

Insist employees follow to the letter Michigan Employee Right to Know Act terms

Michigan employees are entitled to look at their personnel files, and the Michigan Employee Right to Know Act sets out the procedure and penalties for employers that don't allow access.

The law gives an employee the right to see the entire file before going through the time and expense of hiring an attorney. An employee must ask to see the file at "a location reasonably near the employee's place of employment and during normal business hours." The employer must mail a complete copy only if the employee can show he or she is unable to review it at its usual location.

Employees can sue for attorneys' fees if their employers refuse access, provided they follow the rules. As the following case shows, courts take that requirement literally. So can your organization.

Recent case: Kathy Varga sued Heartland Hospice after it fired her for allegedly breaking a workplace rule. Her attorney requested that the company mail a copy of her personnel report and sued when it refused.

But the court tossed out the case—since Varga herself had never requested a look at her file. The law requires her to make the request and view the file at a convenient location. As the law didn't require mailing a copy to her attorney, no penalties were due. (*Varga v. Heartland Hospice*, No. 05-10118, ED MI, 2007)

Final note: It's a good idea to let employees know how and when they can review their personnel files. Record each request, response and viewing so you can show you complied with the law.