

Minnesota Employers and Personnel Records

Effective January 1, 2008, Minnesota employers with 20 or more employees must provide "written notice" to each new hire of the "rights and remedies" provided in the Minnesota Personnel Record Review and Access Act (the Act), Minn. Stat. § 181.960-967.

"Written notice" is not specifically defined within the Act, so there are several options for an employer to comply with this notice requirement to all new hires. Employers should review their new-hire procedures and either: (1) revise their current handbook so it provides "written notice" upon hire or (2) create a "written notice" that documents that each new hire has been given the notice starting next year.

The "written notice" will need to provide each new hire with notice of the following rights and remedies:

- The employee's right, upon written request, to review the employee's "personnel records," as those are defined by the Act.
- The employee's right, after the review, to make a written request for a copy of those records.
- The employee's right to dispute information contained in those records.
- The procedures for resolving disputes about the contents of those records.
- The employee's right not to be retaliated against for asserting these rights.
- The remedies available under the Act for violations of the above rights, including the right to compel compliance, the right to recover actual damages plus costs, and, in cases of retaliation for asserting one's rights, the right to recover back pay, reinstatement, other make-whole and equitable relief, and attorney fees.

None of these rights or remedies is new. What is new is that, effective January 1, 2008 employers must inform employees in writing about these rights and remedies.

Note: The form of the required notice is not specified in the law, so there are options for employers to comply. Employers should either revise their current so it provides the notice upon hire or create a separate "written notice" that documents that each new hire has been given the notice. A sample "written Notice" is included below.

Notice and Summary of Right to Review Personnel Records

Minnesota Statutes §181.960 - §181.967

You have a right under Minnesota law to review your personnel file once every six months while you are employed with us. If you choose to exercise this right, you must give us your request in writing.

Within seven working days of receiving your request (or within 14 working days if your personnel records are stored out of state), We will make available for your review either your original file or an accurate copy of your file. You will have access to your file during normal operating hours either at your job site or at a nearby location. We may require that this review take place in the presence of a company representative. After you have had an opportunity to review your file, you may make a written request for a copy of the record. If you make such a request, we will provide you with a copy of your file at no charge to you.

After your separation from employment (for whatever reason), you may review your file once annually for as long as we maintain the record. If you make a good faith, written request to review your file after your employment with us has ended, we will provide a copy of your file at no cost to you.

If, after reviewing your file, you dispute specific information contained in the record, we may agree to remove or revise the disputed information. If no such agreement is reached, you are entitled to submit a written statement of no more than five pages explaining your position. This position statement will be included in your file, along with the disputed information, for as long as we maintain the record.

We will not retaliate against you for asserting your rights under the Minnesota Personnel Records Statute. The full text of this statute, which sets forth all your available rights and remedies, can be found online at: **<https://www.revisor.mn.gov/statutes/?id=181.960>**

I acknowledge that [COMPANY] has provided me with notice of my rights under the Minnesota Personnel Records Statute.

Date: _____

Signature: _____