



13.12 PERSONNEL EMPLOYEE FILE

LADD maintains complete and accurate information on all employees.

Personnel records are stored within normal business practices and entries/documents are generated at or around the time of occurrence. This includes all direct support, non-exempt, exempt, full-time, part-time, and seasonal employees. The contents of personnel records are confidential and access is limited to Human Resources and those directly involved in the supervision and/or retention of the individual employee, as well as regulatory and accrediting agencies for investigation and auditing purposes.

In compliance with state and federal laws, all LADD employees must have numerous forms on file.

[Click Here to View the Recruiting, Application and Hiring Policy](#)

CONTENTS OF FILE - Personnel files contain the employee's application for employment, Federal and State tax forms, evidence of education, resume, training and previous experience, the records of hiring, job assignments, work schedules, salary, employee evaluations, correspondence relating to the employee.

PERSONNEL RECORDS—For the purpose of maintaining complete and accurate personnel records, employees are responsible for notifying the office, in writing, when changes in address, telephone number, and/or family status (births, marriage, death, divorce, legal separation, etc.) affect an employee's income tax status, group insurance or paycheck. This responsibility includes employees on FMLA and leaves of absence. The information needed includes:

1. Change of address. Employees can update their address by going to the LADD website under Human Services, and or in Therap.
2. Any change affecting withholding status.
3. Legal change of name—copy of driver's license and Social Security Card.
4. Change of people designated to call in case of emergency.
5. Changes that would affect insurance benefits.
6. Changes in driving status i.e. suspended or restricted license. [\(Click Here to View the Transportation Services Policy\)](#)
7. Change in Criminal History in addition to appearance on any Local, State or Federal Registries

EMPLOYEE ACCESS TO FILE— Pursuant to Michigan law [BULLARD-PLAWECKI EMPLOYEE RIGHT TO KNOW ACT 397](#), employees may review and request a copy of their personnel file at reasonable intervals and not more than twice a year. They may also file a response regarding the content of their personnel file. If an employee would like to review their personnel file, a written request must be submitted to the LADD Human Resource Department via the LADD website, or by sending a written request to humanresources@laddinc.net

The request for review should include the employee's name, dates of employment and the specific location at which the employee works or worked. Appointments will be scheduled during regular office hours, unless other arrangements are necessary. The examination of the file will be supervised, no contents of the file(s) are to be removed or destroyed.

If an employee requests a copy of the contents of their personnel file, LADD requires reimbursement at the current established rate. Copies will be made by LADD and given to the employee within 2 weeks of the request.

If there is a disagreement between LADD and the employee regarding the contents of the file, the employee may submit up to 5 pages (8.5x11) of written response. This response will be included when/if the personnel file is divulged to a third party at the employee's written request.

Employee files are kept at a minimum of seven years.

The Act limits the definition of a "personnel record" to "a record kept by the employer that identifies the employee, to the extent that the record is used or has been used, or may affect or be used relative to that employee's qualifications for employment, promotion, transfer, additional compensation, or disciplinary action." MCLA 423.501(2)(c). Importantly, some documents which may otherwise fall within this definition are still excluded from production under the Act.

Examples of what employers may properly exclude from production include:

1. Employee references supplied to an employer if the identity of the person making the reference would be disclosed;
2. Materials relating to the employer's staff planning with respect to more than one employee, including salary increases, management bonus plans, promotions, and job assignments;
3. Medical reports and records made or obtained by the employer if the records or reports are available to the employee from the doctor or medical facility involved;
4. Information of a personal nature about a person other than the employee if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy;
5. Information that is kept separately from other records and that relates to a criminal investigation by the employer;
6. Records limited to grievance investigations that are kept separately and are not used to determine the employee's qualifications for employment, promotions, transfer, additional compensation or disciplinary action;
7. Records maintained by an educational institution that are directly related to a student and are considered to be education records under the Family Educational Rights and Privacy Act; and
8. Records kept by an executive, administrative, or professional employee that are kept in the sole possession of the maker of the record, and are not accessible or shared with other persons.

DISCIPLINARY DOCUMENTS UNDER EMPLOYEE RIGHT TO KNOW ACT (ERKA)

ERKA prohibits an employer from divulging disciplinary information "to a third party, to a party who is not a part of the employer's organization, or to a party who is not a part of a labor organization representing the employee," without providing the employee with written notice specified under the statute. Note, ERKA does not prohibit disclosures of disciplinary information; it simply requires the employer to provide notice to the employee. Thus, employers may define who has access to disciplinary documents by following the notice requirements under ERKA.

APPLICATION OF MICHIGAN'S FREEDOM OF INFORMATION ACT

ERKA explicitly states that it shall not be construed to diminish a right of access to records as provided under Michigan's Freedom of Information Act ("FOIA"). Of course, providing an employee with ERKA notice does not conflict with FOIA.

FOIA includes an exemption for personnel records of law enforcement agencies. However, FOIA does not exempt personnel records of non-law enforcement employees. To the contrary, courts have ordered their release. Disclosure must instead be examined under FOIA's other exemptions on a case by case basis.

SOCIAL SECURITY NUMBERS

FOIA does exclude records disclosing social security numbers. Likewise, Michigan's Social Security Privacy Act requires employers to protect the confidentiality of social security numbers. Employers must limit access to social security numbers and have policies to provide confidentiality. Except in specific cases, employers should always redact social security numbers when disclosing documents.

ADDITIONAL CONSIDERATIONS

Although personnel files do not generally include medical information, employers must also comply with HIPAA and agreements with HIPAA covered entities.

