

# Article 20: Personnel Files

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“PERSONNEL FILES” consist of employment records (see Ed Code Section 87031). For the purposes of this Article, an “EMPLOYMENT RECORD” means any record that:

- a. Pertains directly to the employment relationship between the current unit member and the Board. All written material that may serve as the basis for an employee’s suspension, dismissal or reprimand shall be kept in the employee’s personnel file.
- b. Is retained in the personnel files of the District and is identified by the employee’s name or other means of individual identification such as a social security number.

## 20.01 GENERAL PROVISIONS

- A. **Basis of Dismissal, Suspension or Reprimand:** The Board shall not dismiss, suspend, or reprimand an employee on the basis of written material not contained on the employee’s personnel file.
- B. **Confidentiality:** The contents of all personnel files shall be kept in the strictest confidence. All applicable Federal and California state laws governing the rights to privacy and confidentiality will be followed in maintaining the personnel files.
- C. **Log:** Each file shall contain a written Log. The Log shall record the following information about access to the file for other than ministerial purposes (except when prohibited by law, e.g., criminal grand jury subpoena): name and signature of person accessing that personnel file, date/s of the access, purpose of access, identification of any documents which were copied or removed from the file, purpose of making a copy or removing document, and the name and signature of the administrator who supervised the access. Note: Required written authorization shall be attached to the Log. (See paragraphs 20.02 B and C, and 20.03A.)
- D. **Location:** The District shall maintain the employee’s personnel files at the Human Resources Department.
- E. **Release of Address and/or Phone Number:** It shall be the responsibility of each employee to file a written restriction of his/her address and/or phone number if it is not to be released or listed in the District Directory or made available to the collective bargaining agent.

## 20.02 TENURE REVIEW, EVALUATION AND GRIEVANCE MATERIALS

- A. **Tenure Review Portfolio:** Information pertaining to an on-going tenure review process shall be kept in a separate file folder within the personnel file so it can be accessed for review by members of the Tenure Review Team during the process without permitting access to the remaining contents of the personnel file. At the end of the process the contents shall be placed into the file. (See Article 30: Tenure Review, and definition of access below.)

- B. **Current Evaluation Portfolio:** Information pertaining to the current three-year evaluation cycle shall be kept in a separate file folder within the personnel file so it can be accessed for review by members of the Evaluation Team in Year Three of the process without permitting access to the remaining contents of the personnel file. At the end of the cycle the contents shall be placed into the file. (See Article 14: Evaluations, and definition of access below.)
- C. **Grievance Material:** Grievance materials shall be placed in a separate grievance file (see Article 11: Conciliation/ Grievance/Arbitration).

### 20.03 ACCESS TO PERSONNEL FILE

- A. **Access:** “Access” means permission to review a personnel file under supervision of the Human Resources Director, or designee. In limited cases, outlined below, access may include permission to copy materials in the file.
- B. **Faculty Member Access**
  - 1. Every unit member shall have the right, during reasonable business hours and without loss of pay, to inspect any employment record retained in the personnel files of the District that may serve as a basis for affecting the status of his/her employment.
  - 2. The faculty member may copy documents in his/her own personnel file.
- C. **Access by Persons other than the Faculty Member:** Access to personnel files and information from the employment records shall not be permitted without consent of the faculty member (unless the release is compelled by law, or by a judicial order, or lawfully issued subpoena and required written notification is given) with the following exceptions:
  - 1. Any supervisor and/or manager who either directly supervises or is in the “chain of command” of a particular faculty member, such as the Vice President of Academic Affairs or Student Services as appropriate, copying may be permitted following the procedures outlined in 20.04 below; or
  - 2. Those persons authorized in writing by the Director of Human Resources or Superintendent/ President with a direct business relationship with the District and with a “need to know”, such as attorneys engaged by the District, such written authorization shall be placed in the personnel file, copying may be permitted following the procedures outlined in 20.04 below; or
  - 3. Any person presenting written authorization from the faculty member him/herself to review that same employee’s own file, such written authorization shall be placed in the personnel file, copying may be permitted following the procedures outlined in 20.04 below; or
  - 4. Upon written authorization by the employee, a representative of AFA shall be permitted to examine and/or obtain copies of materials in an employee’s personnel file, such written authorization shall be placed in the personnel file; or
  - 5. Members of the Human Resources Department staff who are performing ministerial functions on behalf of the District, such as copying documents to send to insurance providers, filing documents, etc.; or

6. Members of an Evaluation Team shall have access only to the current evaluation cycle portfolio contained in the personnel file, and may not copy material in it; or
7. Members of a Tenure Review Team shall have access only to the Tenure Review Portfolio contained in the personnel File, and may not copy material in it.
8. Note: Access by “Third Parties” not mentioned here shall require both the written authorization of the Human Resources Director and the written consent of the faculty member, such written authorization and written consent shall be placed in the personnel file.

