

Davis School District Policy and Procedures

Subject: 2HR-300 Personnel Records

Index: Human Resources – Employee Records Management

Revised: July 12, 2016

1. PURPOSE AND PHILOSOPHY

To establish standards by which information contained in personnel records and protected health information records shall be managed to achieve accuracy, security, privacy and legal compliance and to protect the integrity of Davis School District (District) information.

2. POLICY

- 2.1. Personnel records of all District employees are the property of the Davis School District and access to the information they contain is restricted.
- 2.2. It is the responsibility of each employee to promptly notify the District of any changes in personnel data. Personal mailing addresses, telephone numbers, number and names of dependents, individuals to be contacted in the event of an emergency, certifications, endorsements, licensure, and other such information should be accurate and current at all times.
- 2.3. It is the policy of the District to maintain the personnel records of all employees in a legal, secure and confidential manner and to assure that the contents are limited to those documents that are appropriate to proper personnel management procedures and practices. These files shall be maintained in accordance with the Government Records Access Management Act (GRAMA), the Utah State Archives Retention Schedules, and applicable negotiated agreements.
- 2.4. It is the policy of the District to maintain privacy and security of Protected Health Information (PHI) records in accordance with the Health Insurance Portability and Accountability Act (HIPAA). PHI records shall be maintained separately from other employee records and shall not be commingled with employment records of any kind. All health information obtained by and in relation to the health insurance plans will be used only for health insurance plan-related decisions and will not be used in any employment related decisions.
- 2.5. It is the policy of the District to conduct periodic reviews and audits of policies and procedures to ensure compliance with HIPAA regulations. The District shall cooperate with the Office of Civil Rights, other legal entities, and organization officers in any compliance reviews or investigations.

3. RECORDS MAINTENANCE

- 3.1. The official personnel records for all employees shall be maintained under the supervision of the Human Resources Department Director (Director). PHI records shall be maintained under the supervision of the Human Resources Associate Director responsible to manage employee health insurance.
- 3.2. All personnel records shall be kept in a location that shall be secured during business and nonbusiness hours.
- 3.3. The Human Resources Department shall maintain a record of persons accessing official personnel files. The record shall note date, time, name and purpose of the person accessing the file.

- 3.4. While review of official personnel files is being conducted by persons other than those designated by the Director, an employee of the Human Resources Department shall continuously be in attendance.
- 3.5. Principals and District department heads shall establish procedures for maintenance of separate personnel records to be maintained at their work location which can become part of the official personnel files upon which promotions and disciplinary actions are based. School level personnel records shall be maintained in compliance with the provisions contained in this policy regarding security, access and control and with the Government Records Access and Management Act (GRAMA).
- 3.6. The District shall make reasonable efforts to protect PHI records from accidental exposure whether the data is electronic, paper or oral communication.
- 3.7. The District shall retain and dispose of all records in compliance with federal and state laws.

4. ACCESS TO OFFICIAL PERSONNEL RECORDS

- 4.1. An employee or former employee, or the agent of such possessing power of attorney, shall have the right to inspect the employee's official personnel employment file for content.
- 4.2. Access to official personnel files to individuals other than the employee, shall be in accordance with policy 10CR-101 Government Records Access and Management Act.
- 4.3. Access to official PHI records shall be in accordance with HIPPA. The District shall provide plan participants records access to healthcare records and accommodate plan participants requests to amend their medical record.
- 4.4. The District shall obtain explicit authorization prior to using or disclosing individually identifiable PHI for any purpose other than treatment, payment, or health care operations.

5. CONTENT OF PERSONNEL FILES

- 5.1. The personnel file of any employee may contain:
 - 5.1.1. original application or resume
 - 5.1.2. salary actions
 - 5.1.3. disciplinary actions
 - 5.1.4. recommendations
 - 5.1.5. copies of degrees, awards, certificates, etc.
 - 5.1.6. performance ratings
 - 5.1.7. physical examination records
 - 5.1.8. training and educational records
 - 5.1.9. attendance records
 - 5.1.10. leave records, including military leave
 - 5.1.11. such other documents as required by law, ordinance or directive of the Board
 - 5.1.12. documents determined by the Director or the superintendent to be in the best interest of the District to be maintained therein.
- 5.2. The personnel file may also contain, in a confidential section not subject to routine review, information pertaining to:
 - 5.2.1. background checks
 - 5.2.2. polygraph examinations
 - 5.2.3. examination and test scores

- 5.2.4. psychological or psychiatric evaluations
 - 5.2.5. confidential personal status information required by law or governmental regulations
 - 5.2.6. confidential letters of reference
 - 5.2.7. items identified as confidential in the negotiated agreements or by the Director.
- 5.3. PHI records are files that may contain individually identifiable health information including medical records.
- 5.4. Access to the confidential section of the official personnel file shall be limited to a need-to-know basis upon request of a principal or District department director and with the approval of the superintendent or Director, except under provisions of court orders or investigative processes.
- 5.5. Access of computerized personnel files shall be limited to those authorized by the superintendent, the Director, or the Administrator of Technology Services on a need-to-know basis as outlined under the Information Systems security Policy 7SS001, providing only the minimum necessary access to electronic PHI that is required for an employee to do his or her job. Restrictions identified above also apply to computerized files.

