

Chapter: Performance Evaluations and Personnel Records	<b>Effective Date: 9/1/13</b>  Page: 1 of 7  Replaces: PRS.31.07, 12/1/11
<b>Title: Release of Employee Information</b>	
ACA: N/A	

(a) **Policy.**

The Texas Juvenile Justice Department (TJJD) releases information about current or former employees in accordance with applicable law and the provisions of this policy.

(b) **Definitions.**

Except as noted below, see the [PRS Glossary](#) for definitions of certain terms used in this policy.

**Former Employee:** a former TJJD, Texas Juvenile Probation Commission, or Texas Youth Commission employee.

(c) **Applicability.**

(1) The procedures in this policy apply to:

- (A) verbal or written requests for information about current or former employees received from persons or entities outside the agency; and
- (B) requests from current or former employees for letters of reference.

(2) This policy does not apply to internal requests for information by TJJD managers or administrators with a business need for information about a current or former employee (e.g., internal background reference checks under [PRS.05.13](#), internal fact-finding processes or investigations, or a supervisor’s request to review a supervised employee’s personnel file to prepare for a performance evaluation).

(d) **Procedures for Forwarding Information Requests.**

(1) The table below identifies the TJJD employees/departments authorized to respond to specific types of requests for information about a current or former employee. An employee who is not authorized to respond to a request must forward the request or direct a requestor to the authorized TJJD employee/department. This requirement applies even if the unauthorized employee knows or has access to the requested information.

Type of Request/Requestor	Forward To	Additional Requirements/Information
Demand letter	Office of the General Counsel (OGC)	See <a href="#">(e)(1)(A)</a>
Document request (other than from government official or media representative)	Local Human Resources administrator (HRA)	See <a href="#">(d)(2)</a>

Type of Request/Requestor	Forward To	Additional Requirements/Information
Employment Reference Requests (information only; does not include requests for documents) <ul style="list-style-type: none"> <li>• from employee (current or former)</li> <li>• from another state agency as potential employer</li> <li>• from external agency regarding credentials or reference to obtain licensure or certification</li> <li>• all other employment reference requests</li> </ul>	<a href="#">Chief local administrator</a> (CLA) or higher level of authority  <a href="#">Division director</a> or department head  Manager/supervisor in employee's chain of supervision  Local HRA	See <a href="#">(e)(4)</a>  See <a href="#">(e)(5)</a>  See <a href="#">(e)(3)</a>  See <a href="#">(d)(2)</a>
Garnishment of wages	Payroll Department	See <a href="#">(e)(2)</a>
Government official or his/her staff member/aide (requests for information or documents)	Chief of staff or designee	Immediately forward verbal or written requests
Investigation – external administrative (not law enforcement)	OGC	See <a href="#">(e)(1)</a>
Law enforcement officer or representative (criminal investigation)	Local HRA	See <a href="#">(d)(2)</a> and <a href="#">(f)(2)</a>
Lawsuit notice	OGC	See <a href="#">(e)(1)</a>
Legal claim (such as U.S. Department of Labor claim)	OGC	See <a href="#">(e)(1)(B)</a>
Media representative/reporter (request for information or documents)	Chief of staff or designee	Immediately forward verbal or written requests
Subpoena	OGC	See <a href="#">(e)(1)(A)</a>
Unemployment compensation claim	Local HRA	See <a href="#">(d)(2)</a>
Workers' compensation claim	Local HRA	See <a href="#">(d)(2)</a>

- (2) Employees must comply with the following procedures when forwarding a request or directing a requestor to the local HRA:
- (A) **In-Person Requests** -- Immediately contact or direct the requestor to the local HRA.
  - (B) **Telephone Requests** -- Provide the requestor with the local HRA's phone number before immediately transferring the call to the local HRA.
  - (C) **Written Requests** – Forward the written request to the local HRA as soon as possible and no later than the end of the next business day following receipt of the request.

(e) **Additional Information About Forwarding Information Requests.**

The following information supplements "Procedures for Forwarding Information Requests."

