

VII. Personnel Files

Under the Illinois Personnel Records Act, an employee may request in writing that the employer permit him or her to inspect any personnel documents that have been or may be used in determining the employee's qualifications for employment, promotion, transfer, additional compensation, discharge, or other disciplinary action. The employer must grant at least two inspection requests within a calendar year. The right of inspection does not apply to letters or reference, employment test documents (although test scores may be seen), materials related to the employer's "staff planning" including business development unless those materials are used to determine an individual employee's qualifications, and certain employer investigatory or security records relating to employee criminal conduct. The law applies to active employees, employees on leave of absence or layoff who are subject to recall, and employees who have left employment within the last year.

Upon request, an employee has the right to submit a written explanation of any statement in his or her file if the employer will not agree to remove or change that statement, as well as obtain a copy of all or part of the information contained in his or her file. Furthermore, an employer is prohibited from divulging any disciplinary report, letter of reprimand, or other disciplinary action to a third party unassociated with either the employer or the employee's bargaining agent, without giving written notice to the employee by first-class mail. However, an employee may waive such written notice by a written, signed employment application form with another employer.

If an employee is denied his or her right under the Act, or an employer otherwise violates the Act, the employee can file a complaint with the Illinois Department of Labor or commence an action in court if the Department fails to act. Furthermore, many collective bargaining agreements and board policies allow an employee access to his or her files, including the right to review, to make copies, and to place in the file written rebuttals to misleading or false information.

There are specific instances when educational employees have the right of access to personnel files even if this is not guaranteed by contract. If an employee has filed a grievance or unfair labor practice, pertinent information, including a personnel file, can be requested. Similarly, tenured faculty who are being dismissed for cause have discovery rights. An employee can request copies of the complete personnel files to obtain information necessary to advance the case.

The evaluation law covering primary and secondary teachers also provides that a copy of all evaluations must be provided to the teacher and must be kept on file. Copies of these evaluations should be kept by the teachers in case the need ever arises for their use. However, the Freedom of Information Act (FOIA) prohibits teachers' performance evaluations from being disclosed.