

# Human Resources for your Employees

*Literally* your Company's greatest asset

# Let's ask some interview questions!

- Ask all candidates the same questions.
- Ask open ended questions *pertaining to the position.*
- Ask situational questions *pertaining to the position.*
- Good rule of thumb: if it's on the application, it's okay to talk about.
- *Better rule of thumb: if it doesn't pertain to the position, DO NOT ASK THE QUESTION!!* (i.e age, race, gender, religious affiliation, disability, transportation, religious orientation, family/children, outside obligations, marital status, sexual orientation, etc)

# Employee Files

- 5 different files per Employee
  - Benefits
  - Confidential
  - Medical
  - Personnel
  - Affirmative Action (only if you are a Federal Contractor or SubContractor)
  
- I-9 Binder

# Employee File – what do I keep & where?

Type of Record	Location
Affirmative action self-identification of disability	Affirmative action confidential file
Benefit enrollment forms	Benefits file
Beneficiary designations	Benefits file
Reference/background check results	Confidential file
Drug test results	Confidential file
Equal employment opportunity (EEO) self-identification of gender and race/ethnicity	Confidential file
Affirmative action self-identification of race, gender and veteran status	Confidential file
Child support/garnishments	Confidential file
Litigation documents	Confidential file
Workplace investigation records (although relevant disciplinary action, counseling or other direct communications are placed in the employee's personnel file)	Confidential file
Requests for employment/payroll verification	Confidential file
Immigration (I-9) forms	I-9 binder
Medical records (medical questionnaires, benefit claims, doctor's notes, accommodation requests, medical leave records, workers' compensation claims)	Medical file

# But wait, there's more...

Recruiting and screening documents such as applications, resumes and educational transcripts	Personnel file
Job descriptions	Personnel file
Records relating to job offers, promotion, demotion, transfer and layoffs	Personnel file
Pay and compensation information	Personnel file
Education and training records	Personnel file
Handbook and policy acknowledgments	Personnel file
Employment agreements (noncompete, confidentiality agreements)	Personnel file
Letters of recognition and awards	Personnel file
Warnings, counseling and disciplinary notices	Personnel file
Performance evaluations and goal-setting records	Personnel file
Termination notice and documentation	Personnel file

# How & when do I get rid of files?

Type of Documents	Specific Documents	Retention
Pre-Employment Information	<p>Job advertisements, applications. Resumes and related employment materials interview notes and records, background checks.</p> <p>Preliminary drug test results, driving records.</p> <p>Employment verifications, letters of reference.</p> <p>All records relating to selection procedures and tests administered.</p>	<p><b>1 year for applicants</b> who were not hired. (The paperwork for the hired applicants will be shifted to the General Personnel Records.)</p>
I-9 Forms	I-9 forms and copies of supporting documents.	<b>Longer of 3 years</b> from hiring or 1 year after termination. Note: these should be maintained in a separate file.
Employee Medical Records	Doctor notes, FMLA forms, fitness for duty and other medical exams, drug tests and the like — and possibly workers compensation files.	<b>4 years after termination</b> , unless workers compensation files are not segregated. Medical records should be maintained in a separate file with access on a need-to-know basis only. Workers' compensation records should be segregated into a separate file as they need to be kept for 30 years after the employee is separated in order to ensure compliance with OSHA.
Compensation Records	Federal and state payroll taxes, FLSA and EPA records, wages, benefits, bonuses, etc.	<b>4 years after termination</b> . (While certain documents are only required for 3 years, the fact that tax information is required for 4 years will allow consistency.)
Benefit Plan Records	Plan documents, election forms, eligibility determination records, notices, etc.	<b>6 years as required by ERISA</b> .
General Personnel Records	All other records related to employment, personnel evaluations, disciplinary records, etc.	<b>3 years</b> , unless the employee has a written employment contract. If contractual, then you must comply with the statute of limitations in your state related to contracts ( <b>generally up to 6 years</b> ).

