

# Common Grounds for Withholding or Redacting Information in Employee DSARs

**The following are common bases for withholding or redacting information when responding to an employee DSAR (subject to appropriate application). When relying on an exemption, document the basis and provide the employee with an explanation.**

- ✓ **Third-Party Personal Data.** Information that would reveal personal data about another individual (such as the identity of a complainant, witness statements in an investigation, or manager commentary that includes personal opinions). Redact or withhold to protect third-party privacy, but document the basis.
- ✓ **Legal Professional Privilege.** Documents protected by attorney-client privilege or litigation privilege, such as legal advice from counsel regarding the employee or attorney work product prepared in anticipation of litigation. Note that privilege rules vary by jurisdiction.
- ✓ **Trade Secrets and Confidential Business Information.** Information that would reveal proprietary business methods, competitive strategies, or confidential commercial information unrelated to the employee's personal data.
- ✓ **Ongoing Investigations.** Limited delay may be permissible if disclosure would prejudice a criminal investigation or regulatory inquiry. Note: This does not apply to routine internal HR investigations—an employer cannot refuse a DSAR simply because the employee is under investigation.
- ✓ **Management Forecasting and Planning.** Internal deliberations about workforce planning, restructuring, or succession that do not yet involve decisions about the specific employee. Once a decision affects the employee, related records are typically responsive.
- ✓ **Negotiations and Collective Bargaining.** Information that would prejudice ongoing negotiations between the employer and a trade union or works council, or reveal the employer's negotiating position.
- ✓ **Regulatory Compliance Records.** Data maintained solely to comply with legal or regulatory requirements (such as tax records or I-9 forms) where disclosure would conflict with those requirements. The employee should be informed that such data is retained for compliance purposes.
- ✓ **Manifestly Unfounded, Abusive, or Excessive Requests.** Requests that are repetitive, made with no genuine intent to exercise data rights, or designed to harass or disrupt operations. Document the basis for this determination carefully, as regulators scrutinize this exemption.