(1) **Subpoenas, Demand Letters, or Notices of Lawsuits or External Administrative Investigations.**

- (A) If an employee receives a subpoena, demand letter, or notice of a lawsuit or external administrative investigation (e.g., EEOC charge), the employee must:
- (i) stamp the document with the date received;
  - (ii) contact an OGC staff attorney to determine to whom the document should be forwarded;
  - (iii) make a copy of the document;
  - (iv) send the copy of the document by the most prompt available method (e.g., in-person delivery, fax, scan/email, or overnight courier) to the OGC as instructed; and
  - (v) deliver the original document in person to the local HRA or his/her designee. If in-person delivery is not feasible, the recipient should mail the original document to the local HRA and maintain a copy until the local HRA verifies receipt.
- (B) If an employee receives a call from an outside investigator regarding a legal claim or investigation (e.g., a call from an investigator with the U.S. Department of Labor), the employee must:
- (i) refer the call to the OGC; and
  - (ii) advise the OGC of any information provided by the outside investigator about the claim or investigation before the investigator was referred to the OGC.

(2) **Requests Relating to Garnishment of Wages.**

The Payroll Department may respond to routine requests for information regarding an employee's salary from agencies having the authority to garnish the employee's earnings (e.g., Texas Guaranteed Student Loan Corporation, Internal Revenue Service, Office of the Attorney General).

(3) **Requests Related to Professional Credentials.**

- (A) A manager/supervisor in an employee's chain of supervision may respond to a request for a reference or information (other than copies of documents) to an entity from which the employee is applying for a license or certification (e.g., the Texas Department of State Health Services relating to an application for a licensed chemical dependency counselor).
- (i) The manager/supervisor must submit a copy of the response to the local HRA for review before sending the response to the requestor.
  - (ii) The manager/supervisor and local HRA must ensure that the information provided is consistent with agency records of the employee's job duties, performance, and disciplinary history.
  - (iii) The manager/supervisor must provide a copy of the final response to the local HRA to be included in the employee's primary personnel file.

- (B) If a coworker who is not in an employee's chain of supervision is asked to provide a reference or information (other than copies of documents) to a licensing or certifying entity, the coworker must:
- (i) obtain written authorization (e.g., via email) from the employee's supervisor to draft a response;
  - (ii) submit the draft response to the employee's supervisor and local HRA for review and written approval (e.g., via email) before submitting the response to the requestor; and
  - (iii) provide the local HRA with copies of the final response and the supervisor's written approval for inclusion in the employee's primary personnel file.
- (4) **Employment Reference Letters.**
- (A) A chief local administrator (CLA) or higher level of authority may provide an employment reference letter to a current or former employee who consistently demonstrated outstanding performance of duties during his/her employment.
- (B) The CLA or higher level of authority must submit a copy of the letter to the local HRA for review before signing the letter. The CLA or higher level of authority and the local HRA are responsible for ensuring that the letter:
- (i) contains only information consistent with agency records of the employee's job duties, performance, and disciplinary history; and
  - (ii) does not include any negative information. If an accurate description of the employee's performance would include negative information, the employee should not be provided a reference letter.
- (C) A reference letter may not be provided for:
- (i) a former employee whose rehire status is "ineligible for rehire" or "to be determined"; or
  - (ii) a current employee who is the subject of a pending official investigation, fact-finding process, or disciplinary action.
- (D) The CLA or higher level of authority must provide a copy of the signed letter to the local HRA for inclusion in the employee's primary personnel file.
- (5) **Employment Reference Request from Another State Agency.**

A division director or department head may provide information to another state agency requesting an employment reference by:

- (A) responding verbally and sending an email to the current or former employee's local HR office that identifies the:
- (i) date the information was provided;
  - (ii) agency to which the information was provided; and
  - (iii) name and title of the person to whom the information was provided; or
- (B) completing the other state agency's employment reference form and providing a copy to the current or former employee's local HR office.

## Notes:

- Only a local HRA or designee may complete the TDCJ/TJJD Employer Reference Request form, [HR-018](#).
- References provided to other state agencies are not limited to current or former employees who consistently demonstrated outstanding performance of duties.

**(f) Release of Information by Local HRA or Designee.**

This section describes the release of information by the local HRA or designee.

