

Employee Files FAQ

Employers should utilize an employee file to capture and maintain all HR, payroll, [benefits](#) and compliance documents in one location. Failure to properly maintain and produce documentation can result in compliance violations or potential fines.

Reminders:

Consistency is the Key

You should begin a personnel file for each employee on the date of hire and most, but not all, important job-related documents should go into this file.

Limit Access

Limit storage and day-to-day access to employee files to a single individual or department whose authorization must be gained before others are permitted to view the files. We recommend that you keep the files in a locked, fireproof filing cabinet, within the Human Resource department. The confidentiality of the employee information is of paramount importance.

Basic Personnel File

Keep items that were a factor in the employee's hiring and employment in the past, and items that will have an impact on his or her employment in the future.

Keep Separate Files

We suggest you maintain two separate folders for each active employee: An Administrative Employee File and a Confidential Employee File or Medical File. The Confidential/Medical File should have restricted access for those that have a need to know for leave of absence administration, health insurance administration and administration of ADA. Put everything relating to an employee's medical history in a separate file. Why? You can't legally base personnel decisions such as who gets promoted and who doesn't on the medical histories of the people involved. And various privacy laws and the Americans with Disabilities Act (ADA) require that you keep confidential employee medical records separate from basic personnel files. Additionally, any information related to FMLA leaves, medical leaves of absence, etc. have no bearing on the employment relationship and should be contained in this file.

Payroll Records File

If you handle payroll for your organization, separate payroll-related records from the other files. Make sure you're aware of the laws governing payroll records retention.

Know your Record Retention Guidelines

Use best practices for record retention. Most business records need to be kept for six years (if tax related) or 10 years (if related to hiring, firing, or other employment actions). However, be aware that record retention rules can differ from industry to industry. Be sure to talk to your accountant and attorney if you are unsure about when you can toss something out.

File Form I-9s Separately

You must complete an I-9 for all employees, verifying that the employees are legally authorized to work in the United States. Employment law attorneys recommend that you keep all Form I-9s (Employment Eligibility Verification) in either a separate master file or three-ring binder. Because I-9 files are subject to unique personnel records retention laws, a separate master file or three-ring binder will help ensure that you retain these mandated recordkeeping forms for as long as necessary and can readily discard them after the retention period expires.

Additionally, the government is entitled to inspect these forms, and if it does, you don't want the agents viewing the rest of the employee's personnel -- and personal -- information at the same time. Not only would this compromise your workers' privacy, but it might also open your business up to additional questions and investigation.

Access to Employee Records

Requirements vary by state. In Massachusetts, the law states that employees must be granted access to view their personnel file within a minimum of five business days after they have made a written request to do so. This should only

be done in an office, in the presence of Human Resources or a Manager. The employee should never be left alone with their personnel file. Employees may also be allowed to have photocopies of documents in their file, but it is recommended that this is done also with a written request and that the copies be made by Human Resources or a Manager.

Audit Files Periodically

You should establish a time to periodically review each employee's personnel file, perhaps when you conduct their annual evaluation. During this review, consider whether the documents in the file are accurate, up to date, and complete.

Destruction of Documents

Identify how records will be disposed of once retention requirements have been met. Records containing confidential, personal, or financial information should be shredded or incinerated to protect employee privacy and to comply with applicable laws. Simply tossing employment records in the trash creates a significant risk of theft or misuse of employee information that may result in regulatory investigations, fines, potential civil lawsuits, bad publicity, and damage to the employer's brand.