

**2011–12 Wisconsin Statutes updated through 2013 Wis. Act 324
and all Supreme Court Orders entered before April 25, 2014.**

103.13 Records open to employee. (1) Definition. In this section, "employee" includes former employees.

(2) Open records. Every employer shall, upon the request of an employee, which the employer may require the employee to make in writing, permit the employee to inspect any personnel documents which are used or which have been used in determining that employee's qualifications for employment, promotion, transfer, additional compensation, termination or other disciplinary action, and medical records, except as provided in subs. (5) and (6). An employee may request all or any part of his or her records, except as provided in sub. (6). The employer shall grant at least 2 requests by an employee in a calendar year, unless otherwise provided in a collective bargaining agreement, to inspect the employee's personnel records as provided in this section. The employer shall provide the employee with the opportunity to inspect the employee's personnel records within 7 working days after the employee makes the request for inspection. The inspection shall take place at a location reasonably near the employee's place of employment and during normal working hours. If the inspection during normal working hours would require an employee to take time off from work with that employer, the employer may provide some other reasonable time for the inspection. In any case, the employer may allow the inspection to take place at a time other than working hours or at a place other than where the records are maintained if that time or place would be more convenient for the employee.

(3) Personnel record inspection by representative. An employee who is involved in a current grievance against the employer may designate in writing a representative of the employee's union, collective bargaining unit or other designated representative to inspect the employee's personnel records which may have a bearing on the resolution of the grievance, except as provided in sub. (6). The employer shall allow such a designated representative to inspect that employee's personnel records in the same manner as provided under sub. (2).

(4) Personnel record correction. If the employee disagrees with any information contained in the personnel records, a removal or correction of that information may be mutually agreed upon by the employer and the employee. If an agreement cannot be reached, the employee may submit a written statement explaining the employee's position. The employer shall attach the employee's statement to the disputed portion of the personnel record. The employee's statement shall be included whenever that disputed portion of the personnel record is released to a 3rd party as long as the disputed record is a part of the file.

(5) Medical records inspection. The right of the employee or the employee's designated representative under sub. (3) to inspect personnel records under this section includes the right to inspect any personal medical records concerning the employee in the employer's files. If the employer believes that disclosure of an employee's medical records would have a detrimental effect on the employee, the employer may release the medical records to the employee's physician or through a physician designated by the employee, in which case the physician may release the medical records to the employee or to the employee's immediate family.

(6) Exceptions. The right of the employee or the employee's designated representative under sub. (3) to inspect his or her personnel records does not apply to:

(a) Records relating to the investigation of possible criminal offenses committed by that employee.

(b) Letters of reference for that employee.

(c) Any portion of a test document, except that the employee may see a cumulative total test score for either a section of the test document or for the entire test document.

(d) Materials used by the employer for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments or other comments or ratings used for the employer's planning purposes.

(e) Information of a personal nature about a person other than the employee if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.

(f) An employer who does not maintain any personnel records.

(g) Records relevant to any other pending claim between the employer and the employee which may be discovered in a judicial proceeding.

(7) Copies. The right of the employee or the employee's representative to inspect records includes the right to copy or receive a copy of records. The employer may charge a reasonable fee for providing copies of records, which may not exceed the actual cost of reproduction.

(7m) Employment discrimination. Section 111.322 (2m) applies to discharge and other discriminatory acts in connection with any proceeding under this section.

(8) Penalty. Any employer who violates this section may be fined not less than \$10 nor more than \$100 for each violation. Each day of refusal or failure to comply with a duty under this section is a separate violation.

History: 1979 c. 339; 1981 c. 164; 1983 a. 189 ss. 153, 329 (4); 1989 a. 228; 1995 a. 27

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