

Handbook Highlight from the Montana Municipal Officials Handbook

3.11 Personnel Records Management

3.1101 Functions of a Personnel Record System

Employee personnel files are a well-constructed layout of an employee's employment history that provide an at-a-glance insight into an individual's work performance, benefits history, prior work performance, criminal and background history, training and development, and numerous other documented employment facts. Personnel records bridge past performance with future opportunities and establish a foundation of documented accounts to be utilized in facilitating references, employment verifications and background inquiries. Each employer is granted architectural license to design compliant recordkeeping systems. The design of each system must lay a firm foundation and structure supported by concrete policies and practices that assist in the maintenance, retention and safeguarding of employee records. The blueprint for this layout must factor in the employee's privacy, state and federal compliance laws, such as retention and recordkeeping, and employee accessibility to records. In addition, this system must facilitate mandated compliance reporting needs.

Each municipality should include a Personnel File Management Policy in their Personnel Policy Manual. For organizational purposes as well as legal protection, it is recommended that municipalities maintain separate, up-to-date, personnel files for each staff member. Specific questions about what to retain in a municipality's personnel files, especially those addressing confidentiality and public access, should be addressed to legal counsel.

SAMPLE PERSONNEL MANAGEMENT FILE

The [CITY/TOWN] maintains records on every employee related to their employment with the [CITY/TOWN]. The employee's personnel file will contain information such as employment application/resume or cover letter, performance evaluations, training records, commendations and awards, disciplinary records,

and resignation/termination records. Such information will be obtained from the employee or from others with the employee's authorization. Any information obtained for EEOC compliance (Form EEO- 4) and/or any medical information will be kept in separate, confidential files and accessed only on a need-to-know basis as authorized by the [MAYOR/CITY MANAGER] and/or their designee so long as it does not violate any laws, regulations or policies set forth in this manual.

Personnel files are confidential and only accessible to others on a need-to-know basis for personnel action. Upon request to the [MAYOR/CITY MANAGER] and/or their designee or the Clerk/Personnel Director and with the [MAYOR/CITY MANAGER] and/or their designee or the Clerk/Personnel Director present, employees may inspect and make copies of their personnel records. Employees should contact the [MAYOR/CITY MANAGER] and/or their designee or the Clerk/Personnel Director to establish a convenient review time.

3.1102 Basic Personnel File

In a basic personnel file, the municipality should maintain employment related records such as: job descriptions, employment application, resumes, testing documents used to make employment decisions, educational transcripts, and any signed acknowledgements. In addition, the municipality should maintain records related to the employee's hiring, promotion, demotion, transfer, layoff, pay rates, and training records history. The municipality should also maintain records related to employment practices, including: letters of recognition, disciplinary notices, performance evaluations, and termination/resignation letters.

The Medical Records File

The municipality will also need to maintain separate, locked files, for medical and insurance records. Medical records include physical examinations, medical leave documentation, workers' compensation claims, and drug and alcohol testing materials.

I-9 Forms

Immigration (I-9) Forms should be maintained chronologically by year in a separate file. This allows for their inspection without having the inspector review the entire personnel file.

Payroll Information

Municipalities often find it useful to maintain separate employee payroll and benefit files. These individual files can include employee compensation data, benefit election forms, deduction authorization forms, direct deposit authorization

forms, electronic fund transfer confirmations, employee earning records, vacation and sick leave information, W-4's, W-2's, and any correspondence(s) related to payroll to or from the employee.

Personnel File Access

Each municipality should develop a policy that identifies who has access to personnel records and for what reasons, as well as develop a records retention guide. Areas to consider in such a policy include the employee, human resources, supervisors, management, and regulatory agencies. Always balance freedom of information with the right to privacy laws. These guidelines should include when and where the file can be accessed, if the contents can be copied and if items can be added, etc. To maintain the integrity of the personnel file, access should be permitted only under some type of supervision.

Personnel File Storage & Record Retention

Personnel files should be maintained in locked file cabinets in a central location (as opposed to multiple drawers and cabinets in various departments). A good place to start in regard to developing a records retention schedule would be to visit the State of Montana at <http://www.sos.mt.gov/Records/index.asp> .

Confidentiality and Right to Privacy

In regard to the confidentiality of employee personnel files, it is the employee, not the municipality, who has the right to privacy of the information in the file. If a third party requests an employee's personnel records, inform the employee of the request in writing. Allow the employee to review their personnel records and identify which items they wish to release. If any right to privacy is exercised, have the employee document in writing which records they are willing to release and which they wish to maintain as confidential. Legal counsel should be consulted if there is any question as to what personnel documents should or should not be released to a requesting third party. No federal or state law requires an employer to maintain personnel records; however, various federal and state laws mandate that certain records be kept. For organizational purposes as well as legal protection, you should keep separate, up-to-date personnel files. The chances of becoming involved in legal actions related to hiring, supervision or firing decrease when personnel records are maintained correctly.

3.1103 What Not to Keep in the Basic Personnel File

Equal Employment Opportunity MT Human Rights Laws. In order to minimize claims of discrimination, it is important to keep source documents that identify protected classes in a separate file. Protected classes include race, national origin, creed, sex, physical or mental disability, marital

status, age and political ideas (state, county or city governments).

Safety Training Records. OSHA may audit a company's safety training records. Again, keeping this information in a separate file will limit the auditor from investigating other information in the personnel file.

Miscellaneous. Documents related to internal/external investigations and litigation should be maintained separately. Also, file child support/garnishment documents and veteran status records separately.