
Chapter 8 – Personnel Records

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Section I Personnel Records

Purpose

It is the purpose of this policy to set forth the procedures for the maintenance and retention of personnel records.

Scope

This policy applies to the personnel records of all local department (LDSS) employees and LDSS recruitment records.

A. Definitions

1. Personnel Records

Any papers, letters, documents, reports or other materials, regardless of physical form or characteristics (including electronic records), whose subject is a current or former employee of the LDSS, or applicant for employment with the LDSS, and which have been prepared or obtained in the transaction of LDSS business by an employee or officer of the LDSS.

2. Employee Personnel File

The file in which certain personnel records pertaining to an individual employee and having similar access requirements are maintained.

3. Restricted Access Files

Files where certain highly sensitive personnel records are maintained.

4. Need-to-know

Occurs when access to specific personnel records has been determined to be necessary to conduct official LDSS business.

B. Collection of Personnel Information

1. Relevance and Accuracy of Information

The LDSS must ensure that only information that is relevant, accurate and is required by law or necessary for the effective and efficient operation of the personnel system is collected and retained.

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2. Social Security Number

Social Security numbers (SSN) shall be collected only as authorized under 26 U.S.C. § 6011, the U.S. Code of Federal Regulation § 31.6011(b)-2(b), and § 2.2-3808. Social Security numbers will only be used to:

- a. Comply with federal, state, and local reporting requirements.
- b. Administer benefits programs.
- c. Effect personnel transactions related to employment status changes.

3. Confidentiality of Personnel Records

All personnel records contain personal information and are confidential in nature. Personnel records must be maintained in secure locations with access limited to the local director and those LDSS officers and employees determined by the local director, local board and/or VDSS to have a “need-to-know”.

C. Maintenance of Personnel Records

1. Employee Personnel File

The LDSS will maintain a personnel file for each employee. The Employee Personnel File should contain, at a minimum, the following personnel records:

- a. Applications for Employment.
- b. Letters offering/accepting employment.
- c. Report of appointment or change of status.
- d. Performance evaluations. [Any documents related to interim performance evaluations should not be kept in the Employee Personnel File, except as such evaluations serve as supporting documentation to an annual evaluation or to a Written Notice or as part of an end of probationary or conditional status period evaluation.]
- e. Consent and/or acknowledgement forms.
- f. Written Notices issued under the Standards of Conduct.
- g. Authorizations for salary actions.

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- h. Position description and performance standards/plans.
- i. Other forms used to initiate personnel transactions.

2. Employee Personnel File or Other LDSS Files

At the discretion of the LDSS, the following personnel records may be included in the Employee Personnel File or in a separate file(s) as determined by the local director, local board or VDSS:

- a. State and federal withholding forms.
- b. Benefit records – including health insurance enrollment forms, retirement forms, life insurance beneficiary designation forms and other benefit forms.
- c. Leave records and time sheets.
- d. Training certificates and/or other training or scholastic records including records related to educational assistance.

3. Restricted Access Files

Certain personnel records, due to their highly sensitive nature, require more restricted access. These records must be maintained securely and separately as indicated below.

- a. Because state and federal law require that certain confidential information, the following documents must be kept secure and separate from the Employee Personnel File:
 - (1) Medical and/or mental health records (including those submitted to support a request for leave) and other personnel records containing medical or mental health information including health insurance or worker's compensation documents.
 - (2) Discrimination and/or retaliation complaint files.
 - (3) Reports of arrests, convictions, and/or the results of criminal history background checks.

During the hiring or disciplinary process for which they were obtained, reports of arrests, convictions and/or the results of criminal history background checks should be retained in a locked, separate file. After a hiring or disciplinary decision is made, the reports should be destroyed according to the provisions of Va. Code § 19.2-389 and US Code 28 U.S.C. 534 & 28 CFR 20 and a brief note regarding the outcome of the

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hiring or disciplinary decision should be kept in a confidential portion of the disciplinary or recruitment file.

- b. For administrative and business purposes, the following information should also be maintained separate from the Employee Personnel File.
 - (1) Recruitment and selection records, including position descriptions, job announcements, advertisements, applications, selection criteria, evaluations, rankings, and letters of recommendation and/or reference.
 - (2) Employment Eligibility Verification (I-9) forms.
 - (3) Records of investigations.
 - (4) Exit interviews (anonymity should be maintained).
 - (5) Unemployment Compensation documents.

4. Supervisor's Files

A supervisor may maintain personnel records on employees in their work unit which are useful for performance management or scheduling purposes. All medical records should be forwarded to the local director for proper disposition. Upon request, employees must be given access to any personnel records in the supervisor's files in which the employee is the subject unless such information is protected from disclosure to the employee by law.

D. Disposition of Personnel Records

1. Disposition of Supervisors' Files

- a. Personnel records maintained by supervisors are considered working files and information in them should be maintained only as long as it is useful to the supervisor. Typically, supervisors' notes are maintained during the performance period for the purpose of documenting performance during the period of evaluation. Once the performance evaluation is completed, information not needed to document on-going issues should be destroyed.
- b. When employees separate from employment, supervisors' files should be destroyed in a manner that prevents accidental disclosure of personal information. Interim evaluations performed to provide input for the evaluation of employees who are transferring laterally, or to provide information to new

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supervisors (when supervisors transfer) should be forwarded to the local director for appropriate transmittal, destruction or retention.

2. Disposal of Personnel Records

- a. The Library of Virginia Records Management policies regarding retention and destruction of personnel records must be followed. Information regarding record retention schedules may be obtained from the Library of Virginia Archival and Records Management Services Division (www.lva.virginia.gov).
- b. Personnel records must be disposed of in a manner that prevents accidental disclosure of personal information.

E. Access to Personnel Records

1. Employee Access to Personnel Records

In accordance with the provisions of Code of Virginia §2.2-3705.1, upon request, an employee must be given access to any personnel records where the employee is the subject unless such records are prohibited from disclosure to the employee by law.

2. Third Party Access to Personnel Records

- a. According to the provisions of Code of Virginia §2.2-3705.8, the following personnel information concerning employees of public bodies must be disclosed to third parties upon request and may be disclosed without the knowledge and consent of the subject employee:
 - (1) Contracts between a public body and its officers and employees, other than contracts settling public employee employment disputes held confidential as personnel records under Code of Virginia §2.2-3705.1;
 - (2) Employee's position title;
 - (3) Employee's job classification title;
 - (4) Official salary or rate of pay, if such pay exceeds \$10,000 per year; and/or
 - (5) Records of the allowances or reimbursements for expenses paid to any officer, official or employee of a public body.
- b. Other personal information/personnel records may not be disclosed to third parties without the written consent of subject employee.

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- c. The counsel for the LDSS should be informed immediately of any subpoenas or requests for information received from the court. The LDSS may choose to inform subject employees of such subpoenas and requests for information, but is not required by law to do so. Unless advised otherwise by counsel, the LDSS must comply with a subpoena.
- d. All requests for information about employees by third parties should be directed to the local director or designated staff.