

## Massachusetts Personnel Records Statute Amendment Update

By Howard M. Bloom

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The Massachusetts Attorney General's Office has updated its earlier position communicated to Jackson Lewis and has informed Jackson Lewis that it will "probably" issue a guidance document about the amendment to the Massachusetts Personnel Records Statute. According to an official in the Attorney General's Office familiar with the matter, "all options are on the table," including a "clarification [or] advisory." The Attorney General's Office has no timeline for issuing its explanatory document, we were told.

The official stated that the Attorney General's Office is beginning "outreach" to a "whole spectrum" of groups and individuals, seeking their comments about the amendment. Jackson Lewis has requested an opportunity to comment on the new legislation.

It is clear that employee advocacy groups and organizations will lobby the Attorney General's Office to interpret the amendment broadly. In a "Legal Update" to its members, the National Association of Government Employees (NAGE) wrote, "[T]he amendment will likely ... mean that an employer will no longer be permitted to draft 'memos to file' about employee difficulties without notifying the employee of the same, if the memo may be used 'to negatively affect the employee.'" NAGE also states that the amendment "would require that the employer notify the employee of *all* (emphasis in the original) negative documents drafted and not just those 'placed' in employee 'personnel files.'"

We will continue to keep you updated about the amendment. Employers are encouraged to contact their Jackson Lewis attorney with any questions regarding the notification requirement.

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