

Personnel Record Requests Under ORS 652.750:

What Are They & How Do I Respond?

by **CHRIS MORGAN, Partner & JOSHUA WAUGH, Attorney** — Barran Liebman LLP

With the rise in employment-related claims brought by current and former employees, human resource personnel are fielding an increased number of personnel file requests under ORS 652.750. While most employers maintain an “employee file” for each respective employee, ORS 652.750(2) requires that very specific types of information be included. The disconnect between what many employers traditionally think of as an “employee file” and what must actually be produced under state law, often leads to confusion and the potential exclusion of information that is otherwise legally required for production.



Chris Morgan



Joshua Waugh

under Oregon law, employers have 45 days after receipt of an employee’s request to furnish a certified copy of the records to the employee. Within 45 days, the employer must also “provide reasonable opportunity for the employee to inspect” the records at either the place of employment or place of work assignment.

Who should I produce the records to?

This depends entirely on who sent the request, and whether they are represented by an attorney. After determining which documents are non-privileged and should be included in response to a request under ORS 652.750, the records will be sent either to the employee directly, or to their attorney. If the attorney was the one who sent the request, communication should be directed through the attorney, and the records should be sent to them as opposed to directly to the employee or ex-employee.

What happens if I ignore the request for records?

If an employer fails to timely produce a certified copy of the personnel file, they could be subject to monetary penalties in an amount up to \$1,000.00.

What should I do if I get a request?

Employers should be careful and diligent in identifying and compiling the records that are specifically called for under ORS 652.750. Determining what documents were actually used in a decision to terminate an employee (for example) requires careful thought, and often also requires discretion. Note that not all documents that might otherwise be discoverable in a legal proceeding are going to be required for production in response to a request for the personnel file. Employers should develop internal protocols for who will respond to these requests — and work with employment counsel where necessary to determine that the correct and complete file is being produced.

Chris Morgan is a partner at Barran Liebman LLP. For questions about how to handle an employee’s personnel records request, contact him at 503-276-2144 or cmorgan@barran.com.

Joshua Waugh is an attorney at Barran Liebman LLP. For questions about how to handle an employee’s personnel records request, contact him at 503-276-2138 or jwaugh@barran.com.

How much time do I have to produce the records?

Employees often demand their personnel records immediately. However,