1.

What types of records must employers keep?

Both federal and California state law require employers to keep certain records regarding each individual employee. The table below shows some of the types of records your employer is generally required to keep, and how long it must keep them:

Type of record	Must be kept for…
Your name, social security number, and address	4 years
Your gender and date of birth	3 years
Your job description and classification	1 year
Your dates of hire and termination	4 years
Payroll records showing your hours worked and wages paid	3 years
Any special payments, gifts, or bonuses you received, and the periods of service for which they were given	4 years
Records used in administering your pension or benefit plans	6 years
Amounts and dates of state and federal income tax withheld from your pay	4 years
Records of every promotion, demotion, transfer, layoff or training selection decision that affected you	1 year
Your disciplinary and discharge records	1 year
The employer's log of occupational injuries and illnesses, and reports on them to OSHA	5 years
Log of work-related illness or injury for which treatment exceeded first aid, or for which you lost days away from work	The duration of your employment, plus 30 years
Case files on Workers' Compensation claims	At least five years after your last date of treatment
Medical Records	The duration of your employment, plus 30 years

In addition to the records they are legally required to keep, many employers also choose to voluntarily maintain individual personnel files. These files may contain such records as: applications for employment, performance reviews, and attendance records.

2.

Does my employer have to let me see my personnel file?

Yes. California Labor Code Section 1198.5 allows most private and public employees to see their personnel files. And private sector employees who have resigned, who are on a leave of absence, or who have been terminated or laid off have the same inspection rights as current employees. However, 1198.5 does not cover public safety officers, employees of state agencies, or public school employees. Their access to personnel records is governed by a number of other state, federal, and industry-specific laws, most of which grant employees inspection rights similar to those under 1198.5.

3.

What types of records am I allowed to see?

You have the right to inspect:

- Any personnel file that is used to determine your qualifications for employment, promotion, and raises, and
- Any personnel file containing information leading to disciplinary action (including termination).
- Any medical documents kept by your employer (including drug test results) that were compiled by a health care provider after your employment began. (Note: neither the employer nor the health care provider is required to disclose the results of any pre-employment physical examination). A health care provider is allowed to simply prepare a summary, instead of providing the entire record for inspection.

You do not have the right to inspect:

- Any records relating to your employer's investigation of a possible criminal offense, or
- Any letters of reference, or other documents your employer compiled before you started working there.

4.

Am I allowed to make copies of items in my file?

You are entitled to a copy of any employment-related document that you have signed. (California Labor Code section 432). Your employer must allow you to view unsigned documents and take notes about them, but is not required to provide you with a copy. (California Labor Code section 1198.5).

5.

How do I go about viewing my personnel file?

You should ask your employer to see your file. Employers must keep copies of your personnel records at the place where you report to work, or at least make the records available to you where you work within a reasonable time after you ask to see them. If your employer does not keep the records at your worksite, or for some reason does not make the records available at your worksite, your employer must allow you, with no loss of pay, to inspect such records wherever they are stored.

6.

What do I do if my employer refuses to show me my personnel file?

First, you should inform your employer of your legal right under the Labor Code to see your file. If that doesn't work, you may file a claim against your employer with the California Department of Industrial Relations, Division of Labor Standards Enforcement (commonly called the "Labor Commissioner"). You may also bring your claim straight to court.

For further information about your employment rights, contact the Workers' Rights Clinic.

Disclaimer

This Fact Sheet is intended to provide accurate, general information regarding legal rights relating to employment in California. Yet because laws and legal procedures are subject to frequent change and differing interpretations, the Legal Aid Society–Employment Law Center cannot ensure the information in this Fact Sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation.