What to Include in an Employee File

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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.

Consistency is the key

You should begin a personnel file for each employee on their date of hire and most, but not all, important job-related documents should go into this file. If you have multiple locations, best practice is to maintain files consistently and uniformly.

Security

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 Resources department. The confidentiality of employee information is of paramount importance.

Keep two separate files

We suggest you maintain two separate folders for each active employee: A Personnel Employee File and a Confidential/Medical Employee File. If your employee has a disability claim, you are legally required to keep all their medical records in a separate file — and limit access to those with an absolute need-to-know. For documentation related to COVID-19 or other communicable diseases, employers may store this information in an employee's existing Confidential/Medial File. This includes employee statements that they have or suspect they have the disease, employer notes from questioning an employee about symptoms, and temperature check records. Only Human Resources and Benefits Administrators should have access to Confidential/Medical employee files containing sensitive data such as disability claims and medical information.

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. Records containing confidential, personal, or financial information should be shredded or incinerated to protect employee privacy and to comply with applicable laws.

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.

Notify your employees

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Be sure to check state law compliance with regard to personnel files. For example, in Massachusetts, employers must notify employees within 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.

Access to employee records

Requirements vary by state. Many states require employers to allow employees to access their personnel file. For example, 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.

Audit files periodically

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

Electronic Files

Many employers have done away with paper files and now keep everything electronically. In general, employers may opt to go paperless and there are numerous practical benefits in digital storage, including greater convenience and efficiency. When implementing electronic recordkeeping, employers must set up their systems focusing on safety, accessibility, privacy, functionality, and retention. Employers should ensure there are backup systems in place to safeguard against emergencies, such as power outages, as well as employee privacy and data security. When using digital files, you still want to keep personnel and confidential files separate, so your electronic filing system should have the capability to limit access. For example, if a manager can see some personnel file contents, they should not be able to also see confidential file contents. Digital files should always maintain the integrity and authenticity of the documentation, there should be no easy way to falsify documents, and all files should be available to legibly print. Employers should not forget record retention when making the switch to digital either, as these rules still apply. There are many benefits of digital files so long as your system is secure, accessible, and of course, functional.

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Personnel File Contents

The Personnel File should include the following:

EMPLOYMENT RECORDS

- ☐ Employment application
- ☐ Resume (clean copy without notes)
- ☐ College transcripts (if applicable)
- ☐ Test documents used by an employer to make an employment 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 (if applicable)
- ☐ 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 MANAGEMENT

- ☐ 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 and completion 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

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Confidential File Contents

A confidential file should be a limited-access file that contains confidential or sensitive information. This includes restrictive information that is protected by law, such as medical information related to HIPAA or information that identifies a protected class, 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 the personnel file to prevent the perception of discrimination. Confidential/Medical files should include the following:

BENEFITS
- ☐ Annual benefits statement acknowledgment
- ☐ Health Insurance Application Form
- ☐ Life Insurance Form
- ☐ Beneficiary designation forms for life insurance and 401k accounts
- ☐ Medical/Dental/Vision coverage waiver/change/drop forms
- ☐ COBRA notification/election
- ☐ Tuition reimbursement application
- ☐ 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 claim

EMPLOYMENT ELIGIBILITY VERIFICATIONS

I-9 Forms should be placed in a separate folder or binder in the event of a government audit. A best practice is a Cloud-Based I-9 Retention System.