



Presentation to: Alabama Association of School  
Business Officials

# Keeping all the Files: Managing Payroll and Personnel Records

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**Personnel Files, Payroll Records, and Other Files**

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# Personnel Files, Payroll Records, and Other Files

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# Personnel File

- Application Materials
- Offer of Employment Letter
- Handbook Acknowledgments
- Evaluations
- Promotions / Work History
- Discipline
- Results of an Investigation, but not the entire investigation file
- Recognition
- Training Records
- Separation Records

# Payroll Records

- Onboarding Payroll and Tax Forms
- Garnishment Information
- Voluntary Contribution Information / Authorization of Deductions
- Payroll Deduction Records

# Investigation File

- Separate file from personnel file and payroll file
  - Put discipline in personnel file
- Document retention policies generally should not apply to investigation files— keep it longer if you need to
- Remember to refer back to it in the future
- Keep organized by alleged bad actor's name
- Could contain privileged information
- May contain other information that needs review before disclosure

# Other Considerations

- Sensitive Personally Identifiable Information
- Separate Files for:
  - Benefits Information
  - Investigation Files
  - Medical Records/Leave Information
  - Privileged Information
- Separation of Employment
- Access
- Document Retention Policies
- Policy Regarding Complaints About Pay



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# Requests for Records

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# Who May Access a Personnel File?

## It Depends.

- Alabama Code § 16-22-14
  - *Employees (or any person designated in writing by the employee)*
  - *Another employer*
  - *Lawfully authorized hearing officer or panel conducting an investigation into the competency or performance of the employee*
  - *All appropriate law enforcement officials*

**Also, litigation or subpoenas for records may require production and sometimes information contained in personnel files (but maybe not the entire personnel file) may be subject to disclosure.**

# Open Records Act Requests

Alabama Code § 36-12-40

Every citizen has a right to inspect and take a copy of any **public writing** of this state, except as otherwise expressly provided by statute. ...

# Open Records Act Requests

- Who can request? Alabama Citizens, including media outlets
- What may be requested? Public Writings
- What are “public writings”?
  - A public writing is one that is a record that is “reasonably necessary to record the business and activities required to be done or carried on.... so that the status and condition of such business and activities can be known by the citizens.”
  - But there are exceptions. For example: security plan information, sensitive personnel records (not salary information), records relating to pending criminal investigations are not subject to disclosure under the Open Records Act.

# Open Records Act Requests Continued

- Outside of the few exceptions, there is a presumption that public records should be produced
- Generally, the purpose of the request does not matter but, impermissible purposes are those that:
  - Would encourage or enable illegal activity
  - Endanger the records
  - Are for purely speculative reasons or idle curiosity

Timing to respond: A reasonable period of time after the request was made

# Examples of Public and Private Records

Public Records	Private Records
Pay Records	Student Records
Applications and Resumes	Law Enforcement Records
Employee lists, including race, sex, names, titles, dates of hire	Safety plans and procedures
Discipline	Background checks
Superintendent recommendations after the Board has acted	Banking information and social security numbers
Contracts	Medical Records
Timesheets	Private email addresses and phone numbers
Personnel Files*	

\*Some records contained in personnel files are private and will need removing and/or redacting prior to producing

# Responding to Unemployment Claims

- Common occurrence after employee has been terminated
- Often asked to give reason for termination
  - Keep it short
  - Keep it honest
  - Keep it consistent with other items in personnel file (e.g., termination letter)

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# Producing Records in Litigation

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# Types of Litigation-Related Claims

## Pay Claims

- Misclassification
- Overtime Payment
- Miscalculation of Wages

## Discrimination or Harassment

- Failure to Promote
- Race/Sex/Age Discrimination
- Hostile Work Environment



# Typical Document Requests in Litigation

- Personnel files for plaintiff, decision makers, and comparators
- Plaintiff's pay records
- Emails, texts, other forms of correspondence
- Investigation files
- Superintendent Recommendations
- Board Minutes

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# Best Practices

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# Documentation: Basic Rules

- Be accurate and timely recording information
- Be thorough
- Be consistent
- Date and sign the document
- If disciplinary, have employee sign and give him or her a copy
- Remember Due Process



# The Wonderful World of E-mail (or, even worse, texting)

- It never goes away
  - Good if it is your note inviting the employee to come see you or the summary of what was said
  - Not so good if you are talking about an employee in a less than respectful way
- The Jury (and maybe even the media) will see it
- If it's important, put it in a document



# Payroll Documentation Best Practices

- Most is automated or outsourced
- Most important:
  - Make sure time recording practices are accurate and followed
  - Make sure OT is paid on timely basis
  - Have avenue through which employees can bring complaints about pay/pay documentation to you
    - Can provide protection under FLSA, federal wage law
    - If you learn that your people are not being paid properly, (1) always pay for any time worked, (2) take action to correct pay practices immediately, and (3) update any relevant policies

# Best Approach

- Don't talk about stuff you don't know
- Don't speculate or overstate
- Don't come to a conclusion too soon
- Don't vent
- Keep confidentiality as much as possible
- Be thoughtful about communication
  - If you wouldn't put it in a memo, don't write about it
- As a general rule, don't attempt to justify decisions to the public

# Questions?



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