

STATE OF OHIO



DEPARTMENT OF REHABILITATION
AND CORRECTION

SUBJECT: Personnel Files	PAGE <u>1</u> OF <u>4</u> . NUMBER: 33-ERD-01
RULE/CODE REFERENCE: ORC 149.43	SUPERSEDES: 33-ERD-01 dated 08/13/12
RELATED ACA STANDARDS: 4-4067; 4-4068; 2-CO-1C-23; 2-CI-6D-4; 1-CTA-1C-11; 4-APPFS-3B-05; 4-APPFS-3E-13 & 14	EFFECTIVE DATE: November 10, 2015
	APPROVED: 

I. AUTHORITY

This policy is issued in compliance with Ohio Revised Code 5120.01 which delegates to the Director of the Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

II. PURPOSE

The purpose of this policy is to require the establishment and maintenance of a permanent record of employment for each employee of the Department of Rehabilitation and Correction.

III. APPLICABILITY

This policy applies to all employees of the Department of Rehabilitation and Correction.

IV. DEFINITIONS

Electronic Personnel Action Request - An official document approved by the Appointing Authority and the Department of Administrative Services that changes an employee's status and/or record.

Personnel File - A current and accurate record of the employee's job history. This record shall be maintained in the respective personnel office and contain all relevant information related to the staff member in regard to his/her employment.

Private File - Non-public records including, but not limited to, EAP, medical records, FMLA certifications, OPERS personal history information, examinations to determine fitness for employment, tax forms, and results from background investigations for an employee.

V. POLICY

It is the policy of the Ohio Department of Rehabilitation and Correction (DRC) that an employee's official personnel file shall contain all matters required by Ohio Revised Code and shall be maintained within the Human Resource Division of the Department of Administrative Services and that the respective DRC personnel director shall maintain accurate and current personnel records on each employee. The personnel director shall permit an employee to challenge information contained in his/her personnel file and have it corrected or removed if proven inaccurate.

VI. PROCEDURES

A. Type and Content of Files

1. Personnel File

The respective personnel director shall establish a permanent personnel file for each employee. This file shall contain the following information:

- a. Employment History;
- b. Active discipline excluding items related to employee investigations (i.e. witness statements, incident reports, interviews, etc.);
- c. Work Performance History;
- d. Employment Documents;
- e. Emergency Notification Form;

All new employees and current employees transferring to a different institution or to/from Operation Support Center/DPCS are required to submit an Emergency Notification Form (DRC1758) to their respective personnel office and to update the form as needed. The form must be placed in the employees personnel file in such a manner that it is easily accessible. This form shall not be released pursuant to a public records request.

2. Private File

The respective personnel director shall establish a separate private file for each employee as defined in this policy which shall include, but not be limited to, the following confidential information:

- a. Certain Medical Records and Information;
- b. Fitness Examinations (i.e. Independent Medical Examinations);
- c. Background Investigations (i.e. finger print cards);
- d. Court Documents;
- e. Benefit information (health, dental and life insurance forms);
- f. OPERS information; and
- g. Tax information

B. File Security and Non-Public Records

All records shall be secured at the respective personnel office. Personnel files and private files shall be maintained in separate filing cabinets with a confidentiality notice placed on the front of each file cabinet drawer (see Appendix A). Hard copy documents shall be adequately secured by locking devices or located in a secure room to prevent unauthorized access at all times when not in use. Key access shall be limited to authorized personnel staff. If personnel and or private files are accessed by non-personnel staff during non-business hours an incident report must be completed in detail as to who accessed the files and the reason the files were accessed. Electronic documents shall only be accessible to those authorized who have completed a System Access Request form (DRC3424) and it has been approved. The personnel files for Operation Support Center and the Division of Parole and Community Services (DPCS) employees shall be maintained by the Bureau of Personnel in the Operation Support Center. An employee's private file may not be released without the written consent of the employee or as compelled by a subpoena or a court

order. For guidance in determining how to respond to a public records request for non-public personnel records or information, refer to Appendix B.

C. Review of Files

Employees are encouraged to review the contents of their personnel file periodically to ensure that information contained therein is accurate and complete.

