandard performance
 - Probationary period lists
 - Waivers signed by the employee
 - Dated termination notices
 - Any other documents relating to disciplinary action regarding the employee
 - Any written statement the employee submits to dispute information in the recordOther documents may also be part of the personnel file. The law is not entirely clear on this point, and amendments to the law or court rulings may be necessary to provide clarity.

¹ NY Employee Personnel Records Access Law, S3460 of 2026, Chapter 293 of the Laws of 2026, adding Section 210-b to the New York Labor Law.

- An employer does not have to provide records containing personal information about someone other than the employee, if providing the information would violate the other person's privacy.

Putting negative information in an employee's file

- An employer must inform an employee in writing within 10 days of placing negative information in an employee's file, if that information may be used to negatively impact the employee's qualifications for employment, promotion, transfer, additional compensation, or disciplinary action.
- If the employee then makes a written request for a copy of the personnel record, the employer must provide it within five business days. This request will not count towards the two yearly personnel record requests that an employer is required to honor.
- The employee can then ask the employer to remove or correct that information. If the employer does not agree to do that, the employee can submit a written statement in response, which must be kept in the personnel file. In addition, anytime the employer provides the document with the disputed negative information to a third party, the employer must also provide the employee's written response.

Document retention

- Employers must now keep each employee's complete personnel record for at least three years after the employment relationship with the employee ends.

Other

- An employer cannot retaliate against an employee for exercising their rights under this law.
- The NY Attorney General has authority to enforce the law and to impose or seek a penalty between \$500 and \$2,500 for each violation. There is no private right of action.

What employers should do now, and how Lawyers Alliance can help

1. Adopt an employee records access protocol, including: a definition of what is included in an employee's record, where each item is kept, who is responsible for providing access, how employees are notified when negative information is placed in their file, and the process for employees to respond to that information.
There is a sample protocol attached to this legal alert. Each organization should make every effort to review the protocol with counsel to ensure it accounts for the organization's specific circumstances. Unfortunately, Lawyers Alliance does not have the resources to find counsel to review these policies.
2. Review contracts with any outside vendors that keep employee records (for instance, payroll providers, outside human resources vendors, PEOs) to make sure they are obligated to provide records within 5 days of an employee request.
Lawyers Alliance may be able to find pro bono counsel to review contracts for eligible nonprofits.

3. Update the document retention and destruction policy to require that employee personnel records be kept throughout employment and for 3 years after.
Lawyers Alliance may be able to find pro bono counsel to update a document retention and destruction policy for eligible nonprofits.

This alert is meant to provide general information only, not legal advice.

The legal alert was drafted by Lawyers Alliance Legal Director Laura Abel. The Employee Personnel Records Access Protocol was drafted by Sarah M. DeFranco, a partner at Akerman LLP.

If you have any questions about this alert, please contact info@lawyersalliance.org or visit our website at www.lawyersalliance.org for further information. To become a client, visit www.lawyersalliance.org/becoming-a-client.

Lawyers Alliance for New York is the leading provider of business and transactional legal services for nonprofit organizations and social enterprises that are improving the quality of life in New York City neighborhoods. Our network of pro bono lawyers from law firms and corporations and staff of experienced attorneys collaborate to deliver expert corporate, tax, real estate, employment, intellectual property, and other legal services to community organizations. By connecting lawyers, nonprofits, and communities, Lawyers Alliance for New York helps nonprofits to provide housing, stimulate economic opportunity, improve urban health and education, promote community arts, and operate and advocate for vital programs that benefit low-income New Yorkers of all ages.

