

EMPLOYEE PERSONNEL RECORD LAW

**Prepared by the Mental Health Legal Advisors Committee
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Massachusetts law, Mass. Gen. L. ch. 149 § 52C, provides employees with the right to access their personnel record upon a request made to a present or past employer. This law answers the following questions:

What is a “personnel record” to which an employee has a right of access?

A personnel record is a collection of documents about an employee compiled by the employer during employment. It includes any document that

- identifies the employee; and
- was or may be used by the employer when making any employment, promotion, transfer, additional compensation, or disciplinary action decisions.

If the employer has more than 20 employees, then the personnel record must, but is not limited to, including the employees:

- Name,
- Address,
- Date of birth,
- Job title and description,
- Rate of pay and other compensation paid,
- Start date of employment,
- Job application and a resume and other forms submitted to the employer in response to job advertisement,
- All performance evaluations,
- Evidence of substandard performance,
- Waivers signed by employee,
- Copies of dated termination notices,
- And any other documents related to the employee.

Employers must maintain personnel records either in:

- typewritten, or in printed form, or
- in handwritten in indelible ink.

Who is an employee?

An employee is an individual who is currently employed or was formerly employed by an employer.

However, employees are not individuals who are employed by a private higher education institution and are: on a track to tenure, tenured, or in a position involving similar responsibilities to tenure-track employees.

Who is an employer?

The statute defines an employer as “an individual, corporation, partnership, labor organization, unincorporated association or any other legal business, public or private or commercial entity including agents of the employer.”

Does an employee have the right to know that harmful information has been placed in their employment record?

If an employer places in an employee’s personnel record any information that

- has been used or may be used to negatively affect an employee’s qualification for employment, promotion, transfer, or for additional compensation, or
- may be used to support disciplinary action,

the employer must notify the employee within 10 days of placing the information in the record.

Can employees see their personnel record?

Yes. Employees may request an opportunity to review their personnel record. Employers have 5 business days after receiving a written request to comply. The review should take place at the place of employment during normal business hours. An employer is only required to comply with an employee’s written request to review their personnel record on two separate occasions in a calendar year.

Employees may request a copy of their personnel record. Upon receipt of a written request by an employee for a copy of their personnel record, the employer has 5 business days to provide a copy to the employee.

What happens if an employer violates Mass. Gen. L. ch. 149 §52C?

A violation of this statute is punishable by a fine of between \$500 - \$2500 and is enforced by the [Massachusetts Attorney General](#).

How long does an employer need to keep a personnel record?

An employer of twenty or more employees is required to keep the personnel record (without deletions or expungement) for three years after employment or until the end of any administrative or judicial proceeding for which the personnel records are relevant.

What if an employee disagrees with something in their personnel record?

This flow chart describes the process of contesting and correcting an employment record:

