

Required Documentation for Employee Personnel Files

Employers receive, generate, and accumulate substantial volumes of documents beginning with hiring documents, including job postings, employment applications, resumes, and reference checks and once a worker is employed, personnel files, wage and hour records, payroll records, and disciplinary files. At the conclusion of employment, there may be separation documents generated as well. Part of being a successful employer is properly generating, drafting, and retaining quality professional records, before, during and after the employment relationship.

Required Documentation for all Personnel Files

- W-4 Form (recommended to update annually)
- I-9 Form¹
- Resume
- Original Employment Application
- Employment Offer Letter
- Education Verification
- Employment Verification
- Other Background Verification (not results from background checks)
- Job Description Form
- Policy and Procedure Acknowledgement Form showing receipt of Handbook
- Emergency Contact Form
- Payroll Authorization Form
- Compensation History Records
- Notification of Wage and/or Salary Increase/Decrease
- Checklist from New Employee Orientation showing subjects covered

Required Documentation for Personnel Files if Applicable

- Rejection Letter
- Employment Agency Agreement
- Transfer Requests/Relocation Records
- Training and Development Records if for learning new skills applicable to job
- Report of Discipline/Counseling Session
- Employee Written Warning Notices
- Employee Progress Reports

¹ I-9 Form can be included in either the appropriate employee personnel file or a separate "I-9 File." Either way, it must be retained.

- Performance Appraisal Forms
- Performance Improvement Program Records
- Garnishment Orders and Records
- Medical/Dental/Vision Coverage Form or Waiver if not taken
- Retirement Plan-Acknowledgment of Employee Contribution or Waiver if not taken
- Vacation Accrual/Taken Form
- Request for Non-Medical Leave of Absence
- Hazardous Substance Notification and/or Reports
- Annual Benefits Statement Acknowledgment

Required Documentation for Personnel Files in the Case of Employee Separation²

- Final Employee Performance Appraisal
- Record of documents given with final paycheck
- COBRA Notification/Election
- Exit Employee Interview Form

Documents that Should Not Be in a Personnel File

- Medical Records
 - Physician records of examinations
 - Diagnostic records
 - Laboratory test records
 - Drug screening records
 - Any other medical records with personally identifiable information about individual employee
- Investigation Records
 - Discrimination complaint investigation information
 - Legal case data
 - Accusations of policy/legal violations
- Background Check Records
 - Background investigation information
 - Personal credit history
 - Personal criminal conviction history
 - Arrest records
- Other
 - Weekly time records, i.e. timesheets or timecards
 - Individual Attendance Record

² Employee personnel files should be retained even if the employee is no longer an employee.

Consistency

The question often posed by employers is what should be documented. A best practice is to document anything that defines the employer-employee relationship with documentation that details the employer's rationale for decisions made and action taken. This should include documents with evidence of communication between employer and employee. If important information is not documented, an employer can be exposed to a claim with little evidence to defend itself. If an employer maintains too much documentation, the documents could hinder the defense to a claim as they may provide evidence that an employee was being singled out and put the employer in a difficult position to explain that the singling out was not based on discriminatory reasons.