[NAME OF ORGANIZATION]

EMPLOYEE PERSONNEL RECORDS ACCESS PROTOCOL

Adopted under New York Labor Law § 210-b | Effective: November 8, 2026 | Version 1.0

Template note for nonprofit users (remove before finalizing this protocol): This Employee Personnel Records Access Protocol is a template designed for internal use by the Organization's HR personnel or a management-level employee designated to respond to personnel records requests in compliance with New York Labor Law § 210-b. Replace bracketed text (for example, [Organization], [HR Contact]) with your own information before you adopt this protocol. If the Organization does not have dedicated HR personnel, replace all references to "HR" with the title of the management-level employee designated to respond to personnel record requests. The law was signed on September 9, 2026. When signing, the Governor announced an agreement with the Legislature on a follow-up chapter amendment expected to clarify the definition of personnel records and confirm that employers need not create new records. As of the date of this version of this protocol, no chapter amendment has been enacted; this protocol reflects the statute as signed. Check with counsel for any amendments before finalizing and periodically after adoption. The text of the law and any legislative amendments may be viewed at <https://www.nysenate.gov/legislation/laws/LAB/210-B>. This template is general guidance and is not legal advice for any particular situation.

1. Purpose and Summary

[Organization] (the "Organization") is committed to transparency and fairness in how it keeps employment records. This protocol explains how current and former employees in New York may review and obtain a free copy of their personnel records, how the Organization will inform employees when it adds negative information to their personnel records, how employees may respond in writing, and how long the Organization keeps these records. It is designed to comply with New York Labor Law § 210-b (the "Law"), which takes effect on November 8, 2026.

Key points at a glance:

Topic	Rule
Who may request	Current and former employees
How to request	In writing (form, email, or letter) to [HR Contact]
Deadline to provide copy	Within 5 business days after the Organization (including HR or any supervisor, manager, or other agent) receives the written request
Cost	Free. No fee is charged for copies
How often	Up to 2 requests per calendar year; requests prompted by a negative-information notice do not count
Negative information notice	Employee is notified within 10 days after negative information is placed in the record

Topic	Rule
Employee response	Employee may submit a written statement after negative information is placed in the record, which becomes part of the record
Retention	Complete personnel records kept, without deletion, through 3 years after employment ends or longer if required by applicable law or the Organization's internal records retention policy
Retaliation	Strictly prohibited

2. Coverage

2.1 Covered Employers

The Law applies to virtually all employers in New York, public and private, including individuals, corporations, partnerships, labor organizations, unincorporated associations, and employers' agents. There is no exemption for nonprofit or tax-exempt organizations and no minimum number of employees. The Organization is therefore covered.

If employees are covered by a collective bargaining agreement, the Law does not override that agreement as long as the agreement gives employees at least substantially similar access to their personnel records. *[If your Organization has a unionized workforce, review the agreement with counsel.]*

2.2 Covered Individuals

This protocol applies to every person currently employed by the Organization and every person formerly employed by the Organization in New York, whether full-time, part-time, temporary, seasonal, or exempt or non-exempt. Former employees keep the right to request their records for as long as the Organization is required to retain them (see Section 9.1).

Volunteers, board members, and independent contractors who are not employees are not covered by the Law. The Organization may, at its discretion, respond to their requests for records, but this protocol does not create a right to do so. *[If your Organization uses staffing agencies or a professional employer organization (PEO), consult counsel about which entity is the employer for these purposes.]*

2.3 Records Held by Vendors

Personnel records include records kept for the Organization by a third party under a contract, such as a payroll provider, HR information system, PEO, or background-check vendor. The Organization will retrieve vendor-held records as part of any response, and HR will confirm that vendor contracts allow timely retrieval within the 5-business-day deadline.

3. What Is a Personnel Record

3.1 Definition

A "personnel record" is any record kept by the Organization that identifies an employee, to the extent the record is used, has been used, or may affect or be used relative to that employee's qualifications for employment, promotion, transfer, additional compensation, or disciplinary

action. It does not matter where the record is stored (paper file, email, HR system, a supervisor's files, or a vendor's system).

3.2 Records That Must Be Included in the Personnel Record

At a minimum, each employee's personnel record must include the following, *to the extent they exist*:

- Name, address, and date of birth
- Job title and job description
- Rate of pay and other compensation paid to the employee
- Starting date of employment
- Job application of the employee
- Resumes or other employment inquiry forms submitted in response to the Organization's advertisement
- All performance evaluations, including evaluation documents
- Written warnings of substandard performance
- Probationary period lists
- Waivers signed by the employee
- Dated termination notices
- Any other documents relating to disciplinary action regarding the employee
- Any written statement the employee submits to dispute information in the record (see Section 6.3)

The list is not exhaustive. Other records also qualify if they are or may be used to make the employment decisions described in Section 3.1. Personnel records must be kept in typewritten or printed form, or may be handwritten in indelible ink (printable electronic records are acceptable).

