

Administrative Procedures

Personnel Records

I. Scope

- A. An "employee" may inspect personnel records if he/she is:
1. A person currently employed, whether full, part-time, temporary or a substitute;
 2. A former employee during the period in which he/she is subject to recall;
 3. A former employee in the 2 years subsequent to termination.
- B. The "records" subject to inspection are personnel records and the contents therein including test scores (not test documents and protocols) and any documents which are, have been or are intended to be used in determining that employee's qualifications for employment, promotion, transfer, additional compensation, discharge, or other disciplinary action maintained by the employer or by others having a contractual agreement with the employer to keep or supply personnel records. Records subject to inspection also include anecdotal records maintained by supervisory personnel. These anecdotal records must be placed in an employee's file prior to any usage of those records. The employee shall also have any rights to access of records which may be found in other statutes.
- C. The records not subject to inspection are:
1. Letters of reference;
 2. Medical records;
 3. Test documents and protocols (not scores);
 4. Information of personal nature about another person, if the disclosure would clearly be an unwarranted invasion of that person's privacy;
 5. If there is a pending claim or dispute between employee and employer, records which may be discovered in a judicial proceeding; and
 6. Materials related to the employer's staff planning, such as matters relating to development, expansions or goals, where the materials relate to more than one employee, unless such materials will be used by the employer in determining an

individual employee's qualifications for employment, promotion, transfer, compensation, discharge, or discipline.

II. Maintenance of Records

- A. The personnel file of each employee shall contain such personnel records, including anecdotal records, as may be necessary to support the actions of the employer to determine the compensation or benefits of an employee and the employment, discipline, promotion, transfer, or discharge of an employee. Records which have not been included in an employee's personnel file may not be used by an employer in a judicial or quasi-judicial proceeding unless, in the opinion of the judge or hearing officer, the records were not intentionally excluded from the personnel file provided the employee agrees to their usage or the employee is given a reasonable time to review the record before it is used in the proceedings. In judicial or quasi-judicial hearings, the employee may use records that should have been included in the personnel record but have not been so included.
- B. An employer shall not gather or keep a record of an employee's associations, non-employment activities, political activities, publications, or communications unless it is with the written consent of the employee. The prohibition against such record gathering does not apply if these activities occur on the employer's premises or during the employee's working hours and if such activities interfere with the employee's duty or duties of other employees. If the records described herein are kept by the employer as permitted, they shall be part of the personnel record.
- C. If the employer is investigating an employee's activities which are of a criminal nature or concern actions that may be reasonably expected to be harmful to the interests of the employer, the records of such activities shall be maintained in a separate file. Upon completion of the investigation or after 2 years, whichever comes first, the employee shall be notified of the investigation. If the investigation does not result in disciplinary action, all materials in this separate file shall be destroyed.

III. Inspection of Records

A. Rights of Employees

1. Employees shall be permitted to inspect all of any part of their personnel records provided the request is made in writing on the form supplied by the employer School District. [Form No. 1 - Appendix A]
2. [Unless otherwise provided in a collective bargaining agreement], an employee may request inspection of personnel records twice during a calendar year provided the requests are made not less than 5 months apart.

3. The employees may not remove all or any part of records reviewed without express written consent of the employer.

B. Duties of Employers

1. The employer shall provide the employee with an inspection opportunity within 7 working days after request has been made except that employer shall have an additional 7 days to comply if reason can be shown why the deadline cannot be met.
2. An employee may obtain a copy of the information or part of the information in the personnel record at or after the time provided for inspection. The employer may charge a fee for providing a copy not greater than the actual cost of duplication of the information. [Form No. 2 - Appendix B]

C. Time and Place of Inspection

The inspection of records shall take place at a location reasonably near the employee's place of employment during business hours. The employer may permit inspection at another time or place more convenient to the employee. The employer may have an agent present during review. If the employee demonstrates that he or she is unable to review the record at the employing unit, the employer shall, upon a written request, mail a copy of the record requested to the employee. The employer may request that the employee pay for the cost of mailing.

IV. Correction of Records

- A. Any information in the records may be removed or corrected by mutual agreement of the employer and employee. If the parties cannot agree to removal or correction of the records within 30 days following such request, the employee has the right, within 10 days after such impasse, to attach a statement of reasonable length explaining his or her position on the records. This statement shall permanently remain with the records and if the records are transmitted to a third party, the statement shall accompany the transmitted records. The employer may include a statement with such transmitted records that the employer's transmission of the employee's statement does not imply agreement with the statement. [Form No. 3 - Appendix C]
- B. If the employer or employee knowingly places a false statement in the record, the other party shall first request that the statement be deleted or corrected. If there is no response to such request within a reasonable time, the complaining party shall have a remedy, through legal action, to expunge such information from the record.

V. Dissemination of Disciplinary Records

A. To Third Parties

The employer shall not divulge to a third 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, the records of that employee or former employee concerning discipline reports, letters of reprimand, or other disciplinary action without written notice to the employee on or before the day of the dissemination. That notice shall be by first class mail, mailed to the employee's last known address. Prior to releasing an employee's personnel record to a third part, the employer shall delete any disciplinary reports, letters of reprimand, or other records of disciplinary action which are more than 4 years old except if these records are released pursuant to a legal action or arbitration.

Notice is not required if:

1. The records are requested by a government agency as a result of a complaint or claim by an employee or as a result of a criminal investigation by such agency;
2. Disclosure is ordered to a part in a legal or arbitration action; or
3. The employee has waived such notice as part of a written signed employment application with another employer.

B. To Union Representatives

In relation to a current grievance in which an employee is involved, the employer shall allow a designated union representative to inspect personnel records of that employee which may have a bearing on the resolution of the grievance in which that employee is involved; provided that said employee has designated in writing a representative of the employee's union or collective bargaining unit or other representative to make such inspection.

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