1. Review - The following guidelines shall be followed for access to employee personnel files:
 - a. An employee may request to see their personnel file by contacting the personnel director. For hard copy files, a reasonable time will be established as quickly as possible for the viewing which shall be mutually agreed upon by the employee, their immediate supervisor (if practicable), and the personnel director. For electronic files, a copy of the file shall be sent via email. An employee must make a public records request to view another employee's file.
 - b. For hard copy files the employee must review his/her personnel file at the respective personnel office. For DPCS or Operation Support Center off-site employees, electronic files shall be sent via e-mail. The employee shall not be required to use any form of leave to review their file, although mileage shall not be reimbursed.
 - c. For hard copy files the personnel file must be viewed in the presence of a personnel office staff member. An employee may designate a representative to be present at the time of the viewing or to view the file on behalf of the employee. The request for an employee representative to view the file on their behalf must be made in writing in advance. The Personnel File Log (Appendix C) shall be signed by an authorized staff member or employee when they request to view a file. A separate log may be kept for employees who review their files. All authorized employees requesting to review a personnel file must sign the Personnel File Policy Acknowledgement Receipt, (Appendix D).
 - d. Reasonable requests to copy documents in an employee's own personnel file, or to print copies from an electronic file shall be honored at no charge. If a requestor asks for more than twenty copies, or wishes to print more than twenty copies from an electronic file, there shall be a charge of five cents per page or ten cents for two sided copies. Refer to Department Policy 07-ORD-02, Records Access and Release, for additional information on charging.
 - e. Employee personnel files contain non-public material and information must be handled in an appropriate manner by those authorized persons. Articles shall not be removed from the personnel file except as authorized by the Appointing Authority, the bargaining unit contracts, the Ohio Revised Code and/or the Ohio Administrative Code.
2. Challenges - If an employee chooses to challenge information, the procedures are as follows:
 - a. The employee must submit a written statement to the personnel director describing the information being challenged and the reason why the information is believed to be

incorrect. If applicable, the employee shall provide appropriate documentation to support his/her challenge.

- b. The personnel director shall review the statement and any supportive materials provided and if they are unable to resolve the matter forward to the Appointing Authority for a final determination.
- c. The employee shall receive written notification of the Appointing Authority's decision.

D. Transfer of Files

1. When an employee transfers to another DRC location, the personnel file, along with the private file, must be sent to the new location after the employee physically moves. The personnel director must ensure the personnel and private files are sent in a secure manner to avoid the files being lost or stolen (i.e., certified mail, express mail or hand delivered to the receiving personnel office in a sealed envelope marked confidential). Files sent through inter-office mail shall be properly labeled, packaged, sealed and marked confidential with the releasing institution sending an acknowledgement of receipt to the receiving institution for the personnel office to sign and return to them via interoffice mail or fax. Electronic personnel files shall be sent via e-mail to another DRC location. The receiving location shall print and create a hard copy file until such time of electronic conversion. A hard copy of the employee's private file shall be sent separately.
2. The personnel office shall notify the training officer when an employee is transferring to another DRC location. The training officer is responsible for forwarding the training file to the new location.
3. When an employee transfers to another state agency within Ohio, a copy of the personnel and private files shall be forwarded to the new agency upon request by the employee or new agency and then placed in the inactive files.

Attachments

Appendix A	Confidentiality Notice
Appendix B	List of Non-Public Personnel Records
Appendix C	Personnel File Log
Appendix D	Acknowledgement of Receipt

Related Department Forms:

Emergency Notification Form	DRC1758
System Access Form	DRC3424

Appendix A

CONFIDENTIALITY NOTICE

Personnel and Private Files

No person shall knowingly access, use or disclose confidential personal information in a manner prohibited by policy or law.

Hard copy personnel files shall be adequately secured by locking devices to prevent unauthorized access at all times when not in use. Per the Personnel file policy 33-ERD-01

Failure to comply may result in discipline up to and including removal

Appendix B

List of Non-Public Personnel Records

The below list of information and records in the personnel file are not public records pursuant to Ohio's Public Record Act because a statute exempts the record from disclosure to the public. When a record or part of a record is not disclosed to the public or redacted and so disclosed then an explanation and legal authority for such action must be given, typically, in writing. Accordingly, the personnel staff shall notify, in writing, the requestor of records of the below cited statute when not disclosing the particular non-public record or when disclosing a public record, but with non-public information redacted.