3.3 Statutory Exclusion

The Law excludes information of a personal nature about a person other than the employee, if disclosure of that information would constitute a clearly unwarranted invasion of the other person's privacy. See Section 7.1 for how this exclusion is applied.

3.4 Records Kept Separately

Some records must be kept separately from the personnel file under other laws, such as medical records, disability accommodation records, FMLA and leave medical certifications, and Form I-9s. Keeping these records in separate confidential files is required by those laws and is not a way to avoid the Law. Before responding to a request, HR will consult counsel about whether any separately kept record is also a personnel record that must be produced.

4. How to Respond to a Request for Personnel Records: Steps for HR

1. **Log the request** in the Request Log (Appendix B) on the day it is received. Record the date the request was first received by anyone at the Organization (including a supervisor or manager), and calculate the 5-business-day deadline from that date.

2. **Verify identity** using reasonable means (for example, matching the request to contact information on file). Do not use verification to delay the response.
3. **Gather all records** from every location: the central file, HR systems, payroll, supervisors' files, email used in evaluation or discipline, and vendor systems.
4. **Review for the privacy exclusion** (Section 7.1). Redact only what the exclusion permits, and log each redaction.
5. **Check the annual limit** (Section 7.3). If the limit applies, respond in writing within the deadline explaining that the request is denied because the employee has already requested a copy two times during the calendar year, and provide the date the employee may next request.
6. **Deliver the complete copy** by the deadline using the method the requester chose, with a cover letter listing what is enclosed.
7. **Close out the log** with the date and method of delivery, and keep a copy of the cover letter/email and the production set.

5. Timelines and Deadlines

Event	Deadline	Responsible
HR acknowledges request	Within 1 business day (internal goal)	HR
Complete copy delivered to requester	Within 5 business days after the written request is received by the Organization, including any supervisor, manager, or other agent (legal requirement)	HR
Notice to employee after negative information is placed in record	Within 10 days after placement (legal requirement)	HR / supervisor
Employee's written statement added to record	Promptly upon receipt (internal goal: 2 business days)	HR
Retention of complete record	From hire through 3 years after employment ends (legal requirement)	HR

Business days are Monday through Friday, excluding Organization holidays. For example, a request received on a Monday must be fulfilled by the following Monday. Because the statute does not say "business days" for the 10-day notice, HR will treat that deadline as 10 calendar days. If a deadline will be missed for any reason, HR must contact counsel immediately; the Law does not provide extensions.

6. Notice of Negative Information and the Right to Respond

6.1 When Notice Is Required

The Organization will notify an employee in writing within 10 days of placing in the employee's personnel record any information that is, has been, or may be used to negatively affect the employee's qualifications for employment, promotion, transfer, additional compensation, or disciplinary action. The Law does not define "negative," so the Organization will read it broadly.

Examples include written warnings, performance improvement plans, below-expectations evaluations, documented coaching, investigation findings, and complaints about the employee that are kept in the record.

6.2 How Notice Is Given

Notice will be given in writing (email or letter) using the Notice of Negative Information (Appendix C). It will identify the document placed in the record, state the date it was placed, and remind the employee of the right to obtain a copy and to submit a written response. HR will keep a copy of each notice and the date it was sent.

6.3 Employee's Written Statement

If an employee disagrees with any information in the personnel record, the Organization and the employee may mutually agree to remove or correct it. If they do not reach agreement, the employee may submit a written statement explaining the employee's position. The statement will be made part of the personnel record and will be included whenever the disputed information is shared with a third party, as long as the original information is kept in the file. The Organization and employee may also agree to remove information for any reason; any removal or correction will be documented, and the original will be retained if required by Section 9.1. If the Organization places information in a record that it knew or should have known was false, the employee may seek to have it removed through a collective bargaining agreement, other personnel procedures, or the courts.

A request for a copy made after receiving a negative-information notice does not count toward the annual request limit in Section 7.3.

7. Permissible Limitations on Access

7.1 Privacy of Other Persons

The Organization may withhold or redact information of a personal nature about a person other than the requesting employee, but only where disclosure would be a clearly unwarranted invasion of that person's privacy. Examples may include another employee's medical information, home address, Social Security number, or compensation, or personal details about a witness in an investigation. Redactions must be as narrow as possible; the rest of the document must be produced. Each redaction will be noted in the production and in the Request Log.

7.2 Third-Party and Confidential Documents

The Law does not contain a general exception for confidential, third-party, or reference documents. If a document meets the definition in Section 3.1, the Organization will produce it, subject only to the privacy exclusion in Section 7.1. Before withholding any document on another ground (for example, attorney-client privileged legal advice, or records of an ongoing investigation), HR must obtain advice from counsel and document the basis for withholding.

7.3 Frequency Limit

The Organization is not required to honor more than two requests per employee per calendar year. Requests made after the employee receives a negative-information notice do not count toward this limit. If it declines a request because of the limit, HR will respond in writing within 5 business days explaining why and the date the employee may next request.

7.4 No New Records

The Organization will produce the records it maintains. The Law as signed does not expressly state whether employers must create a personnel file or new documents. The anticipated chapter amendment is expected to confirm that they do not, but it has not yet been enacted; until it is, the Organization will produce all existing qualifying records. [*Update this section when the chapter amendment is enacted.*]

8. Copies and Costs

The Organization will provide a complete copy of the personnel record at no cost to the employee. No fee will be charged for copying, retrieval, redaction, postage, or electronic delivery. Copies will be provided by secure electronic delivery, in person, or by mail (the employee's choice). Electronic copies will be sent in a common printable format (such as PDF) by encrypted email or secure link. Copies mailed will be sent by a trackable method, and HR will record the tracking number.

9. Recordkeeping and Documentation Obligations

9.1 Retention of Personnel Records

The Organization will keep each employee's complete personnel record, without deletion or expungement, from the date of hire through at least three years after employment ends. Other laws may require some records to be kept longer (for example, payroll records under the New York Labor Law and benefit plan records); the Organization's records retention schedule will apply the longest applicable period. Records subject to a litigation hold must not be destroyed until the hold is lifted.

9.2 Written Personnel Policies

If the Organization has a written personnel policy about terms and conditions of employment (such as an employee handbook), such personnel policy, as the same may be amended from time to time, must be continuously maintained at the Organization's office where personnel matters are administered. [*Organization to identify the specific location, such as the HR office.*]

9.3 Request and Notice Log

The Law does not expressly require a log of requests, but keeping one is the best way for the Organization to show it met its deadlines. HR will keep a Request Log (Appendix B) recording, for each request: requester name, date received, deadline, date and method of delivery, any redactions or withheld documents and the reason, and whether the request counted toward the annual limit. HR will also keep a copy of each production, each negative-information notice with the date sent, and each employee statement. These documents will be kept for at least the same retention period as the related personnel record.

9.4 Notices and Postings

The Law *does not* require a workplace poster or written notice to employees of the employees' general rights under the Law to be included in an employee handbook. The Organization will nevertheless distribute a Personnel Records Requests policy (Appendix D) in the Organization's employee handbook and provide it to new hires. If the Organization does not have an employee handbook, it may distribute the policy as a stand-alone policy.

9.5 Security and Training

Personnel records will be kept secure, with access limited to HR and persons with a business need. HR staff, managers, and supervisors will be trained on this protocol, especially the 5-business-day deadline, the 10-day negative-information notice, and anti-retaliation rules.

10. Anti-Retaliation and Penalties

10.1 No Retaliation

The Organization will not discharge, discipline, threaten, discriminate against, or retaliate in any way against any employee or former employee for requesting personnel records, submitting a written statement, or otherwise exercising rights under the Law. The Law expressly treats as retaliation contacting, or threatening to contact, immigration authorities, or reporting or threatening to report the suspected citizenship or immigration status of an employee or an employee's family or household member to any federal, state, or local agency.

Employees who believe they have experienced retaliation should report it to [HR Contact] or [alternate contact, e.g., Executive Director or Board Chair]. Reports will be investigated promptly, and anyone found to have retaliated will be subject to discipline, up to and including termination.

