

The Do's and Don'ts of Those Pesky Personnel Files

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We frequently receive requests for information about personnel files. Below are the three most common questions and our answers to those questions.

What should and shouldn't be kept in personnel files?

The bottom line is that personnel files are the repositories of information that may be used by the company for making job-related decisions affecting employees. These files should, therefore, contain only information that can be legally used in making these decisions.

Employment applications, pay records, performance evaluation forms, and disciplinary action records can and should remain in the personnel file.

Because federal and state law prohibits the use of sex, race, national origin, color, religion, disability or veteran's status to make employment decisions, documents containing this information should not be retained in personnel files. Likewise, medical information, garnishment orders and records, and I-9 documents should also be kept separate from personnel files.

Who should have access to personnel files?

Files containing information that is used in making job-related decisions should be maintained by a custodian that allows access only to those managers who have responsibility for a particular employee. Protected information (e.g., information related to race, national origin, medical issues and I-9 forms) should be accessible only to the file custodian. All personnel files should be kept locked at all times.

Should employees have access to their individual personnel files?

While some states grant employees the right to inspect personnel files, many do not. As a matter of policy, however, we recommend that employees be allowed to view their own personnel files so long as they

make an appointment in advance to examine the file and a company representative is present at the time of the review.

Why do we recommend this? We believe that if you do not allow employees opportunity to view their personnel files, they will assume that you are hiding information that is at odds with their interests. As a result, a potential conflict between the employee and the company might arise where none is warranted. Moreover, if an employee is involved in discipline, it is important that the employee have a complete and accurate picture of the performance deficiency so that the individual's performance might be corrected or the employee can begin looking for work elsewhere. Finally, from our perspective, if the personnel file is appropriately maintained, we can't think of a logical reason why the employee should not see the file.

Be sure to examine the file prior to allowing the employee to review its contents and purge any documents that may not be appropriate for a personnel file.

Should the employee wish to copy the contents of the file, most companies agree to provide a copy at the employee's request. Some companies charge a nominal fee to cover the costs related to making the copy of the file.

How long should documents remain in personnel files?

The period of time that personnel records must be retained depends on the specific record. The chart below provides a summary of retention requirements for some of the most important documents.

Record	Years	Notes
Hiring Records job applications, resumes records relating to refusal to hire advertisements about openings, promotions, or training opportunities	One Year (Federal contractors should keep these records for at least 2 years.)	Keep EEO information separate
Basic Employee Information: name, address, SSN,	Four years	Keep I-9s separate

date of birth, job classification, occupation, I-9 for all, work permits for minors		
Payroll Records: daily schedules, pay rate, weekly compensation, amounts and dates of payments, daily and weekly hours, overtime hours and pay, annuity and pension payments, benefits, deductions and additions	Four years	
Tax Records	Four years	
Employment Actions: hires, separations, rehires promotions, demotions transfers, layoffs, recalls training opportunities employment test results	One year from date of action	
Health, Medical, Safety Data	Varies	Keep separate
Job related illnesses and injuries	Five years	
Requests for accommodation of disability	One year	
Medical exams	Thirty years	

Toxic substance exposure records	Thirty years	
Blood-borne pathogen exposure records	Thirty years	

Source: SHRM

D. Allen Miller is Managing Director of Business Advantage International, Inc., (www.gotoBAI.com) which offers a comprehensive approach to resolving your organization's management challenges. Whether it's facilitating the development of your organization's strategic planning process, designing and implementing a comprehensive compensation system, conducting employee opinion surveys or initiating results-oriented training programs, Business Advantage International is a one-stop center for management expertise to supplement your in-house resources. BAI works with you on an on-going basis to address organizational issues before those issues become real business problems. Contact Allen at 801.444.9919 or by e-mail at amiller@gotoBAI.com.