1. Pursuant to Revised Code section (R.C.) 149.43 (A) (7), residential and familial information is any of the following information about a correctional employee.
 - A. The street address of the actual personal residence (the state and political subdivision are a public record);
 - B. Referral to or participation in an employee assistance program;
 - C. Including that employee's spouse, former spouse, or child; numbers for the following:
 - 1) Social Security;
 - 2) Bank Account (i.e. direct deposit);
 - 3) Debit, charge, or credit cards;
 - 4) Residential and emergency phones;
 - D. Name or residential street address and name and full address of employer, for only the spouse, former spouse, or child;
 - E. Identity and amount of any charitable (i.e. combined charitable contribution) or employment benefit deduction (i.e. medical, dental, vision, life, and disability insurance, union dues, and leave donation);
 - F. Name of beneficiary of employment benefits;
 - G. Medical information (i.e. medical dental, vision, life, and disability insurances, Medicare, workers compensation, COBRA, and leave for occupational injury, disability, child birth/adoption and FMLA) unless employee consents to release, in writing.

2. Medical Records (i.e. any document that is generated and maintained in the process of medical treatment).
R.C. 149.43 (A) (1) (a), (A) (3).
3. Recovery services files and information that would identify an employee receiving alcohol and/or drug treatment.
R.C. 3793.13
4. Physical fitness, psychiatric and psychological examinations to determine fitness for hiring or continued employment.
R.C. 149.43 (A) (1) 9v); 42 U.S.C. §12112.29; 29 C.F.R. 1630.14 (b) (1), (c) (1) [ADA]; R.C. 1347.15 (A) (1) ["confidential personal information" under Ohio's Personal Information Systems Act].
5. Numbers for federal tax identification, driver's license and state identification.
R.C. 149.45 (A) (1).
6. Federal income tax returns and "return information" filed with the IRS.
R.C. 149.43 (A) (1) (v); 26 U.S.C. §6103.
7. State and municipal income tax returns.
R.C. 5703.21 and 718.13 respectively.
8. OPERS personal history information.
R.C. 149.43 (A) (1) (v); R.C. 3307.20 (B) (2).
9. Records of open internal EEO investigations [discretionarily exempt as Confidential Law Enforcement Investigatory Records under R.C. section 149.43 (A) (1) (h) if conducted pursuant to OAC rule 123:1-49].
10. Disciplinary investigation records if the Confidential Law Enforcement Investigatory Record applies under R.C. section 149.43 (A) (2). Under CLEIRs, the DRC may withhold any records that both: 1) Pertain to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, and, 2) If released, would create a high probability of disclosing any of the following five types of information: identity of an uncharged suspect; identity of a source of witness to whom confidentiality was reasonably promised; specific confidential investigatory techniques or procedures; specific investigatory work product; or information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.
11. Information (i.e. arrest, conviction and guilty plea) and materials (i.e. fingerprints) from BCI&I.
R.C. 149.43 (A) (1) (v); R.C. 109.57; 109.5721.

12. Criminal history “rap sheets” (background checks) from the federal National Crime Information Center system (NCIC) or from the state Law Enforcement Automated Data System (LEADS).
R.C. 109.57, 42 U.S.C. §3789.
13. Certain employment records if an employee can demonstrate a substantial risk of serious bodily harm or death from its release.
Kallstrom v. City of Columbus, 136 F.3rd 1055 (6th Cir. 1998) (personal information of police officers).
14. Certain employment records if an employee can demonstrate a high potential for victimization from its release.
State ex rel. Beacon Journal Publ ‘g Co. v. Akron, 70 Ohio St. 3d 605, 612 (1994) (“high potential for fraud and victimization caused by the unchecked release of city employee SSNs”).
15. Certain adoption court records.
R.C. 3107.17, .40, .41, .42, .45, and .52.
16. Certain court records such as domestic relations (e.g., child support) or garnishment when a court imposed protective order prohibits the release of the record.

Appendix D

Access Rules for Confidential Personal Information & Personnel File Policy

ACKNOWLEDGEMENT OF RECEIPT

I, _____, hereby acknowledge that I have read and understand the Personnel File policy 33-ERD-01 and ORC 1347.15, *Access Rules for Confidential Personal Information*. I understand that failure to follow this policy and rule could result in discipline.

Printed Name

Signature

Date