



Maintaining personnel files is time consuming and crowds our offices with file cabinets that tend to overflow paper. Although many companies talk of transitioning to electronic records the reality is we're still dealing with paper. Keeping accurate records of our employees and former employees is extremely important. Regardless of whether you maintain hard files or store data electronically, it's important that information be grouped logically and efficiently. Here are some general tips and guidelines for private employers:

Primary File

The basic personnel file should include:

- 1) Basic employee data, including emergency contact information
- 2) Employee status changes
- 3) Employee development
- 4) Performance documentation
- 5) Miscellaneous data

Form I-9

Contrary to popular belief, it's not recommended that I-9s be kept in individual employee files. A better practice is to keep the I-9 forms together in a binder that is divided into two sections: Current Employees and Former Employees. Forms for current employees should be kept in alphabetical order. Forms for separated employees should be kept in chronological order so that the employer can easily shred those forms once the minimum retention period has ended.

Confidential File

Confidential information such as interview evaluation forms, background check information, investigatory files (harassment, ethics, EEO, etc.), and information regarding legal actions should be maintained separately from the personnel file. This is particularly important if you allow supervisors to review the personnel file when making decisions regarding promotion or transfer. For example, it's unnecessary for a supervisor to know that the individual may have been convicted for Driving While Intoxicated when that information is not relevant to the duties performed by the employee and could negatively influence the supervisor's decision to promote him/her.

Medical Records

Any medical information maintained on an employee must be kept in separate medical files and must be treated as a **confidential medical record**. Under the Americans with Disabilities Act, employers must take steps to guarantee the security of the employee's medical information, including:

- Keeping the information in a medical file in a separate, locked cabinet, apart from the location of employee files; and
- Designating a specific person or persons to have access to the medical file.

Medical records can include:

- Benefits claims forms
- Reimbursement requests for medical expenses
- Forms relating to workers' compensation claims
- Post-offer physical examinations (including medical questionnaires)
- Voluntary disclosure information from the applicant or employee regarding a "disability" as defined by Section 503 of the Rehabilitation Act of 1973
- Any record of voluntary medical history obtained from an employee health program, such as cholesterol, high blood pressure, weight control, counseling or cancer detection programs
- Any other documents relating to an employee's medical condition
- FMLA certification forms

Although drug test results are generally not regarded as medical records, many employers maintain them in the medical file in order to avoid creating a separate, confidential filing system.

How long?

Maintaining records for the appropriate timeframe is extremely important. Generally, guidelines are as follows:

General Personnel File – At least 4 years, recommended 5.

Payroll Records – At least 7 years

Medical Records – 30 years (no that's not a typo). Not all records contained in the personnel file need to be maintained this long. Only medical records as defined by [OSHA](#) (including post-offer medical questionnaires and exposure records/monitoring records) need to be maintained for 30 years. Other medical information, such as FMLA forms, need only be kept for 3 years after the leave has been taken. Because of the requirement that the medical record be maintained confidentially, employers should never merge the medical file with the general personnel file. Many employers don't have the time to go through the medical record file each time someone leaves and will simply maintain the medical record for 30 years.

Protecting confidential employee records can prevent inadvertent disclosure and helps the company stay in compliance with the law.

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