

Descriptor Term:
PERSONNEL FILES

Descriptor Code:
7.2100

Legal References: No Child Left Behind Act of 2001, 20 U.S.C. 6311(h)(6); Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. § 2000ff *et. seq.*; G.S. 114-19.2; 115C-36, -47(18), -209.1, -288(g), -319 to -321, -325(b); 16 N.C.A.C. 6C .0313

Cross References:

Personnel files for all employees shall be maintained for in the Superintendent's office as provided by law.

The superintendent and all supervisors are directed to ensure that all appropriate employment-related information is submitted to the files. Employees shall be provided all procedural protections as provided by law.

The superintendent has overall responsibility for granting or denying access to personnel records consistent with this policy.

A. RECORDS MAINTAINED IN PERSONNEL FILE

The following records shall be maintained in an employee's personnel file:

1. evaluation reports made by the administration;
2. commendations for and complaints against the employee (see Section C.);
3. written suggestions for corrections and improvements made by the administration;
4. certificates;
5. employee's standard test scores;
6. employee's academic records;
7. application forms; and
8. other pertinent records or reports.

B. RECORDS MAINTAINED SEPARATELY FROM PERSONNEL FILE

The following employee information shall be kept separate from the employee's general personnel information, in accordance with legal and/or board requirements:

1. Pre-Employment Information

Any pre-employment data or other information, including but not limited to letters of reference, obtained about an employee before his/her employment by the Board shall be kept separately from the employee's general personnel information, and shall not be made available to the employee.

2. Medical Information

Employee medical information, including the following, shall be kept in a separate confidential file and may be subject to special disclosure rules:

- a. health certificates (see 7.4810 Health Certificates);

- b. drug test results, except that test results indicating drug use or alcohol use contrary to board policy or law also may be documented in the personnel file (see board policy 7.4875 Drug and Alcohol Testing);
- c. information related to an employee's communicable disease/condition or possible occupational exposure to bloodborne pathogens (see board policies 7.1620 Bloodborne Pathogens, and 7.1610 Communicable Diseases – Employees); and
- d. medical information related to leave under the Family and Medical Leave Act (see board policy 7.4893, Family and Medical Leave).

3. Criminal Record Check

Data from a criminal history check shall be maintained in a locked secure location Separate from the employee's personnel file. The superintendent shall designate which School officials have a need to know the results of the criminal history check. Only those Officials so designated may obtain access to the records.

4. Complaints/Reports of Harassment or Sexual Harassment

The superintendent or designee shall maintain records of all reports and complaints of discrimination and the resolution of such complaints. Allegations of harassment must be kept confidential to the extent possible. Employees involved in the allegations will be identified only to individuals who need the information to investigate or resolve the matter or to ensure that due process is provided to the accused employee (see policies 1.7100, Prohibition Against Discrimination, Harassment and Bullying and 1.7200/4.3501/7.1512, Discrimination, Harassment and Bullying Complaint Procedure.

If the allegations are substantiated through investigation, the superintendent or designee shall ensure that the provisions of Section C, below, are followed to the extent that they do not conflict with the rights of any individual.

C. PLACEMENT OF RECORDS IN PERSONNEL FILE

All evaluations, commendations, complaints or suggestions for correction or improvement shall be placed in the central office personnel file after the following requirements are met:

- a. The comment has been signed and dated by the person making the evaluation, commendation, complaint, or suggestion; and
- b. The supervisor has attempted to resolve the issue raised in a letter of complaint and documentation of such efforts is attached with the supervisor's recommendation to the superintendent as to whether the complaint contains any invalid, irrelevant, outdated or false information.
- c. The employee has received a copy of the evaluation, commendation, complaint, or suggestion written about him/her and the evaluation, commendation, complaint or suggestion five days before it is placed in the personnel file.

All written complaints that are signed and dated must be submitted to the file regardless of whether the supervisor considers the complaint to be resolved.

The supervisor is expected to use good judgment in determining when documents should be submitted to the personnel file immediately and when a delay is justified, such as when there exists a plan of improvement that is frequently revised. However, all evaluations, commendations, complaints or suggestions for correction or improvement should be submitted by the end of the school year or in time to be considered in an evaluation process, whichever is sooner. The supervisor or principal should seek clarification from the assistant superintendent of human resources as necessary to comply with this policy.

The employee may offer a denial or explanation of the evaluation, commendation, complaint, or suggestion, and any such denial or explanation shall become part of his/her personnel file provided it is signed and dated.

This regulation does not prevent a principal from keeping a copy of any evaluation or giving the teacher a copy of such evaluative material for his/her file; however, the personnel file in the Superintendent's office is the official file.

The superintendent may exercise statutory authority not to place in an employee's file a letter of complaint that contains invalid, irrelevant, outdated or false information or a letter of complaint where there is no documentation to support the complaint or of an attempt to resolve the issue.