6. CLASSIFICATION OF RECORDS

- 6.1. Public Records
- The following records shall be classified public as provided under Utah Code Ann. §63G2-301, except to the extent they contain information expressly permitted to be classified as exempt from disclosure under the provisions of Utah Code. Ann. §§63G-2-201(3)(b) and (6)(a).
- 6.1.1. names;
 - 6.1.2. gender;
 - 6.1.3. gross compensation;
 - 6.1.4. job titles;
 - 6.1.5. job descriptions;
 - 6.1.6. business addresses;
 - 6.1.7. business email address;
 - 6.1.8. business telephone numbers;
 - 6.1.9. number of hours worked per pay period;
 - 6.1.10. dates of employment;
 - 6.1.11. relevant education;
 - 6.1.12. previous employment;
 - 6.1.13. similar job qualifications of the District's former or present employees or officers; and
 - 6.1.14. records that disclose information relating to formal charges or disciplinary action against a former or present employee if:
 - [a] the disciplinary action has been completed and all time periods for administrative appeal have expired; and
 - [b] the charges on which the disciplinary action was based were sustained.
- 6.2. Private Records
- The following records shall be classified as private as provided under Utah Code Ann. §63G-2-302 which includes:

- 6.2.1. records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;
 - 6.2.2. records describing an individual's finances except records listed under Public Records above; and
 - [a] information provided to the District for the purpose of complying with a financial assurance requirement; or
 - [b] records that may be disclosed in accordance with another statute.
 - 6.2.3. records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation or similar medical data;
 - 6.2.4. employment records concerning a present or former employee that would disclose that individual's home address, home phone number, Social Security number, insurance coverage, marital status or payroll deductions;
 - 6.2.5. records in any personnel file, applications, nomination, recommendations, or proposals for public employment or appointment.
 - 6.2.6. records concerning a present or former employee of or applicant for employment with the District, including performance evaluations and personal status information such as race, religion, or disabilities except those records that are public under 6.1 of this policy;
 - 6.2.7. record that would disclose military status;
 - 6.2.8. records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy; and
 - 6.2.9. record provided by the United States or by a governmental entity outside the state that are given with the requirement that the records be managed as private records.
- 6.3. **Controlled Records**
Records shall be classified as controlled as provided under Utah Code Ann. §63G-2-304 if:
- 6.3.1. the record contains medical, psychiatric, or psychological data about an individual; or
 - 6.3.2. the District reasonably believes that releasing the records would be detrimental to the subject's mental health or to the safety of any individual.
- 6.4. **Protected Records**
Records shall be classified as protected as provided under Utah Code. Ann. §63G-2-305 which includes:
- 6.4.1. records the disclosure of which would jeopardize the life or safety of an individual;
 - 6.4.2. drafts, unless otherwise classified as public;
 - 6.4.3. records concerning strategy about pending litigation;
 - 6.4.4. records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing or certification purposes if:
 - [a] release of the records could reasonably be expected to interfere with investigations; or
 - [b] disclosure would create a danger of depriving a person of a right to an impartial hearing or fair trial.
 - 6.4.5. records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

- 6.4.6. records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure; and
 - 6.4.7. records provided by the United States or by a governmental entity outside the state that are given to the District with a requirement that they be given a protected status.
- 6.5. The listing of records classification above may not include all records maintained by the Human Resources Department. Any records not classified in this policy shall be classified by the Director when access to the information in such a record is requested.

7. COPYING OF MATERIALS IN PERSONNEL RECORDS

- 7.1. A reasonable duplicating fee may be charged for records or files to cover the actual costs of duplicating a record or compiling a record in a form other than that maintained by the Human Resources Department.
- 7.2. The Director shall establish a reasonable fee schedule.
- 7.3. The Director may fulfill a request without charge when releasing the record primarily benefits the District or the public rather than an individual, or the individual requesting the record is the subject of the record.
- 7.4. A fee may not be charged for reviewing a record to determine whether it is subject to disclosure, or inspecting a record.

