PERSONNEL FILES - THE BASICS

SIMPLE STEPS TO PERSONNEL FILE COMPLIANCE &
GOOD RECORD KEEPING PRACTICES

According to the Society for Human Resource Managers (SHRM):
“HR Consulting is the practice of delivering all aspects of human resource management as an external provider, and with the professional and business issues associated with operating such a practice – including client development, contracts and client management.”

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Keeping up with employment regulations (as quickly as they change) AND running your business cost-effectively may feel like competing priorities at times. Falling out of compliance is easy to do and can happen in the blink of an eye. You may ask yourself "As long as I have the requisite policies in place and I treat my employees in a fair, non-discriminatory manner, who cares about my employee files?" Well…identity thieves, the Department of Labor, US Immigration Control and Enforcement Agents, OSHA – just to name a few.

In business, not much is more sensitive, confidential AND frustrating than dealing with your employees; mistakes can be costly in more ways than one –Equal Employment Opportunity claims continue to rise no matter how "informed" of a society we become. No employer sets out to intentionally disadvantage employees or applicants, but mistakes are often made because we're moving at an incredible pace every day. Companies consistently do more with less merely to keep their head above ground. And, even with the best of technology, we still have paper – applications, tax forms, employment eligibility forms, benefit enrollment forms, resumes, accident reports, and on and on…

In the "good old days" of Personnel Departments, everything went into one Personnel File. Files would be inches thick and we never got rid of anything – who knew when you might need to know what deductions Johnny had authorized in 1964. (If we did get rid of anything, it went right in the trash can – no shredders in those days – less identity theft way back then also.)

Later, the Immigration Reform and Control Act of 1986 was enacted to reduce the employment of illegal aliens. All types of document support came with this form – specifically documentation that may indicate an employee's national origin and race (protected classes). From the best of my recollection, that was the start of separating documents into different areas. Next came the Health Insurance Portability and Accountability Act of 1996 (HIPAA.) With this came the new phrase "protected health information" and the birth of the second "medical" file. This file should include any and all information about an employee's (including dependents) medical/health information AS WELL AS benefit enrollment forms.

Let's look at a simple and basic way to get your employee files back under control while minimizing your risk and exposure to unnecessary charges. In short, an employer should have AT LEAST three (3) sets of records for an employee: the traditional personnel file, the medical file and the Company's I-9 file. The checklist that follows is a guideline you may use to audit your own personnel files. The list is in no way comprehensive – but you should be able to group related items into one or more of these categories. A few important things to remember:

- You have a duty to protect your employees' personal information paying attention to social security numbers, dates of birth and personal health information
- Access to personnel files should be on a "need to know" basis
- Files should be kept secure with limited access; medical files should be maintained in a separate file area with even less access
- I-9s should be kept separate from personnel and medical files but may be kept as one Company file
- "Old" information should be shredded, not thrown away – especially if it contains any information that could identify the employee it is associated with
- When in doubt, err on the side of caution – ask yourself if you would want the particular document or piece of information revealed about you personally – and treat it with that same respect

THE “TRADITIONAL” FILE

- Employment application and résumé
- Reference checks
- College transcripts
- Job descriptions
- Records relating to THE JOB: hiring, promotion, demotion, transfer, layoff, rates of pay and other forms of compensation, and education and training records
- Records relating to employment practices
- Letters of recognition
- Disciplinary notices or documents
- Performance evaluations
- Test documents used in an employment decision
- Exit interviews
- Termination records

THE "MEDICAL" FILE

- Medical/insurance records
- Physical/drug screen results
- Doctor's Notes
- FMLA certification requests/approvals

THE "SOMEPLACE ELSE" FILE

- I-9 form
- Safety training records
- Child support/garnishments
- Litigation documents
- Workers' compensation claims
- Requests for employment/payroll verification

Hopefully, these lists will enable you to make the best decision about the paper in your personnel files. Take the time to audit your files on a regular basis to make sure you are in compliance with your local law as well as your Company record retention policies.
It simply isn't possible to be an expert in every area of your business – find the right expert to partner with you: those that are successful in their own businesses and those that want to see YOUR success right alongside their own! Please contact us if we can provide further information about personnel files and or Human Resource audits to help grow and protect your business.

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