Liberty Union High School District

Administrative Regulation

Classification:	All Personnel	Policy No.	**AR4112.6/4212.6/4312.6**
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Subject:	Personnel Files	Effective	12/6/89
		Revised	2/8/23

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

The Superintendent 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 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 his/her file, he/she shall be informed that the signature only signifies that he/she has read the material and does not necessarily indicate that he/she agrees with its contents.

Any request by an employee to include materials in his/her personnel file must be approved by the Superintendent or designee.

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

(cf. 4115 - Evaluation/Supervision)
(cf. 4215 - Evaluation/Supervision)
(cf. 4315 - Evaluation/Supervision)

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 his/her own comments and have them attached to the derogatory statement. (Education Code 44031)

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 4112.9 - Employee Notifications)
(cf. 4117.4 - Dismissal)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 5141.4 - Child Abuse Prevention and Reporting)

Persons with Authorized Access

The Superintendent 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, district personnel, and others with a valid "right to know" or "need to know" who are authorized access by the Superintendent or designee.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

Individual Governing Board members shall not be allowed to access personnel files, but the Board may request pertinent information from an employee's file in cases of personnel action.

(cf. 9011 - Disclosure of Confidential/Privileged Information)
(cf. 9321 - Closed Session Purposes and Agendas)
(cf. 9321.1 - Closed Session Actions and Reports)

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 his/her personnel record shall contact the Superintendent 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. Noncredentialled employees shall have access to any numerical scores obtained as a result of written examinations. (Education Code 44031; Labor Code 1198.5)

The Superintendent 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

(cf. 4112.41/4212.41/4312.41 - Employee Drug Testing)
(cf. 4112.62/4212.62/4312.62 - Maintenance of Criminal Offender Records)

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

The Superintendent 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 district stores the personnel records, with no loss of compensation to the employee

The employee may be accompanied by a representative of his/her choice while reviewing his/her personnel records.

Inspection shall take place in the presence of the Superintendent or designee. The Superintendent 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.

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

(cf. 3580 - District Records)

The Superintendent 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)

Legal Reference:

EDUCATION CODE

35253 Regulations to destroy records
44031 Personnel file contents and inspection
44663 Performance appraisals and related materials

GOVERNMENT CODE
3305-3306.5 District police officers; personnel files
6250-6270 California Public Records Act, especially:
6254 Exemption for personnel records if invasion of personal privacy
6254.3 Disclosure of home address and phone number

LABOR CODE
1198.5 Inspection of personnel files

PENAL CODE
11165.14 Report of investigation of child abuse complaint

CODE OF REGULATIONS, TITLE 5
16020-16022 Records, general provisions
16023-16027 Retention of records

COURT DECISIONS
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

ATTORNEY GENERAL OPINIONS
Cal. Atty. Gen., Indexed Letter, no. IL 75-73 (June 6, 1975)

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