

CHAPTER TEN

PERSONNEL RECORDS

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A personnel file consists of any information gathered by the College which relates to the individual's application for employment, selection or non-selection, promotions, demotions, transfers, leave, salary, suspension, performance evaluation forms, disciplinary actions, and termination of employment.

Community college employee personnel records are governed by **Chapter 115D, Article 28** which provides that some information in a personnel file is public and some is not.

A. Personnel Information kept by the College Which is Open to Inspection

Upon written request, the public information listed below shall be made available for inspection and examination and copies may be made by any person during regular business hours:

Public information on each employee which the College shall maintain:

Name

Age

Date of original employment or appointment

The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the board has the written contract or a record of the oral contract in its possession.

Current position title

Current salary

Date and amount of each change in salary

Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification

Date and general description of the reasons for each promotion.

Date and type of each dismissal, suspension, or demotion for disciplinary reasons. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the board of trustees setting forth the specific acts or omissions that are the basis of the dismissal.

Office or station to which the employee is currently assigned.

In addition, the President may, at his discretion, and must, on order of the Board of Trustees, open to public inspection any portion of a record relating to the promotion, demotion, suspension, reinstatement, transfer, separation, dismissal, employment, or non-employment of any applicant, employee, or former employee if the Board

determines that the release of the information is essential to maintaining the integrity of the Board or to maintaining the level or quality of services provided by the Board. The President must prepare a memorandum setting out why the determination to release the information has been made, and that memorandum is a public record.

An employee who objects to information in his file may place a statement of rebuttal in the file and may seek removal of the material through grievance procedures.

All provisions of the above act apply equally to employees, former employees, and applicants.

Personnel files of former permanent employees are retained indefinitely; the personnel and payroll records of part-time temporary personnel are destroyed after they have been inactive five (5) years unless required to retain by other policies or contracts.

B. Public Access Request Documentation

The college shall maintain requests for public access information:

All disclosures shall be accounted for by keeping a written record of persons examining personnel files (except for authorized persons processing personnel actions). This information must be recorded on Form RCC-37 and retained for a period of two (2) years. Written documentation is not required for routine employment verification.

Upon request, record of disclosure shall be made available to the employee to whom it pertains.

An individual examining a personnel record may copy the information; any available photocopying facilities may be provided, and the cost may be assessed to the individual.

Any person denied access to any record shall have a right to compel compliance with these provisions by application to a court for a writ of mandamus or other appropriate relief.

C. Inclusion and Access to Confidential Information in Personnel Files

All information in an employee's personnel file not specified in A above is confidential.

The college shall maintain in personnel records only information that is relevant to accomplishing personnel administration purposes.

Information used in making a determination about employment or other personnel actions should, to the extent practical, be obtained directly from the individual. In instances where a consumer reporting agency is used to obtain information, the requirements of the **Fair Credit Reporting Act, Title VI of the Consumer Credit Protection Act (Public Law 91-503)** must be followed.

When information received from a consumer reporting agency is used, in whole or in part, as the basis for employment, promotion, or reassignment, the applicant or employee must be informed and given the name and address of the consumer reporting agency. The college shall not have to reveal the contents of the report.

When a report is requested from a consumer reporting agency, the individual about whom information is being requested must be notified within three (3) days and told that he can make a written request for the "nature and scope" of the investigation. "Nature and scope" includes a description of the questions asked, disclosure of numbers and types of persons interviewed, and the name and address of the investigating agency.

D. All Information in An Employee's Personnel File Shall Be Open for Inspection and Examination by the Following Persons:

The supervisor of the employee. For this purpose, "supervisor" means the members of the Board of Trustees or any individual in the chain of administrative authority above a given employee in the College.

An official of an agency of the federal government, state government, or any political subdivision thereof. An "official" is a person who has official or authorized duties or responsibilities in behalf of an agency; it does not imply a necessary level of duty or responsibility. Such an official may inspect any personnel records when an inspection is deemed by the department head to be necessary and essential to the pursuance of a proper function of said agency, provided however, that such information shall not be divulged for purposes of assisting in a criminal prosecution nor for the purpose of assisting in a tax investigation.

A party to a judicial or administrative proceeding involving an employee may, upon obtaining a proper court order, inspect and examine a particular confidential portion of an employee's personnel file.

The employee or his properly authorized agent.

E. *The Personnel File May Be Examined in Its Entirety Except For:

Letters of reference solicited prior to employment.
Information concerning a medical disability, mental or physical, that a prudent physician would not divulge to a patient. The medical record may be disclosed to a licensed physician designated in writing by the employee. When medical information is obtained on any employee, the physician should indicate any information that should not be disclosed to the employee.

**This applies to the employee's access rights only.*

F. Proof of Identity

Each individual requesting access to confidential information will be required to submit satisfactory proof of identity.

G. Record of Disclosure

A record shall be made of each disclosure and placed in the employee's file (except when made by the employee, the supervisor, or in case of a routine credit check).

H. Records of Former Employees

The provisions for access to records apply to former employees the same as they apply to present employees except that a complete file, other than the document relative to disciplinary action that results in employee dismissal, must be available to all after ten (10) years.

I. Remedies for Employees Objecting to Material in File

An employee, former employee, or applicant for employment who objects to material in his file because he considers it inaccurate or misleading, and the material has not been placed there in connection with a grievance procedure established by the Board of Trustees, may seek removal of such material from the file through the College's grievance procedure or may place a rebuttal in the file.

J. Safeguarding Confidential Information

In order to safeguard the security and confidentiality of records, employees who normally work with personnel records must maintain adequate controls to protect confidential information from unauthorized access or disclosure.

K. Penalty for Permitting Access to Confidential Files by Unauthorized Persons

Any public official or employee who permits any person to have access to or custody or possession of any portion of a personnel file designated as confidential, when that person is not specifically authorized to have access to the information is guilty of a misdemeanor. Upon conviction, he shall be fined at the discretion of the court, but not in excess of \$500.

L. Penalty for Examining, Copying, Etc. Confidential Files Without Authority

Any person, not specifically authorized to have access, who removes or copies any portion of a confidential personnel file, is guilty of a misdemeanor. Upon conviction, he shall be fined at the discretion of the court, but not in excess of \$500.

History Notes: Amended on November 2, 2010, Effective per G.S. 115D on October 1, 2010.