

CLIENT ALERT: September 21, 2010

**EMPLOYMENT LAW – IMMEDIATE CHANGES TO
MASSACHUSETTS PERSONNEL RECORDS LAW**

Last month, Governor Patrick signed into law “An Act Relative to Economic Development Reorganization,” which contained a provision significantly amending the Massachusetts Personnel Records Statute, G.L. c. 149, § 52C. The amended law took effect on August 1, 2010. Employers must take immediate steps to comply with the amended law.

The most important aspect of the amended law is that employers are now obligated to notify an employee within ten days of placing any information in the employee’s personnel record that may negatively affect his or her employment status. The law also limits employees’ rights to access their personnel records to two times per year (although any review prompted by the employer’s placing of negative information in an employee’s personnel file does not count towards the limit).

The scope of the new law may be broader than it appears at first glance. “Personnel record” may be interpreted to include a broad range of documents, not just those records contained in an employee’s “file.” For example, the notification requirement may be triggered by an internal email about an employee’s performance. While employees cannot sue for violation of the law, the Massachusetts Attorney General has the authority to impose civil penalties.

What Employers Should Do:

- Immediately notify any employee who has had negative information added to his or her personnel record since the law took effect;
- Implement policies or guidelines for complying with the notification requirement where any negative information – including notes on verbal warnings, emails, notes to the file, etc. – is placed in an employee’s personnel record;
- Review existing practices relating to what information is contained in personnel files; and
- Train supervisors on compliance with the law.

For additional information or guidance, please contact Attorneys Paul Holtzman (pholtzman@kb-law.com) or Anjali Waikar (awaikar@kb-law.com).