



Best Practices in Employee Recordkeeping Systems



Unified Employee Recordkeeping Systems

An employee's records include documentation of significant employment events and conversations from the time they apply until the time they leave the company. Files that contain complete employment records become an easy-to-access history that reduces company liability, facilitates employee growth and development, and satisfies regulatory requirements.

Without a unified, uniform filing system, the company would have to comb through multiple, disconnected sources to assemble relevant documentation. Without such a system, it is also likely that important records will be misplaced or overlooked. These potential delays and omissions degrade organizational effectiveness and increase the company's exposure to liability.

Employee File Structure

Consistency is key. Develop a compliant system and stick to it. A few tips:

1. Keep all related records together. That way, when an issue arises, all documentation is readily available for review.
2. Either electronic or paper recordkeeping is acceptable. Intermingling the two is not best practice: stick with one or the other.
3. Federal regulations require each employer to keep multiple sets of records for each employee, as outlined below.



- Most records will be kept in the employee's primary personnel file.
- Confidential records, such as those relating to FMLA¹, Workers Comp², the ADA interactive process³ and disability claims⁴, drug screens⁵, EEO self-identification⁶, and others are required to be stored separately from the employee's basic personnel information.
- I-9s must be kept in yet another repository⁷.
- Employee complaint investigations often involve records that reference multiple employees, hearsay, and speculation, which should not be included in individual employee files. Therefore, these records should be retained separately from individual employee files. However, performance-related documentation or corrective action resulting from investigations should go in the employee's main personnel file, as long as they reference only that employee .
- e. If you are subject to regulatory agencies such as DOT, HHS, MSHA, or others, there are yet additional recordkeeping requirements.



Rule of Thumb

Since employers are required to maintain separate files (personnel and confidential) for each employee, it is recommended that employers separate all employee documents according to the need for access. Unless otherwise specified, documents should go into either the personnel file or the



Footnotes as of April 2023:

[1] <https://webapps.dol.gov/elaws/whd/fmla/8b6.aspx>

[2] <https://www.eeoc.gov/laws/guidance/enforcement-guidance-workers-compensation-and-ada>

[3] <https://askjan.org/topics/Recordkeeping.cfm>

[4] http://accessibilityonline.s3.amazonaws.com/archives/2008-03-04_EEOC_Guidance_on_Pre_employment_medical_inquiry.pdf

[5] if the results of a drug test reveal the presence of a lawfully prescribed drug or other medical information, such information must be treated as a confidential medical record

[6] 29 CFR 1602.13

[7] <https://www.uscis.gov/i-9-central/complete-correct-form-i-9/retention-and-storage>

confidential file. If supervisors or managers might reasonably need access to the information on the record in the normal course of business operations, the record should be kept in the personnel file. Any other records with sensitive information, or records that would not pertain to the employee's daily job performance, should be kept in the employee's confidential file.

The following lists provide a general overview of the types of documents to be maintained in either the personnel file or the confidential file.



Personnel Files

- Application and/or resume.
- Offer of employment letter.
- Job description.
- Confidentiality and other employment agreements.
- New hire checklist.
- Handbook acknowledgment.
- Policy acknowledgements.
- Drug testing consent form.
- Background check consent form.
- Performance evaluations.
- Disciplinary warnings.
- Awards or recognition.
- New hire orientation checklist.
- New hire safety training checklist.
- Training records.
- Resignation letter.
- Notes about the reason for separation.
- Exit interview.
- Separation checklist.
- Unemployment documents.
- Separation agreement.
- Post-termination correspondence.
- Reference release form.



Confidential Files

- Payroll records, W-4s, and garnishment orders.
- Reimbursement requests for medical expenses.
- Requests for ADA accommodations.
- Worker's compensation records.
- Background check results.
- Disability claim forms.
- Drug test results.
- Medical records.
- FMLA records.
- EAP referrals.





Access to Employee Files

Employee files should be secure at all times. For paper records, this means that unattended files are under lock and key. For electronic records, access permissions need to be carefully established.

There will be times when a supervisor will want to review an employee's records. Supervisors may access an employee's personnel file only, and this access should always be supervised by Human Resources.

Confidential files should not be accessed by anyone other than Human Resources. Due to the nature of this information, there is no business need for anyone else to access this information.

Sharing this information outside of Human Resources, even with members of the executive team, can only lead to increased risk of discrimination allegations or other undesirable entanglements.

Rationale

In addition to complying with regulatory agencies, adhering to these best practices costs next to nothing in terms of time or money. Keeping complete files (and keeping them correctly) will not only protect the organization, but it will also facilitate productivity and position the company for further growth and development.

