

**"INSPECTION OF
EMPLOYMENT RECORDS LAW"
ACT of 1978, P.L. 1212, No. 286**

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AN ACT

Authorizing an employee to inspect certain personnel files of his employer.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Employee." Any person currently employed, laid off with reemployment rights or on leave of absence. The term "employee" shall not include applicants for employment or any other person. (Def. amended Nov. 29, 1990, P.L. 596, No. 149)

"Employer." Any individual, person, partnership, association, corporation, the Commonwealth, any of its political subdivisions or any agency, authority, board or commission created by them.

"Personnel file." If maintained by the employer, any application for employment, wage or salary information, notices of commendations, warning or discipline, authorization for a deduction or withholding of pay, fringe benefit information, leave records, employment history with the employer, including salary information, job title, dates of changes, retirement record, attendance records and performance evaluations. The term "personnel file" shall not include records of an employee relating to the investigation of a possible criminal offense, letters of reference, documents which are being developed or prepared for use in civil, criminal or grievance procedures, medical records or materials which are used by the employer to plan for future operations or information available to the employee under the Fair Credit Reporting Act (84 Stat. 1127-1136, 15 U.S.C. §1681 et. seq.).

Section 2. Inspection of personnel files.

An employer shall, at reasonable times, upon request of an employee, permit that employee or an agent designated by the employee to inspect his or her own personnel files used to determine his or her own qualifications for employment, promotion, additional compensation, termination or disciplinary action. The employer shall make these records available during the regular business hours of the office where these records are usually and ordinarily maintained, when sufficient time is available during the course of a regular business day, to inspect the personnel files in question. The employer may require the requesting employee or the agent designated by the employee to inspect such records on the free time of the employee or agent. At the employer's discretion, the employee may be required to file a written form to request access to the personnel file or files or to indicate a designation of agency for the purpose of file access and inspection. This form is solely for the purpose of identifying the requesting individual or the designated agent of the requesting individual to avoid disclosure to ineligible individuals. To assist the employer in providing the correct records to meet the employee's need, the employee shall indicate in his written request, either the purpose for which the inspection is requested, or the particular parts of his personnel record which he wishes to inspect or have inspected by the employee's agent.

(2 amended Nov. 29, 1990, P.L. 596, No. 149)

Section 2.1. Designated agent.

An employee shall provide to the employer a signed authorization designating a specific individual or individuals who shall be authorized to inspect the employee's personnel file. The signed authorization shall be for a specific date or dates and shall indicate either the purpose for which the inspection is authorized or the particular parts of the employee's personnel file which the designated agent is authorized to inspect. The

provisions of section 2 shall apply to the designated agent.

(2.1 added Nov. 29, 1990, P.L. 596, No. 149)

Section 3. Applicability.

Nothing in this act shall be construed as a requirement that an employee or the designated agent of the employee be permitted to remove his personnel file, any part thereof, or copy of the contents of such file from the place of the employer's premises where it is made available for inspection. The taking of notes by an employee or the designated agent of the employee is permitted. The employer shall retain the right to protect his files from loss, damage or alteration to insure the integrity of the files. The employer may require inspection of the personnel file in the presence of an official designated by the employer. The employer must allow sufficient inspection time, commensurate with the volume content of the file. Except for reasonable cause the employer may limit inspection to once every calendar year by an employee and once every calendar year by the employee's designated agent, if any.

(3 amended Nov. 29, 1990, P.L. 596, No. 149)

Section 4. Administration of act.

The Bureau of Labor Standards of the Department of Labor and Industry is hereby authorized and directed to enforce the provisions of this act, and upon a petition and hearing by either an employer or employee, to make and enforce such orders as the bureau shall deem appropriate to which order will provide access to said records and the opportunity for an employee to place a counter statement in his or her file in the event an alleged error is determined by an employee in the personnel file. The bureau, however, shall have no authority to inspect personnel files, to investigate alleged errors detected by an employee in his personnel file, or to attempt remedial action unless the records indicate violations of other sections of the Pennsylvania Statutes. The employee must avail himself of appropriate civil remedies such as grievance procedure under a union contract. Nothing in this act shall diminish any rights to discovery granted under the rules of the court of Pennsylvania.

Section 5. Effective date.

This act shall take effect in 60 days.