

Accurate recordkeeping, including proper maintenance of personnel records, is essential. Employers collect important documents relating to each employee throughout the employee life cycle containing the history of the employment relationship from employment application through exit interview. In the worst-case scenario, a personnel file may turn into evidence in an employment lawsuit. We believe all employers should comply with the following tips for organizing and storing personnel records for compliance and security.

### **1. Consistency is the key**

You should begin a personnel file for each employee on the date of hire and most, but not all, important job-related documents should go into this file.

### **2. Limit access**

Limit storage and day-to-day access to employee files to a single individual or department whose authorization must be gained before others are permitted to view the files. We recommend that you keep the files in a locked, fireproof filing cabinet, within the Human Resource department. The confidentiality of the employee information is of paramount importance.

### **3. Keep two separate files**

We suggest you maintain two separate folders for each active employee: an Administrative Employee File and a Confidential Employee File. If your employee has a disability claim, you are legally required to keep all of their medical records in a separate file – and limit access to only a few people. Only Human Resources and Benefit Administrators should have access to confidential employee files, which contain sensitive data such as disability claims and medical information.

### **4. Know your record retention guidelines**

Use best practices for record retention. Most business records need to be kept for six years (if tax-related) or 10 years (if related to hiring, firing, or other employment actions). However, be aware that record retention rules can differ from industry to industry. Be sure to talk to your accountant and attorney if you are unsure about when you can toss something out.

### **5. File Form I-9s separately**

Do not put Form I-9s into your employees' personnel files. You must complete an I-9 for all employees, verifying that you have ensured that the employees are legally authorized to work in the United States.

### **6. Notify your employees**

In accordance with the amendment to the Massachusetts Personnel Records Statute, you must notify employees within ten (10) calendar days of placing in their personnel file any information that is being used, has been used, or may be used to negatively affect their qualification for employment, promotion, transfer, additional compensation or the possibility that they will be subject to disciplinary action.

### **7. Access to employee records**

Requirements vary by state. In Massachusetts, the law states that employees must be granted access to view their personnel file within a minimum of five business days after they have made a written request to do so. This should only be done in an office, in the presence of Human Resources or a Manager. The employee should never be left alone with their personnel file. Employees may also be allowed to have photocopies of documents in their file, but it is recommended that this is done also with a written request and that the copies be made by Human Resources or a Manager.

### **8. Audit files periodically**

You should establish a time to periodically review each employee's personnel file, perhaps when you conduct their annual evaluation. During this review, consider whether the documents in the file are accurate, up to date, and complete.

## Administrative File Review

*The Personnel File should include the following:*

### EMPLOYMENT RECORDS

- Employment application
- Resume (clean copy without notes)
- College transcripts
- Test documents used by an employer to make an application decision
- Copy of driver's license, if required for the position
- Employment offer letter (signed by the employer and the employee)
- Job description
- Checklist from new employee orientation
- Signed acknowledgment of handbook
- Arbitration agreement
- Relocation records/Transfer records
- Any contract, written agreement, receipt, or acknowledgment between employee and employer (such as a noncompete agreement or agreement relating to company property)

### PAYROLL ADMINISTRATION

- Rates of pay and other forms of compensation
- Notification of wage and/or salary increase/decrease
- Compensation history record
- Compensation recommendations
- State and federal tax forms
- Fair Labor Standards Act exemption test
- Payroll authorization form
- Authorization for payroll deductions/actions
- Individual attendance records
- Paid Time Off
- Pay advance request record
- Loan repayment agreements
- Direct Deposit Authorization

### PERFORMANCE APPRAISALS/EMPLOYEE RELATIONS

- Performance appraisals/evaluations forms
- Performance improvement program records/confirmations
- Personnel action forms
- Letters of recognition
- Commendations and awards
- Bonus records
- Completed employee suggestion forms
- Complaints from customers/coworkers
- Employee written warning notice (disciplinary notices/letters/documents/memos)
- Discrimination complaint investigation information
- Demotions/Promotions

### TRAINING/DEVELOPMENT

- Training program applications/requests
- Training history records
- Training expense reimbursement records
- Skills inventory questionnaire

### EMPLOYEE SEPARATIONS

- Documents given with final paycheck
- Resignation statement/Layoff records
- Termination records/separation form
- Exit interview form
- Exit interviewer's comment form

### OTHER INFORMATION

- Emergency contact information
- Authorization to release private information
- Requests to review personnel file

### Confidential File Review

A confidential administrative file should be a limited-access file that contains confidential or sensitive information. This includes information that is protected by law, such as medical information related to HIPAA or information that identifies a protected class of people, such as: age, disability, or ethnic background. When a document contains information that reveals a protected status or is protected health information, then it needs to be stored separately from personnel records to prevent the perception of discrimination. Confidential employee files should include the following:

#### BENEFITS

- Annual benefits statement acknowledgment
- Health insurance application form
- Life insurance form
- Beneficiary designation forms for life insurance and 401(k) accounts
- Medical/Dental/Vision coverage waiver/drop form
- COBRA notification/election
- Tuition reimbursement application and/or payment records
- Hazardous substance notification and/or reports

#### SECURITY CLEARANCE/INVESTIGATION RECORDS

- Pre-employment reference and background reports
- Security clearance status
- Background investigation information
- Personal credit history
- Personal criminal conviction history
- Arrest history
- Legal case data
- Accusations for policy/legal violations

#### MEDICAL

- Medical records
- Laboratory and diagnostic test records
- Drug and alcohol tests
- Any medical records with personally identifiable information about individual employees
- Request for medical leave of absence, regardless of the reason
- Request for nonmedical leave of absence
- Short or long-term disability documentation
- Personal accident reports
- Family Medical Leave Act (FMLA) documents
- OSHA injury and illness reports
- Any other form or document containing medical information for a specific employee

#### OTHER INFORMATION

- Unemployment documents
- Child support and other wage garnishments
- Requests for employment verification
- Workers' compensation claims