#### **20.04 COPYING OR REMOVING DOCUMENTS FROM A PERSONNEL FILE**

- A. **Copying:** Copying means that information contained in a personnel file is removed temporarily, by the Human Resources Director or designee supervising the access to the personnel file, to be duplicated for purposes other than normal ministerial duties.
  1. It is the intention of the District that copying of information from a personnel file, except for ministerial purposes, is to be considered an extraordinary occurrence.
  2. A copy shall only be made after submitting a written request to, and receiving written authorization from the Human Resources Director, such written request and written authorization shall be placed in the personnel file.
  3. The copy shall be stamped “confidential” and “not to be duplicated.” The original shall be returned to the file.
  4. The Log shall note a copy was made, by whom and for what purpose.
  5. The faculty member shall be notified that a copy was made.
  6. Whenever possible the copy shall be returned and the copy shall be destroyed by the Human Resources Department.
  7. Duplication in the course of performing official ministerial duties is permitted.
- B. **Removal:** Removal means that information contained in a personnel file is removed permanently and either given to the faculty member, or destroyed.
  1. If a document is permanently removed from the file it shall be done with the knowledge and written consent of the faculty member, or pursuant to a lawfully issued subpoena or court order.
  2. The written consent of the faculty member shall be placed in the personnel file.

#### **20.05 NEW MATERIALS AND RELEVANCY**

- A. **New Material:** New material is information added to an employee’s personnel file.
- B. **Relevancy:** For the purposes of this section, relevancy means that the document refers to the employee’s assigned duties or professional duties.
- C. **Placing Material in the Personnel File**
  1. Any material (other than evaluation and tenure review material) to be considered for placement in an employee’s personnel file shall be reviewed by the appropriate Dean to determine relevancy.

2. The administrator approving relevancy shall sign the document signifying the appropriateness of placing the document in the personnel file.
3. The faculty member shall be informed of the proposed new material addition (other than required evaluation and tenure review materials) and shall have the option of consulting with an AFA Conciliation Officer.
4. Information and statements not related to an employee's assigned duties or professional responsibilities shall not be placed in the employee's personnel file.

## **20.06 DEROGATORY DOCUMENTATION**

- A. **Derogatory Material:** The only derogatory documentation that may be contained in the personnel file and which may be used by the District to affect the status of the employee's employment with the District in "for cause proceedings" must be "properly placed."
- B. **Properly Placed:** "Properly placed" means in compliance with the provisions of the Education Code.
- C. **Faculty Member Response**
  1. In the event that any derogatory written material shall be placed in a faculty member's personnel file, the faculty member first shall be provided with copies of the materials and given ten (10) days notice to respond in writing before the material is placed in his/her file.
  2. Any written response shall be attached to the material and shall also be placed in the personnel file.

**20.07 ANONYMOUS MATERIAL:** Material is anonymous if the name of the source of the material and date it was submitted is not stated on the document. No anonymous material shall become part of an employee's employment records.

## **20.08 CORRECTIONS TO EMPLOYMENT RECORDS**

- A. **Faculty Member's Request for Correction:** If an employee believes that any employ-ment record or any portion thereof is not accurate, relevant, timely, or complete, the employee may request correction of the record, deletion of the offending portion, or both.
  1. Such a request shall be in writing and shall include a statement of the corrections and/or deletions that the employee believes are necessary and the reasons therefore.
  2. The request shall be addressed to the President and shall become part of the employee's employment record unless the request is granted and the changes are made.
- B. **District Response:** Within ten (10) working days of the receipt of a faculty member's request for correction, unless mutually agreed otherwise, the President shall either accede to or deny the faculty member's request.
  1. If changes are made, the request letter shall be returned to the employee with notification of the changes made to the file.

2. If the request is denied, the President shall state the reasons for the denial in a letter that shall become part of the employee's personnel file.

**20.09 SEALING PERSONNEL FILE MATERIALS:** Materials contained in a personnel file may be sealed by mutual agreement of the District and the faculty member. Terms of access shall be determined by mutual agreement between the District and the faculty member and/or AFA.

**20.10 PRE-EMPLOYMENT MATERIAL:** For the purposes of this Article, pre-employment material means all material obtained or prepared before the employment of the person involved. Such material includes, but is not limited to, confidential letters of recommendation, notes of pre-employment inter-views, and the like. Notwithstanding anything in this Article to the contrary, the Board may retain as confidential all pre-employment material. This material is kept separate from the Personnel File and may be accessed only by the Human Resources Director or designee.

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