

Chapter: Performance Evaluations and Personnel Records
Title: Personnel Files

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New

ACA Standard(s): 4-JCF-6B-10, 6D-11, 6D-12

(a) **Policy.**

The Texas Juvenile Justice Department (TJJD) maintains a personnel file for each employee in accordance with applicable laws and the State of Texas Records Retention Schedule. Access to employee personnel files is limited to authorized staff in accordance with this policy.

(b) **Definitions.**

For definitions of certain terms used in this policy, see the PRS Glossary.

(c) **Records Custodian.**

The executive director is the records custodian and assigns responsibility for personnel records to the human resources director.

(d) **Procedures.**

(1) **File Storage and Organization.**

- (A) Human resources staff maintain personnel files in locked file cabinets at the applicable facility's human resources office or at Central Office human resources, as determined by the human resources director. The room(s) in which the file cabinets are maintained must remain locked when human resources staff responsible for personnel file maintenance are not in the immediate area.
- (B) Personnel files consist of a primary personnel file and a confidential personnel file. A timekeeping file is also maintained for FLSA non-exempt employees.
 - (i) Documents filed in the primary personnel file include but are not limited to the following:
 - (I) Personnel Action Requests and other documents related to the employee's salary;
 - (II) insurance elections and documents relating to other payroll deductions;
 - (III) employment-related correspondence;
 - (IV) signed receipts for various employment-related documents;
 - (V) state of Texas applications for employment; and
 - (VI) performance evaluations.
 - (ii) The confidential personnel file is maintained in a separate locked file cabinet to ensure limited access to confidential documents.¹ Documents filed in the confidential personnel file include but are not limited to the following:
 - (I) medical information, including:
 - (-a-) requests for accommodations under the Americans with Disabilities Act;
 - (-b-) documents relating to workers' compensation claims;
 - (-c-) documents relating to use of FMLA leave, non-FMLA leave, or sick leave; and
 - (-d-) health care provider statements;
 - (II) documents referencing criminal history information.
 - (iii) The timekeeper in the human resources office maintains the timekeeping file in a separate locked file cabinet. The timekeeping file contains:
 - (I) the employee's timesheets; and
 - (II) documents relating to any corrections to the employee's timesheets.

(2) **Adding or Removing Documents in the Personnel File.**

- (A) Only the local human resources administrator (HRA) or his/her designee may add a document to an employee's personnel file.
- (B) An employee may challenge the validity of any document contained in his/her personnel file. If the document has been mis-filed, the procedures below will apply. Otherwise, the challenge must be made through the employee grievance process.
- (C) Once a document has been correctly filed in the employee's personnel file, it will not be altered or removed.
- (D) If it is determined that a document contains inaccurate information, the local HRA or his/her designee will ensure that:
 - (i) the employee's personnel file contains another document explaining or correcting the inaccurate information (e.g. a grievance resolution); or
 - (ii) a separate document is placed in the employee's personnel file explaining or correcting the inaccurate information (e.g., a note regarding reversal of a disciplinary action based on a grievance resolution).
- (E) A document that has been mis-filed due to human error (e.g., when two employees have similar names) may be removed and placed in the proper file by the local HRA or his/her designee.

(3) **Access to Information in Personnel Files.**

- (A) An employee's personnel file may be examined by:
 - (i) the employee;
 - (ii) human resources staff responsible for maintaining the personnel file;
 - (iii) an individual who is identified as the employee's designated representative, as documented by a written notice signed by the employee;
 - (iv) the following TJJJD employees, whose access to the employee's confidential file will be limited to a "need-to-know" basis as determined by the human resources director, local HRA or their designees:
 - (I) other human resources staff (e.g., the agency employee disciplinary coordinator, the agency employee grievance coordinator, or an EEO investigator);
 - (II) the executive director or his/her designee;
 - (III) a supervisor in the employee's chain of supervision;
 - (IV) an authorized representative from:
 - (-a-) the Office of Inspector General;
 - (-b-) the Office of General Counsel; or
 - (-c-) Internal Audit.
 - (v) the representative of a public agency with statutory authority to examine personnel records (e.g., the State Auditor); or
 - (vi) an individual possessing a court order that authorizes the individual to inspect the employee's personnel file or specific documents or sections of the personnel file. The agency's General Counsel or his/her designee must review the court order prior to granting access.

- (B) An individual authorized to review an employee's personnel file may not remove the file or any of its contents from the human resources office.
 - (C) Any individual other than a human resources staff member or an authorized representative from the Office of Inspector General, the Office of General Counsel, or Internal Audit must review an employee's personnel file in the presence of a human resources staff member.
 - (D) External requests for information maintained in an employee's personnel file will be processed in accordance with the personnel policy relating to external requests for employee information. If a request is for a copy of a document maintained in the employee's personnel file, the request will be processed in accordance with GAP.81.1.
- (4) **File Retention Upon Separation from Employment.**
- (A) Upon separation from employment, the local HRA or his/her designee must:
 - (i) print a copy of the employee's TJJD training transcript or request a copy of the transcript from the staff development department and place the transcript in the employee's personnel file; and
 - (ii) maintain the employee's complete personnel file for a period of five years.
 - (B) Except as noted in (C) below, the human resources office will maintain a limited personnel file after an employee has been separated from employment for five years. The file will contain only the following information:
 - (i) name;
 - (ii) position held prior to separation;
 - (iii) gross salary at the time of separation;
 - (iv) dates of employment;
 - (v) last performance evaluation date and whether the overall ratings were "satisfactory" or "unsatisfactory";
 - (vi) reason for leaving; and
 - (vii) social security number, forwarding address, and telephone number.
 - (C) All personnel records related to a charge of discrimination or a lawsuit are maintained until final disposition of the charge or the lawsuit. Examples of records which may need to be maintained until final disposition include:
 - (i) personnel records of a person claiming discrimination and all other employees holding positions similar to the position held or sought by the aggrieved person;
 - (ii) employment applications; or
 - (iii) completed employment-related tests and results.

(5) **Destroying Personnel Records.**

Personnel records may only be destroyed in accordance with the TJJD Records Retention Schedule and upon approval of a Request for Authority to Destroy Records form.