8. INFORMATION REQUESTS

- 8.1. Request for information from employee records, including request of references on former employees may be directed to the Human Resources Department.
- 8.2. Only most recent job title and dates of hire and termination shall be verified via telephone.
- 8.3. Requests for additional information shall be in writing. The request shall be placed in the employee's official personnel file.
- 8.4. Upon written request, records classified as public shall be released to any person.
- 8.5. Upon written request, records classified as private, controlled, or protected shall be released in accordance with District policy 10CR-101 Government Records Access and Management.
- 8.6. Upon receipt of properly completed and executed "Authorization Forms" the District shall respond to requests about employee's PHI records. Disclosure shall be based on what information is requested and by whom it is requested according to HIPPA. Upon receipt of a completed "History of Non-Routine Disclosure" form, the District shall accommodate a covered person's request to obtain a history of non-routine disclosures of their PHI. This accounting will, at a minimum, include the types of disclosures and information for each as detailed under HIPPA.
- 8.7. Upon written request, the District will accommodate an employee's request to restrict access to some or, all of the, PHI in his or her medical records.

9. SHARING RECORDS

- 9.1. The Director may provide records to another governmental entity or government managed corporation if the requesting governmental entity or government-managed corporation meets the requirements established under Utah Code Ann. §-63G-2-206.
- 9.2. Before disclosing a record or record series to another governmental entity, another state, the United States, or a foreign government, the Director shall:
 - 9.2.1. inform the recipient of the record's classification and the accompanying restrictions on access; and
 - 9.2.2. obtain the recipient's written agreement that it will abide by those restrictions on access unless a statute, federal regulation or interstate agreement otherwise governs the sharing of the record or record series.
- 9.3. The Director shall provide a private, confidential, or protected record to another governmental entity if the requesting entity:
 - 9.3.1. is entitled by law to inspect the record; or
 - 9.3.2. is required to inspect the record as a condition of participating in a state of federal program or for receiving state or federal funds.
- 9.4. Protected Health Information (PHI) Records
 - 9.4.1. The District shall restrict access to PHI records on a "need-to-know" basis, granting access only to the specific data needed for legitimate business purposes. The District shall fulfill a request for PHI records with de-identified data when de-identified data can satisfy the request.
 - 9.4.2. The District shall require that all Business Associates that will have access to PHI records sign a Business Associate Agreement.

10. TRAINING AND INVESTIGATION

- 10.1. The District shall train employees in appropriate procedures regarding records privacy and confidentiality, District records policies and relevant statutes.
- 10.2. The District shall investigate reported incidents of alleged violations of PHI privacy, regardless of the source or severity of the claim. Any PHI used or disclosed in an inappropriate manner may result in disciplinary action up to and including termination.

DEFINITIONS

“Business Associate Agreement” means an agreement that sets terms and conditions to reasonably and appropriately protect the confidentiality and integrity under which PHI is provided, created or received from the District or in behalf of the District.

“Classification,” “classify,” and their derivative forms means determining whether a record series, record or information within a record is public, private, controlled, or protected.

“Director” means the Director of Human Resources.

“Protected health information (PHI) records” means individually identifiable health information that is: 1) transmitted by electronic media; 2) maintained in electronic media; or 3) transmitted or maintained in any other form or medium.

“Privacy Officer” means the person designated to oversee all ongoing development, implementation, maintenance of, and adherence to the District’s policies and procedures covering the privacy of and access to protected health information (PHI) in compliance with federal and state laws and the District’s information privacy practices.

“Record” means all books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recordings, electronic data, or other documentary materials regardless of physical form or characteristics: (1) which are prepared, owned, received, or retained by the District; and (2) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

“Record series” means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

“Security Officer” means the person designated to oversee all ongoing development, implementation, maintenance of, and adherence to the policies and procedures that provide security of and access to electronic protected health information (PHI).

REFERENCES

45 CFR Part 160 and Subparts A and E of Part 164 - Health Insurance Portability and Accountability Act (HIPPA)

[Utah Code Ann. Title 63G, Chapter 2](#) – Government Records Access and Management Act

[Utah Code Ann Title 67, Chapter 18](#) – Employees’ Personnel Files

RELATED POLICIES

[District Policy 10CR-101 Government Records Access and Management \(GRAMA\)](#)

[State Archives Human Resource Records](#)

DOCUMENT HISTORY:

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Revised: February 11, 2005 – technical changes to comply with law and practice.

Revised: August 10, 2006 – technical changes to comply with HIPPA record requirement

Revised: September 22, 2010 (by consent) – As part of a five-year review, including a reorganization of the Table of Contents, policy was renumbered from 2HR-006 to 2HR-300. No substantive changes required.

Revised: July 12, 2016 – Five year review. Minor revisions to comply with state law and to clarify current practice.