10.2 Penalties for Non-Compliance

The New York Attorney General enforces the Law. Any violation by an employer or any other person can result in a fine of not less than \$500 and not more than \$2,500. The Law does not expressly give employees a private right to sue for violations, including retaliation; its only express employee remedy is the right to seek removal of information the employer knew or should have known was false, through a collective bargaining agreement, other personnel procedures, or the courts. Employees may also have retaliation remedies under other laws, such as New York Labor Law § 215, which generally protects employees who exercise rights under the Labor Law. The Organization's policy is to comply fully regardless.

11. Administration

[HR Contact Name, Title] is responsible for administering this protocol. Questions should be directed to [contact]. The Organization will review this protocol periodically and after any amendment to the Law. The Organization may change this protocol at any time, consistent with the Law.

Appendix A: Personnel Record Request Form

Employee/former employee name: _____

Other names used while employed: _____

Job title / department: _____

Dates of employment (former employees): _____

Phone / email: _____

Delivery method: ☐ Secure electronic copy ☐ In-person pickup ☐ Mail to: _____

☐ I would also like to review my original file in person.

☐ This request follows a notice of negative information dated _____.

Signature: _____ Date: _____

FOR HR USE: Date received _____ Deadline _____ Date delivered _____ Initials

Appendix B: Request Log

Requester	Date Received	Deadline (5 bus. days)	Counts Toward Limit? (Y/N)	Date / Method Delivered	Redactions / Withheld (Reason)	HR Initials

Appendix C: Notice of Negative Information

[Send to the employee via email or letter delivered in person or via mail and retain a copy.]

Date: _____

To: [Employee Name]

This notice is to inform you that on [date], the following document was placed in your personnel record: [description of document].

Under New York Labor Law § 210-b, you have the right to request a free copy of your personnel record, and this request will not count toward the two-request annual limit. You also have the right to submit a written statement explaining your position if you disagree with this information. Any statement you submit will be made part of your personnel record and included whenever this information is shared with a third party.

To request a copy or submit a statement, contact [HR Contact, email]. The Organization prohibits retaliation for exercising these rights.

[HR Representative Name, Title]

Appendix D: Handbook Policy – Personnel Records Requests

[Insert into the [Organization] Employee Handbook. Effective November 8, 2026.]

Under New York Labor Law, current and former employees of [Organization] have the right to review and get a free copy of their personnel records. Your personnel record includes documents we keep about you that are or may be used in decisions about hiring, promotion, transfer, pay, or discipline, such as your job application, pay information, performance reviews, and warnings. We will give you a complete copy within 5 business days after we receive your written request. You may also request a copy any time you receive a notice that negative information was added to your file. You may make up to two requests each calendar year. A request you make after receiving a notice of negative information does not count toward this limit.

How to Request Your Personnel Records

1. Put your request in writing. Use the Personnel Record Request Form (Appendix A), or send an email or letter marked “Personnel Record Request.”
2. Include your name, job title, dates of employment, and how to reach you.
3. Tell us how you want your copy: secure email, pickup in person, or mail.
4. Send it to [HR Contact Name, Title] at [email address] or [mailing address].
5. HR will confirm it received your request and send your copy within 5 business days. You do not need to say why you want your records, and there is no charge.

If Negative Information Is Added to Your File

If we add anything to your personnel record that could negatively affect your job, pay, promotion, or transfer, or could lead to discipline (for example, a written warning or a low performance review), we will tell you in writing within 10 calendar days. If you disagree with any information in the personnel record, the Organization and you may mutually agree to remove or correct it. If we do not reach a mutual agreement, you may write a statement explaining your side. We will add your statement to your personnel record and include it whenever we share the disputed information with anyone outside [Organization].

No Retaliation

[Organization] will not retaliate against anyone for asking for their records or submitting a statement in response to negative information added to their personnel record. Employees who believe they have experienced retaliation should report it to [HR Contact] or [alternate contact, e.g., Executive Director or Board Chair]. Reports will be investigated promptly, and anyone found to have retaliated will be subject to discipline, up to and including termination.