
Employees Have the Right to Inspect Their Files

In June 2016, House Bill 16-1432 was signed into law effective January 1, 2017. The Bill states,

“[e]very employer shall, at least annually, upon the request of an employee, permit that employee to inspect and obtain a copy of any part of his or her own personnel file or files at the employer’s office and at a time convenient to both the employer and the employee.” Colo. Rev. Stat. § 8-2-129(1).

To Whom Does This Apply

Former employees may also have one-time access to their employee files. As the employer, you can require a designated employee be present at the time of inspection by a current or former employee. You also have the option of providing the employee a complete copy of the file in place of an in-person inspection. You may also require employees and former employees pay reasonable copying costs if they choose to make copies of the files. The inspection of the employee file does not need to happen on county premises or within a specific time period. The law expects both parties to agree to a reasonable time and location for the inspection to occur.

The law does not apply to public employees or financial institutions chartered or supervised under state or federal law. Nor does it require employers to create, maintain, or retain personnel files.

What Files do we Need

The law does not mandate what documents you are required to keep in the file. It does however, require you to “make reasonable efforts to collect personnel file documents” which it defines as documents “used or [that] have been used to determine the employee’s

qualifications for employment, promotion, additional compensation, or employment termination or other disciplinary action” Colo. Rev. Stat § 8-2-129(2)(c). This excludes documents that state or federal laws require you to keep in a separate file (e.g., confidential medical information). It also excludes any documents or reports pertaining to 1) confidential information from previous employers, 2) pertaining to active criminal or disciplinary investigations or disciplinary investigations by a regulatory agency, 3) information that identifies any person who made a confidential accusation against the employee requesting to inspect the file.

What this Means for Counties

Audit your personnel files to make sure that they are in compliance with the law and with county policies. Handle personnel files in a consistent manner and train your HR staff and managers on how to administer and respond to requests for inspections. Create a standard set of procedures governing personnel file inspections. While the law does not require personnel files be retained for a specific period of time, specific records (e.g., payroll [three years], FMLA records [three years]) do need to be kept as long as required by law.

For more information on Colo. Rev. Stat. § 8-2-129(1), please contact CTSI’s Senior Human Resources Specialist, Dana Mumey at (303)-861-0507. 