



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS

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Chief Deputy Director

KATHLEEN T. HOWARD
Director, Office of Governmental Affairs

June 19, 2006

Hon. Paul Koretz
Member of the Assembly
State Capitol, Room 4140
Sacramento, California 95814

Subject: AB 1995 (Koretz), as amended April 17, 2006 – Oppose unless amended

Dear Assembly Member Koretz:

AB 1995 requires a trial court to permit an employee, upon request, to inspect any personnel files that are or were used to determine the employee's qualifications for employment, promotion, additional compensation, or termination or other disciplinary action.

The Judicial Council believes that only those personnel files that are used to take action on the issues specified in subdivision (a) of Government Code section 71660 should be available to the employee and because the subdivision currently says "to determine" there is a concern that the intention of AB 1995 is to make all supervisor files available to the employees even if the supervisor file only contains personal notes on an issue that may or may not have resulted in an action. Because of this concern, the Judicial Council requests that AB 1995 be amended as follows:

71660. Each trial court shall adopt personnel rules, subject to the obligation to meet and confer in good faith, to provide trial court employees with access to their official personnel files. The rules shall provide, at a minimum, that all of the following applies: (a) Each trial court shall, at reasonable times and intervals, permit an employee, upon that employee's request, to inspect any personnel files that are used, or have been used, to ~~determine~~ take action on that employee's qualifications for employment, promotion, additional compensation, or

termination or other disciplinary action. (b) Each trial court shall keep a copy of each employee's official personnel files at the place where the employee reports to work, or shall make the official personnel files available where the employee reports to work within a reasonable period of time after a request for the official personnel files by the employee. (c) Records of a trial court employee relating to the investigation of a possible criminal offense, letters of reference, and other matters protected by constitutional, statutory, or common law provisions, shall be excluded from the personnel files for purposes of this section.

Please contact me at 916-323-3121 if you have any questions.

Sincerely,



Eraina Ortega
Manager

EO/lb

cc: Mr. Benjamin Ebbink, Chief Consultant, Assembly Labor and Employment Committee
Ms. Sue Blake, Assistant Office of Planning and Research
Mr. Eric Csizmar, Deputy Legislative Secretary, Office of the Governor



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August 14, 2006

Hon. Arnold Schwarzenegger
Governor of California
State Capitol, First Floor
Sacramento, California 95814

Subject: AB 1995 (Koretz) – Request for Veto

Dear Governor Schwarzenegger:

The Judicial Council respectfully requests your veto of AB 1995 because the bill will likely give trial court employees broader access to personnel files than was intended by the Legislature when it established the Trial Court Employment Protection and Governance Act and because it inappropriately interferes with the requirement that the trial courts adopt personnel rules to provide trial court employees with access to their official personnel files, subject to the obligation to meet and confer.

The Task Force on Trial Court Employees recognized that employers typically have policies and procedures that govern employee access to their own personnel files and agreed that courts should also adopt those policies. The task force adopted a personnel file access model, which parallels the provisions of Labor Code section 1198.5 that apply to other public sector employees. Task force members agreed that it was important to establish minimum standards for each trial court to use in developing personnel rules related to employee access to their own personnel files, but that the rules to be adopted by the courts would be subject to meet and confer, as applicable. This principle became the basis for Government Code section 71660 in the Trial Court Employment Protection and Governance Act.

AB 1995 amends Government Code section 71660 to require a trial court to permit an employee, upon request, to inspect any personnel files that are or were used to determine the employee's

Hon. Arnold Schwarzenegger

August 14, 2006

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qualifications for employment, promotion, additional compensation, or termination or other disciplinary action.

The Judicial Council believes that only those personnel files that are used to take action on the issues specified in subdivision (a) of Government Code section 71660 should be available to the employee and because the subdivision currently says "to determine" there is a concern that the intention of AB 1995 is to make all supervisor files available to the employees even if the supervisor file only contains personal notes on an issue that may or may not have resulted in an action. Because of this concern, the Judicial Council requested that AB 1995 be amended to make clear that only those files that are used *to take action* will be available to the employee. The author and sponsor of AB 1995 declined to amend the bill.

For these reasons, the Judicial Council remains opposed to AB 1995 and request your veto of the measure.

Please contact me at 916-323-3121 if you have any questions.

Sincerely,



Eraina Ortega
Manager

EO/ml

cc: Hon. Paul Koretz, Member of the Assembly
Mr. Eric Csizmar, Deputy Legislative Secretary, Office of the Governor
Ms. Sue Blake, Director of Legislation, Office of Planning and Research