D. ACCESS TO PERSONNEL FILE

1. Personnel files of employees of the board, former employees of the board or applicants for employment with the board shall not be subject to inspection by any person except as provided by law.

A personnel file consists of any information gathered by the board which employs an individual, previously employed an individual or considered an individual's application for employment, and which information relates to the individual's application, selection or non-selection, promotion, demotion, transfer, leave, salary, suspension, performance evaluation, disciplinary action or termination of employment, wherever located and in whatever form.

2. Every employee has the right during regular working hours to inspect his/her personnel file, provided three days notice is given to the Department for Human Resources.
3. Access to a personnel file may be permitted to the following persons without the consent of the employee about whom the file is maintained:
 - a. those school officials involved in the screening, selection or evaluation process of the individual for employment or other personnel action;
 - b. members of the Board of Education, if its examination of the file relates to the duties and responsibilities of the Board member;
 - c. the board attorney;
 - d. the superintendent and other supervisory personnel;
 - e. The case manager in a demotion or dismissal procedure regarding the employee; and
 - f. law enforcement and the system attorney to assist in the investigation of a report made to law enforcement pursuant to G.S. 115C-288(g) or regarding an

arson, an attempted arson, or the destruction of, theft from, embezzlement from, or embezzlement of any personal or real property owned by the board. Five days' written notice shall be given to the employee prior to such disclosure.

4. No other person may have access to a personnel file except under the following circumstances:
 - a. When an employee gives written consent to the release of his/her records.

The written consent must specify the records to be released and to whom they are to be released. Each request for consent must be handled separately; blanket permission for release of information shall not be accepted;
 - b. When subpoenaed or pursuant to court order; or
 - c. When the board has determined and the superintendent has documented that the release or inspection of information is essential to maintaining the integrity of the board or the level of quality of services provided by the board.
 - d. Each request for consent to release records must be handled separately.
 - e. It is a criminal violation for an employee or board member to do either of the following:
 - i. knowingly, willfully and with malice permit any unauthorized person to have access to information contained in a personnel file; or
 - ii. knowingly and willfully examine, remove or copy a personnel file that he/she is not specifically authorized to access pursuant to G.S. 115C-321.

E. INFORMATION AVAILABLE TO PARENTS OF STUDENTS ATTENDING TITLE I SCHOOLS

The following information about a student's teacher(s) or paraprofessional(s) providing services to a student shall be provided upon request to the parent of a student attending a Title I school:

1. whether the teacher has met North Carolina qualification and licensing criteria for the grade level(s) and subject area(s) in which the teacher provides instruction;
2. the teacher's baccalaureate degree major and any post-graduate certification or degree held;
3. whether the teacher is teaching under emergency or other provisional status through which North Carolina qualification or licensing criteria have been waived; and
4. the qualifications of any paraprofessional providing services to the student.

F. PUBLIC INFORMATION

1. The following information contained in an employee's personnel file is public record and may be released to members of the general public upon request:
 - a. name;

- b. age;
 - c. date of original employment or appointment;
 - d. the terms of any past or current contract by which the employee is employed, whether written or oral, to the extent that the board has the written contract or a record of the oral contract in its possession;
 - e. current position;
 - f. title;
 - g. current salary (includes pay, benefits, incentives, bonuses, deferred compensation and all other forms of compensation paid to the employee);
 - h. date and amount of most recent increase or decrease in salary;
 - i. date of most recent promotion, demotion, transfer, suspension, separation, or other change in position classification; and
 - j. current assignment.
2. The name of a participant in the North Carolina Address Confidentiality Program is not a public record, is not open to inspection, and must be redacted from any records released.
 3. Volunteer records are not considered public records.
 4. Unless an employee submits a written objection to the Human Resources office, the board also may make the following information available about each employee as part of an employee directory:
 - a. name;
 - b. address;
 - c. telephone number;
 - d. photograph;
 - e. participation in officially recognized activities and sports;
 - f. degrees and awards received.

Employees shall be notified of their right to object before any such directory is compiled or revised.

Under no circumstances will the following be released pursuant to a public records request or as part of an employee directory:

- a. personal identifying information, as defined in policy 4.8010/7.2110, Confidentiality of Personal Identifying Information; or
- b. name, address or telephone number of a participant in the North Carolina Address Confidentiality Program.

G. VERACITY OF INFORMATION

All information provided to the Human Resources office by an applicant for employment or by an employee must be true, accurate, and complete to the best of that applicant's or employee's knowledge. It shall be a violation of Board policy and, therefore, grounds for dismissal, for an employee to present information to the personnel office which is intended to defraud or materially misrepresent or conceal the truth. Furthermore, the presentation of such information to the personnel office by an applicant for employment shall be considered just cause for termination of the

application process.

H. REMOVAL OF RECORDS

An employee may petition the Board of Education to remove any information from his/her personnel file that he/she deems invalid, irrelevant, or outdated. The petition shall be made and considered pursuant to state law and Board Policy 7.2101.