**(1) Disclosure of Information.**

- (A) The requestor must provide sufficient information for the local HRA or designee to clearly identify the current or former employee.
- (i) If no other employees have the same first and last name, the employee's name is sufficient.
  - (ii) If more than one employee has the same first and last name (middle names or suffixes such as Jr. or II excluded), the requestor must also provide the employee's:
    - (I) social security number (last four digits or complete number); or
    - (II) date of birth.
- (B) The local HRA or designee is authorized to routinely disclose the following information about a current or former employee:
- (i) current employee's position or former employee's last position;
  - (ii) employment status (whether currently employed or separated, but not whether the employee is on leave or suspended);
  - (iii) date(s) of employment;
  - (iv) full- or part-time status; and
  - (v) current employee's gross salary or former employee's last gross salary.
- (C) Employees complete and sign an Election Regarding Public Access to Certain Personal Information form, [HR-150](#), during New Employee Orientation.
- (i) An employee may update his/her elections by completing another HR-150 at any time.
  - (ii) The employee's elections determine whether the local HRA or designee will release the following information in response to telephone or written requests:
    - (I) home address and phone number;
    - (II) social security number; and
    - (III) information revealing whether the employee has family members.
- (D) If a requestor asks for additional information, including whether a former employee is eligible for rehire, the local HRA or designee advises him/her of the following:
- (i) TJJD's standard procedure does not allow the release of additional information; and
  - (ii) the requestor may submit a written request under the Public Information Act for additional information to the TJJD public information coordinator located in the OGC.

Note: Procedures below in [Section \(2\)](#), regarding requests from law enforcement, or in [Section \(3\)](#), regarding requests from the Texas Department of Criminal Justice (TDCJ), preempt this procedure if applicable.

- (E) Whenever the local HRA or designee provides employee information via a written response, designated HR staff file a copy of the response in the employee's confidential personnel file.

(2) **Requests from Law Enforcement.**

- (A) **In-Person** -- If a law enforcement representative visits the HR office and requests information for an official investigation relating to a current or former employee, the appropriate HR staff must:

- (i) require proof of identity (e.g., badge);
- (ii) provide any requested information (but not copies of documents);
- (iii) complete a Record of Employee Information Provided to Law Enforcement Representative form, [HR-039](#); and
- (iv) file the completed HR-039 in the employee's confidential personnel file.

- (B) **By Telephone** -- When a law enforcement representative requests information by telephone for an official investigation relating to a current or former employee, the appropriate HR staff may only provide the limited information listed in paragraph (1)(B) above.

- (i) If the requestor seeks more information, the HR staff informs the requestor that he/she may:
  - (I) fax a written request on the law enforcement agency's letterhead and identify the information needed; or
  - (II) make a request in person.
- (ii) The HR staff:
  - (I) follows procedures provided earlier in this policy regarding a subpoena, demand letter, or notice of a lawsuit or external investigation if the requestor faxes his/her request;
  - (II) follows procedures in (2)(A) if the request is made in person.

(3) **TDCJ/TJJD Employer Reference Request.**

When a representative of the local HR office receives a TDCJ/TJJD Employer Reference Request form, [HR-018](#), from TDCJ, the representative:

- (A) ensures that the request includes a copy of the authorized release of personal information from the State of Texas Application for Employment submitted by the individual to TDCJ;
- (B) provides the TDCJ HR office with the information requested on the HR-018, if the request contains the release; and
- (C) files a copy of the completed HR-018 in the current or former employee's personnel file.

(4) **Written Requests for Documents or Additional Information.**

- (A) When the local HRA or designee receives a written request for copies of documents or for specific information the local HR office is not authorized to disclose, he/she must:
- (i) refer the request to the chief of staff or designee if it is from a reporter or other media representative, government official, or staff member/aide for a government official; or
  - (ii) immediately forward all other requests to the Central Office records management specialist.

- (B) The records management specialist or his/her designee:
  - (i) responds or advises the local HRA or designee in writing how to respond to the request; and
  - (ii) ensures that responses are consistent with TJJJ's obligations under the Public Information Act. (For public information procedures, see [GAP.385.8101.](#))
- (C) If the records management specialist or his/her designee provides a written response to the requestor, he/she forwards a copy of the response to the appropriate local HRA or designee for retention in the employee's or former employee's confidential personnel file.

(5) **Exception for Employee's Personal Safety.**

If an employee believes that disclosure by TJJJ of his/her information would subject him/her to a substantial threat of physical harm, the employee must provide the local HRA or designee with a written request to withhold the information.

- (A) The written request must identify the information the employee believes should not be disclosed and must explain why the disclosure would subject the employee to a substantial threat of physical harm.
  - (B) The local HRA or designee must:
    - (i) forward a copy of the request to the Central Office records management specialist by the end of the next business day following receipt; and
    - (ii) file the original request in the employee's confidential personnel file.
  - (C) The records management specialist or his/her designee:
    - (i) provides the employee with a written response; and
    - (ii) advises the local HRA or designee in writing about disclosing information regarding the employee.
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