



HR Examiner

*Examining practical HR issues business owners
and managers encounter every day*

The Mysteries of Employee Recordkeeping

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Typical Personnel File Ingredients

Employment records:

- ▶ Application
- ▶ Resume
- ▶ Offer letter
- ▶ Employment agreements
- ▶ Non-Competes
- ▶ Non-Disclosures

Having Fun with Personnel Files

Okay, so the header is misleading. There really isn't anything fun about personnel files. However, they are a serious requirement even if you have only one employee. I regularly get calls and questions on what goes into a file, can employees see their files, etc. so I thought I'd answer some of those questions here.



Disclaimers: If you're not working in MN, you should check to see whether your state has any specific rules regarding personnel files. They may differ from what is stated here. Also, talk to your employment attorney for more specific details on your legal

- ▶ Signed employee handbook acknowledgment form
- ▶ Termination documentation
- ▶ Letter of resignation

Performance records:

- ▶ Signed job description
- ▶ Performance appraisals
- ▶ Warnings and disciplinary action
- ▶ Customer and coworker compliments
- ▶ Records of attendance and completion of training programs

Compensation and Payroll:

- ▶ W-4s
- ▶ Rate of pay

obligations or as tough situations arise.

Privacy, security and confidentiality are of utmost importance. Personnel files should be kept in a locked file drawer with only a few designated people in the organization having direct access. If you're a small employer, 1-2 people; if you're a larger organization, then designated HR department staff would have access.

I was once called by a client who had to terminate his HR person. She had been the sole individual with responsibility for personnel files, including her own. Interestingly, when it was time for the termination, her file was no where to be found. So, consider who has control over the files and make sure that no one controls their own file!

MN State law allows the following personnel file procedures:

Employers may require that employees place their request to review their file in writing. The employer typically has 7 days to schedule a meeting during the employer's normal working hours (not necessarily the employee's work hours) for the file review. The employee has a right to request a copy (for free) of their file.

I strongly urge you not to give the file to the employee

- ▶ Time Off requests
- ▶ Changes in pay
- ▶ Changes in position

Separate Records

- ▶ Reference checks from former employers
- ▶ Interviewer notes I-9's
- ▶ Workers' Compensation
- ▶ Benefits with medical histories
- ▶ Internal investigations
- ▶ Medical examination results
- ▶ Drug testing results
- ▶ Background checks

to review alone. There's the risk that key pieces of documentation could disappear. So always have a designated person sit with the employee during the review. If the employee wants copies of various documents, make note of the need and provide them the copies at a later time, rather than leaving the employee alone with the file.

Active employees in MN may review their file once every 6 months. Terminated employees may review them once a year for as long as the file is maintained.

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What Not to Place in Personnel Files

I-9 forms should be retained in a separate file. I recommend keeping one file for active employees and one for inactive. In this way, if the USCIS (formerly the INS) visits your office (which is rare), they only have access to I-9 information and nothing else.

Supervisory notes should be retained in the supervisor's locked drawer. A supervisor's notes on performance, conversations, assignments, etc. are all considered supervisory work in progress. If a problem becomes of greater concern, then you can transfer the information into the personnel file as a

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"memo to file" or you can formalize the documentation or warning in writing.

Medical information such as benefits enrollment forms (that include medical history), required pre-employment physicals, Workers' Compensation documentation should also be placed in separate files. This is to avoid disclosure of private information to a supervisor who doesn't need to know the information but who might discriminate by making employment decisions based on their perception of a disability, weakness, etc.

Investigations, such as a harassment investigation, may include statements from other employees regarding the harassing behavior. These files should also be kept separate and the employee does not have the right to access the coworker or claimant's statements.

The core of this article is the importance of (a) setting a standard practice for how you organize, retain and share personnel files and (b) ensuring that you administer that policy consistently for all employees. Maintaining privacy and limiting access to a need-to-know basis is vital for your protection.

If you need help with auditing or organizing your personnel files, call me. Not having the proper personnel file documentation can be costly to an

organization. Ask the employer we discussed above who had no personnel documentation available to contest their post-termination unemployment claim.

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