# And still more...

Government Compliance Reports	EEO-1, VETS 100 Affirmative Action Plans OSHA related records	4 years after filing. 2 years after close of the applicable year.  5 years after the year to which the records relate. This includes OSHA Forms 101/200/300/300A—30 years if employer is required to conduct medical examinations, monitor for exposure to hazardous materials or chemicals or monitor significant adverse reactions to health of employees, those records must be kept for the duration of employment plus 30 years.
Government Compliance Reports, contd.	Benefit Plan Reports – IRS Form 5500 Tax Reports Motor Carrier Safety Testing	6 years - 4 years from the date the tax is due or paid.  5 years unless otherwise specified for controlled substance and alcohol use testing program for its commercial drivers
Training, Selection Materials, Handbooks, Policies Litigation Hold Matters		6 years beyond period in use  No statutory requirement regarding retention after a formal complaint (i.e., a complaint that involves either a federal agency, an arbitration or a court action) is resolved, it is our recommendation that records relating to these “concluded” suits only be kept for a period of five years after the resolution of the complaint

# THAT IS TOO MUCH TO REMEMBER!

Now, bear in mind, these are just recommendations. Not only are they not the same as actual legal advice, they may not be the best choice for your company. What would be better? Crafting your own document retention policy, complete with the specific government requirements for the types of employee records you keep and your individual requirements for your business's unique needs, based on your expertise or that of your legal advisor.

Such a policy would include a designated procedure for disposing of documents (shred to meet HIPAA Compliance), and a regular schedule of when documents should be reviewed and purged. Ideally, the document review would take place every quarter, but it should at least take place once a year. And perhaps the best time for that is January.



# Seriously? Okay, here's a little advice:

- Every January box up the previous years TERMINATED Employee files (all the different files together and include their I-9) in a bankers box.
- Tape it shut and label the year. If there are multiple boxes, label the content (i.e. A-L, P-Z).
- Store it in a cool, dry place for 7 years.
- At 7 years, shred according to HIPAA regulations.
- Keep Workers Comp files separately and include a “destroy date” – 30 years from closure of file.

# What about Health Insurance?

- For employers with MORE than 50 employees
  - Large employers must report certain coverage details both to employees and to the IRS, using Form 1095-C.
- For employers with fewer than 50 employees
  - Employers use IRS Form 1095-B to report coverage details to employees and to the IRS.
- For employers with fewer than 25 employees
  - Special rules apply to small nonprofits with fewer than 25 employees who pay health insurance premiums for their employees. Read about how your nonprofit may be eligible for the small business employee tax credit.

*National Council of NonProfits  
CouncilofNonProfits.org*

# PIP or Fire?

- Is the issue “fixable”?
- Has the infraction been documented previously?
- Has gross negligence occurred?
- Has an Employee been injured? Is there a reasonable suspicion of substance abuse that led to accident?
- Is it noted in the Employee Handbook that the infraction is subject to disciplinary actions “up to and including termination”?

# Employee Assistance Programs

- If your organization has one, promote it. Have lunch & learns to review topics covered and confidentiality. EAP's are grossly underutilized.
- If your organization does not have one, check with consortium that you may be able to join.
- Either way, make clear in your Employee Handbook that Employees could be tested if they present a "Reasonable Suspicion" of being under the influence. Have your process and testing arrangements planned and in writing.

# Sample Documents on your BE Drive

- Accident/Incident Near Miss Report
- Workers Comp Guide
- I-9 Form & Rules
- Document Disposal Responsibilities
- ACA Forms 1095-B & 1095-C
- PIP Form & Letter
- Employee Appraisal Checklist
- Performance Appraisal for Supervisor
- Performance Appraisal Self Assessment
- Employee File Retention Guide

# Join SHRM

Society of Human Resources Management

SHRM.org

800-294-6745

\$250