



PROVISIONS RELATING TO ALL EMPLOYEES

ADMINISTRATIVE REGULATION – PERSONNEL FILES

AR 4312.6

The County Superintendent of Schools or designee shall maintain personnel files for all current employees at the SBCEO's central office or at the location where the employee works.

The County Superintendent of Schools or designee shall determine the types of information to be included in personnel files, including, but not limited to, records required by law, and shall process all material to be placed in such files.

Placement of Material in Personnel Files

Any supervisor or administrator who places written material or drafts of written material for placement in an employee's file shall sign the material and indicate the date of the placement.

When an employee is asked to sign any material that is to be placed in the employee's file, the employee shall be informed that the signature only signifies that the employee has read the material and does not necessarily indicate that the employee agrees with its contents.

Any request by an employee to include materials in the employee's personnel file must be approved by the County Superintendent of Schools or designee.

An employee may initiate a written reaction or response to the employee's performance evaluation. The response shall be permanently attached to the evaluation and placed in the employee's personnel file.

Derogatory Information

Information of a derogatory nature shall not be entered into an employee's personnel file unless and until the employee is given notice and an opportunity to review and comment on that information. Such a review shall take place during normal business hours. The employee shall be released from duty for this purpose without a salary reduction. The employee may enter the employee's own comments and have them attached to the derogatory statement. (Education Code 44031)

Persons with Authorized Access

The County Superintendent of Schools or designee shall maintain the confidentiality of any personnel records which, if inappropriately disclosed, would constitute an unwarranted invasion of the employee's privacy.

Access to an employee's personnel file shall be granted only to the employee, persons authorized by the employee, SBCEO personnel, and others with a valid "right to know" or "need to know" who are authorized access by the County Superintendent of Schools or designee.

Individual Board of Education members and Personnel Commissioners shall not be allowed to access personnel files, but they may request pertinent information from an employee's file in cases of personnel action as long as it is in the purview of their jurisdiction.

Any authorized reviewer shall maintain strict confidence of the contents of a personnel file. Personnel files shall be reviewed and replaced within the shortest time possible. In no case shall a personnel file be left unattended or left unsecured overnight.



File Review by Employee

Any employee wishing to inspect the employee's own personnel record shall contact the County Superintendent of Schools or designee.

With the exceptions noted below, all personnel records related to the employee's performance or to any grievance concerning the employee shall be made available for inspection by the employee. Non-credentialed employees shall have access to any numerical scores obtained as a result of written examinations. (Education Code 44031; Labor Code 1198.5)

The County Superintendent of Schools or designee shall not be required to make available to the employee: (Education Code 44031; Labor Code 1198.5)

1. Records related to the investigation of a possible criminal offense
2. Letters of reference
3. Ratings, reports, or records that were obtained prior to the employee's employment, prepared by identifiable examination committee members, or obtained in connection with a promotional examination

Personnel records related to the employee's job performance or to any grievance concerning the employee shall be made available to the employee at reasonable intervals and at reasonable times. The County Superintendent of Schools or designee shall not be required to make such records available at a time when the employee is required to render services to the SBCEO, unless the employee is required to view the file where it is stored. (Education Code 44031; Labor Code 1198.5)

The County Superintendent of Schools or designee shall do one of the following: (Labor Code 1198.5)

1. Keep a copy of each employee's personnel records at the place where the employee reports to work
2. Make the employee's personnel records available at the place where the employee reports to work within a reasonable period of time following the employee's request
3. Permit the employee to inspect the personnel records at the location where the SBCEO stores the personnel records, with no loss of compensation to the employee

The employee may be accompanied by a representative of the employee's choice while reviewing the employee's personnel records.

Inspection shall take place in the presence of the County Superintendent of Schools or designee. The County Superintendent of Schools or designee shall keep a record of the date and time the file was reviewed and the name and title of the person(s) present during the review.

In no instance shall any material be removed from the records. Requests for copies of material in a personnel record must be made in writing.



Record Retention

Personnel records for current and former employees shall be retained in accordance with 5 CCR 16023.

The County Superintendent of Schools or designee shall not expunge from an employee's personnel file, nor enter into an agreement that would authorize expunging from an employee's personnel file, credible complaints of, substantiated investigations into, or discipline for egregious misconduct as defined in Education Code 44932. However, such documentation may be removed if, during a hearing before the Board, an arbiter, personnel commission, Commission on Professional Competence, or administrative law judge, the employee prevailed, the allegations were determined to be false, not credible, or unsubstantiated, or a determination was made that the discipline was not warranted. (Education Code 44939.5)

Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the County Superintendent of Schools or designee to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

Management Resources

Attorney General Opinion
Court Decision

Court Decision

Description

Cal. Atty. Gen., Indexed Letter, no. IL 75-73 (June 6, 1975)
Marken v. Santa Monica-Malibu Unified School District, (2012) 202 Cal.App.4th 1250
Bakersfield City School District v. Superior Ct. (2004) 118 Cal.App.4th 1041

State

5 CCR 16020-16022
5 CCR 16023-16027
Ed. Code 35253
Ed. Code 44031
Ed. Code 44663
Gov. Code 3305-3306.5
Gov. Code 6250-6270
Gov. Code 6254
Gov. Code 6254.3

Lab. Code 1198.5
Pen. Code 11165.14

Description

Records, general provisions
District records, retention and destruction
Regulations to destroy records
Personnel file contents, inspection
Performance appraisals and related materials
District police officers; personnel files
California Public Records Act
Exemption for personnel records if invasion of personal privacy
Disclosure of employee contact information to employee organization
Personnel records related to performance and grievance
Report of investigation of child abuse complaint

ADOPTED BY COUNTY SUPERINTENDENT: September 1, 2022

REVISED: