

Sounding Board

A publication of Osprey Wilds Environmental Learning Center Charter School Division



Personnel Files

February 2023

Schools understand the importance of keeping records regarding students and their education. As employers, schools also have an obligation to follow state and federal employment laws, which includes keeping records on individual employees. It can be difficult to navigate the myriad of laws to determine how to manage and maintain employee records such as personnel files. An additional consideration is that employment records can contain personal and confidential information, so when confidential information no longer has to be kept, it is important to have a policy that provides for the destruction of such information. There are best practices a school should follow when it comes to employee files.

This paper is not intended to be legal advice. Please check with your school's legal counsel and/or the full text of the statute for additional information.

What does Federal Law Say about Personnel Files?

The Equal Employment Opportunity Commission, which enforces the Civil Rights Act of 1964 (Title VII), the Age Discrimination in Employment Act, and the Americans with Disabilities Act, requires educational institutions to retain personnel and employment records for two years from the date the record was made. After employment terminates, the record must be kept for one year from the date of the termination. These types of records include: requests for reasonable accommodation, application forms submitted by applicants, and records dealing with hiring, promotion, demotion, transfer, lay-off or termination, rates of pay, compensation, tenure, selection for training or apprenticeship, or other terms of employment.

Other federal laws such as the Fair Labor Standards Act require schools to keep payroll records for three years. These include basic employee data: name, address, social security number, gender, date of birth, occupation, and job classification. Other compensation records that must be maintained for three years are:

- Amounts and dates of actual payment.
- Time and day of week when each employee's workweek begins.
- Total hours worked each day and workweek.
- Basis and rate at which wages are paid.
- Straight time and overtime hours/pay.
- All additions to or deductions from the employee's wages.
- Total wages paid each pay period.
- Records explaining any sex-based pay differences.
- Annuity and pension payments.
- Fringe benefits paid.
- Date of payment and the pay period covered by the payment.

What do Minnesota Statutes Say about Personnel Files?

Like federal law, Minnesota law requires keeping payroll records for three years. Minnesota also requires schools to keep a list of personnel policies, with brief descriptions, including the dates the policies were given to employees, and a copy of the required employee notice that must be provided to and signed by the employee at the start of employment.

Unlike federal law, Minnesota law provides employees with access to certain personnel records under the Minnesota Personnel Record Review and Access Act ("MPRRAA"). The MPRRAA defines "personnel record," to the extent maintained by an employer, to mean: application for employment; wage or salary history; notices of commendation, warning, discipline, or termination; authorization for a deduction or withholding of pay; fringe benefit information; leave records; and employment history with the employer, including salary and compensation history, job titles, dates of promotions, transfers and other changes, attendance records, performance evaluations, and retirement record.

The MPRRAA excludes the following from the definition of "personnel record:"

- written references respecting the employee, including letters of reference supplied to an employer by another person;
- information relating to the investigation of a violation of a criminal or civil statute by an employee or an investigation of employee conduct for which the employer may be liable, unless and until:
 - the investigation is completed and, in cases of an alleged criminal violation, the employer has received notice from the prosecutor that no action will be taken or all criminal proceedings and appeals have been exhausted; and
 - the employer takes adverse personnel action based on the information contained in the investigation records;
- education records, pursuant to section 513(a) of title 5 of the Family Educational Rights and Privacy Act of 1974, United States Code, title 20, section 1232g, that are maintained by an educational institution and directly related to a student;
- results of employer testing, except that the employee may see a cumulative total test score for a section of the test or for the entire test;
- information relating to the employer's salary system and staff planning, including comments, judgments, recommendations, or ratings concerning expansion, downsizing, reorganization, job restructuring, future compensation plans, promotion plans, and job assignments;
- written comments or data of a personal nature about a person other than the employee, if disclosure of the information would constitute an intrusion upon the other person's privacy;
- written comments or data kept by the employee's supervisor or an executive, administrative, or professional employee, provided the written comments or data are kept in the sole possession of the author of the record;
- privileged information or information that is not discoverable in a workers' compensation, grievance arbitration, administrative, judicial, or quasi-judicial proceeding;
- any portion of a written or transcribed statement by a co-worker of the employee that concerns the job performance or job-related misconduct of the employee that discloses the identity of the coworker by name, inference, or otherwise; and
- medical reports and records.

The MPRRAA allows an employee of any Minnesota employer the right upon written request to inspect and obtain a free copy of the employee's personnel record (as defined by the statute) once every six months, and once each year after the employee is separated from employment, for as long as the employer maintains the file. If an employee or former employee submits a written request to see their personnel file, only the documents described in the MPRRAA should be disclosed to the employee or former employee.

Best Practices for Keeping Personnel Files

While there are a number of personnel documents schools must maintain, not all of them should be stored and kept in the same place. Minnesota schools should generally keep the items defined in the MPRRA as part of an official personnel file. These documents include:

- Job application and applicant screening materials
- Performance reviews, written warnings, performance improvement plans
- Offer letters, employment contracts, required Minnesota employee wage notices
- Salary or wage information, information about raises or other pay changes
- Position description and position history such as promotions or transfers
- Training information, signed receipt of personnel policies
- Attendance and leave records
- Payroll deduction authorizations
- Termination letters, resignation letters

Items that should not be kept in the same place as an employee's official personnel file and should not be disclosed to the employee upon request include I-9 forms, medical information, supervisor notes, information that identifies individual students, or information about other employees. It is best to keep separate files for I-9 forms, and medical information. Oftentimes payroll information is stored separately as well.

If a supervisor keeps notes regarding individual employees, those notes should be kept confidential and should not be stored in an official personnel file.



Generally, only those who have a need to see a personnel file should have access to personnel files, because personnel files contain confidential information. Those who have a need to see a personnel file may include supervisors, high-level school administrators, or those who perform human resource functions. Employees generally should not have access to another employee's personnel file. Personnel files should be kept in a secure electronic or hard copy location, such as password-protected folders or locked file cabinets. Schools should maintain policies regarding access to personnel files and a record retention policy outlining when documents should be destroyed.

Best practice is generally to destroy terminated or separated employee files four years after the separation date. Other items should be destroyed sooner, such as I-9 forms which contain highly sensitive information. I-9 forms may be destroyed 3 years after hire, or 1 year after termination, whichever is later. Earnings records such as time cards, work schedules, and records of wage deductions may be destroyed after 3 years. Keep in mind, however, that if an applicant or an employee files a lawsuit or a charge of discrimination, records regarding that employee must be maintained until the case is concluded.

More resources can be found on [our website](#).