

## **7.2100 PERSONNEL FILES**

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: 7.1100 INFORMATION PROVIDED BY APPLICANT OR EMPLOYEE

Personnel files for all employees shall be maintained in the office of the Principal(s) assigned to oversee and supervise employees of the Board as required by law. Principals and other administrators 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 and relevant Board policy. The chief FLA administrator has overall responsibility for granting or denying access to personnel records consistent with the provisions of this policy.

### **I. RECORDS MAINTAINED IN PERSONNEL FILE**

At a minimum, the following records shall be maintained in each employee's personnel file:

- application for employment and related / supplemental documentation, including (but not limited to) professional resume/vita, letters of reference, statements of educational philosophy
- medical information relative to employment
- criminal record check
- professional evaluation reports made by the administration
- commendations for and complaints against the employee
- written suggestions for corrections and improvements made by the administration
- certificates
- employee's standard test scores
- employee's academic records
- other pertinent records or reports

### **II. PLACEMENT OF RECORDS IN PERSONNEL FILE**

All evaluations, commendations, complaints or suggestions for correction or improvement shall be placed in each employee's personnel file after the following requirements are met:

- The document, note, or comment has been signed and dated by the person making the evaluation, commendation, complaint, or suggestion; and
- The supervisor has attempted to resolve any issues raised in a letter of complaint and documentation of such efforts is attached with the supervisor's recommendation as to whether the complaint contains any invalid, irrelevant, outdated, or false information.
- The employee has received a copy of the evaluation, commendation, complaint, or suggestion written about him/her at most 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 or not the supervisor considers the complaint to be resolved.

Supervisors are 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.

Employees may offer a denial or explanation of any 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.

The supervisor may exercise his/her 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.

### III. ACCESS TO PERSONNEL FILES

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 and in Board policy. Personnel files are understood to consist 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 adequate notice is given to the Principal in whose office the file is housed to allow him/her to arrange for secure viewing of the file and its contents.

Confidential pre-employment data or other information collected in the application review and/or interview process, including but not limited to letters of reference obtained about an employee before his/her employment by the Board, may be ordered by the Board or determined by the chief FLA administrator to be kept separate from the regular personnel file and not made available to the employee.

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:

- those school officials involved in the screening, selection or evaluation process of the individual for employment or other personnel action;
- members of the Board, if its examination of the file relates to the duties and responsibilities of the Board member(s);
- the Board attorney;
- the chief FLA administrator and other supervisory personnel;
- the case manager in a demotion or dismissal procedure regarding the employee; and
- law enforcement personnel in order to assist in the investigation of a report made to law enforcement 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.

4. No other person may have access to a personnel file except under the following circumstances:

- When an employee gives written consent to the release of his/her records. Such 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.
- When subpoenaed or pursuant to court order.
- When the Board has determined and the Principal 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. Each request for consent to release records must be handled separately.

5. It is a criminal violation for an employee or Board member to do either of the following:

- knowingly, willfully, and with malice permit any unauthorized person to have access to information contained in a personnel file; or
- knowingly and willfully examine, remove, or copy a personnel file that he/she is not specifically authorized to access.

#### IV. PUBLIC INFORMATION

The following information contained in all employees' personnel files is public record and may be released to members of the general public upon request:

- name;
- date of original employment or appointment;
- 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;
- current position;
- title;
- current salary (includes pay, benefits, incentives, bonuses, deferred compensation, and all other forms of compensation paid to the employee);
- date and amount of most recent increase or decrease in salary;
- date of most recent promotion, demotion, transfer, suspension, separation, or other change in position classification; and
- current assignment.

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.

Volunteer records are not considered public records.

Unless an employee submits a written objection to the Principal, the Board also may make the following information available about each employee as part of an employee directory:

- name;
- address;
- telephone number;
- photograph;
- participation in officially recognized activities and sports; and
- 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:

- personal identifying information, or
- name, address or telephone number of a participant in the North Carolina Address Confidentiality Program.

#### V. VERACITY OF INFORMATION

All information provided 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 (7.1100 INFORMATION PROVIDED BY APPLICANT OR EMPLOYEE). It shall be a violation of Board policy and, therefore, grounds for dismissal, for an employee to present information which is intended to defraud or materially misrepresent or conceal the truth. Furthermore, the presentation of such information by an applicant for employment shall be considered just cause for termination of the application process.

#### VI. REMOVAL OF RECORDS

Any employee may petition the Board to remove any information from his/her personnel file that he/she deems invalid, irrelevant, or outdated. The Board may order a Principal to remove said information if it finds the information is invalid, irrelevant, or outdated.

Such petitions shall be in writing, signed by the employee, and submitted to the Principal responsible for the employee's supervision.

Such petitions shall identify the specific information in question and the reasons for claiming it is invalid, irrelevant, or outdated.

The Board shall review the petition and the information in question and may make a decision including, but not limited to, the following:

- deny the request for removal;
- make a specific finding that the information in question is "invalid, irrelevant, or outdated," and instruct the Principal to remove the information in question from the employee's file;
- make a specific finding that the information in question is "invalid, irrelevant, or outdated," but decide to leave the information in question in the employee's file and add a copy of the petition and the Principal's recommendation;
- request more written information from the petitioner and/or the person who submitted the information in question for placement in the petitioner's personnel file;
- schedule a hearing to allow both parties to present additional information; or
- such other appropriate action as the Board may deem proper.

The decision of the Board is final.