

## Recordkeeping - What Employers Should Keep in Personnel and Other HR Files

Maintaining personnel or HR records is an obligation of every employer. Accurate and complete personnel records provide required information for payroll and tax purposes, benefit administration, and employment eligibility. Furthermore, personnel records are necessary to document employment actions such as hiring, training, promotion, transfer, additional compensation, performance, discipline, and termination.

Keeping personnel records organized and up-to-date is also essential to be in compliance with federal and state anti-discrimination laws, ADA, FMLA, HIPAA, IRCA, as well as internal administration. Typically, employers will have three main files for employees: 1) official personnel, 2) medical/confidential and 3) other. Additional records or information may be filed separately as noted below. The main determinant is limiting access to these records to those with a business need to know.

All documents kept in an employee file should be job-related and kept in a locked, secure location. Examples of the types of files and documents maintained by employers include:

<b>Official Personnel File</b>	<ul style="list-style-type: none"> <li>• Employment application and resume</li> <li>• Offer letter</li> <li>• Job description</li> <li>• Employee contact information such as home address and telephone number</li> <li>• Promotion, demotion, transfer, or layoff records</li> <li>• Policy acknowledgment or agreement documents</li> <li>• Education and training records</li> <li>• Performance evaluations</li> <li>• Disciplinary notices (formal or informal) and supporting documents</li> <li>• Recognition documents</li> <li>• New hire and termination checklists</li> </ul>
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**Why?** Employee information retained in a personnel file should be job-related and provide supporting documentation for the basis of employment decisions, such as hiring, training, promotion, demotion, transfer, performance, discipline, layoff and termination.

<b>Medical File (Confidential)</b>	<ul style="list-style-type: none"> <li>• Medical and insurance records (including benefit forms)</li> <li>• Drug test results</li> <li>• Workers' compensation report of injury or illness</li> <li>• Physician statements and doctor notes</li> <li>• Accommodation requests and supporting documentation</li> <li>• Medical certifications or recertification documents</li> <li>• Leave of absence requests and supporting documents</li> </ul>
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**Why?** ADA, FMLA and HIPAA obligations require employers to keep certain medical information confidential and filed separately from other employee records. By separating this information, it lessens the appearance of discrimination in making job-related decisions.

<b>I-9 File</b>	<ul style="list-style-type: none"> <li>• I-9 form and supporting documentation</li> <li>• E-Verify record (if applicable)</li> </ul>
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**Why?** It is considered best practice to keep a separate I-9 file or binder. If an employer is audited for their I-9's, they can hand the inspecting agent just the I-9 forms, rather than handing over entire personnel files, which the government agency could then review and question other items. Having a separate file or binder can also lessen the appearance of discrimination since I-9 forms contain information on citizenship status and national origin.

<b>EEO File</b>	<ul style="list-style-type: none"> <li>• Voluntary self identification form (for EEO-1 and federal contractor purposes)</li> <li>• Invitation to self-identify disability or veteran status records</li> </ul>
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**Why?** To avoid potential claims of discrimination, documents that identify an individual's race, gender, disability, veteran or other protected category should be kept in a separate file.

<b>Other HR Related Files</b>	<ul style="list-style-type: none"> <li>• Hiring file (including interview notes, test documents, reference and criminal background reports for those hired and not hired, as applicable)</li> <li>• Payroll file (including W-4, withholding, garnishment and other wage deductions, pay information and time keeping records)</li> <li>• Driver qualification file (including records needed to verify driver status for CDL, non-CDL and any applicable DOT requirements)</li> <li>• Investigation file and notes</li> <li>• Records related to the resolution of a grievance, complaint or allegation</li> <li>• Requests for employment verification</li> <li>• OSHA injury and illness reports</li> <li>• Exit interview notes</li> </ul>
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**Why?** It is best practice for employers to keep files of other employment related information not needed for the official personnel file, but needed for documentation and verification purposes. The company can determine how many separate types of files to keep.

<b>Supervisor Desk File</b>	<ul style="list-style-type: none"> <li>• Manager notes of conversations related to employee performance</li> <li>• Attendance tracking forms</li> <li>• Time-off requests</li> <li>• Observations of performance that provide examples to be used in performance management discussions</li> </ul>
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**Why?** At times, managers and supervisors may need to keep track of an employee's performance; however that documentation does not warrant inclusion in the employee's personnel file. These are typically notes about events or conversations that occur in the workplace that will help the supervisor if he or she needs it later for documentation to address an issue or to compliment an employee's performance.