

Personnel files, which may consist of paper or electronic records, will be maintained in the human resources office for all employees as provided by law. The superintendent and all supervisors are directed by the Transylvania County Board of Education (the “board”) to ensure that all appropriate employment-related information is submitted to the files. Employees will be provided with all procedural protections as provided by law.

The superintendent has overall responsibility for granting or denying access to personnel records consistent with this policy.

#### **A. RECORDS MAINTAINED**

The following records must be maintained in the personnel file:

1. evaluation reports made by the administration;
2. commendations for and complaints against the employee (see Section C);
3. written suggestions for corrections and improvements made by the administration;
4. certificates;
5. employee’s standard test scores;
6. employee’s academic records;
7. application forms;
8. any request to the State Board of Education to revoke the employee’s teaching license; and
9. other pertinent records or reports.

#### **B. CERTAIN EMPLOYEE RECORDS MAINTAINED SEPARATELY**

The following employee information must be kept separate from the employee’s general personnel information, in accordance with legal and/or board requirements:

##### **1. Pre-Employment Information**

Letters of reference about an employee obtained before his or her employment and, for teachers, any other pre-employment information collected, must be filed separately from the employee’s general personnel information and must not be made available to the employee.

2. Criminal Record Check

Data from a criminal history check must be maintained in a locked, secure location separate from the employee's personnel file. The superintendent shall designate which school officials have a need to know the results of the criminal history check. Only those officials so designated may obtain access to the records.

3. Medical Information

Employee medical information, including the following, must be kept in a separate confidential file and may be subject to special disclosure rules:

- a. health certificates (see policy 7120, Employee Health Certificate);
- b. drug test results, except that drug use or alcohol use contrary to board policy or law also may be documented in the employee's personnel file (see policy 7241, Drug and Alcohol Testing of Commercial Motor Vehicle Operators);
- c. information related to an employee's communicable disease/condition or possible occupational exposure to bloodborne pathogens (see policies 7260, Occupational Exposure to Bloodborne Pathogens, and 7262, Communicable Diseases – Employees);
- d. medical information related to leave under the Family and Medical Leave Act (see policy 7520, Family and Medical Leave); and
- e. genetic information, as defined by the Genetic Information Nondiscrimination Act of 2008.

4. Complaints/Reports of Harassment or Discrimination

The superintendent or designee shall maintain records of all reports and complaints of harassment and discrimination and the resolution of such complaints. Allegations of harassment or discrimination must be kept confidential to the extent possible. Employees involved in the allegations will be identified only to individuals who need the information to investigate or resolve the matter, or to ensure that due process is provided to the accused employee (see policies ~~1710/4021/7230, Prohibition Against Discrimination, Harassment, and Bullying, and 1720/4015/7225, Discrimination, Harassment, and Bullying Complaint Procedure~~ 1710/4020/7230, Discrimination and Harassment Prohibited by Federal Law, 1720/4030/7235, Title IX Nondiscrimination on the Basis of Sex, 1725/4035/7236, Title IX Sexual Harassment – Prohibited Conduct and Reporting

Process, 1726/4036/7237, Title IX Sexual Harassment Grievance Process, and 7232, Discrimination and Harassment in the Workplace).

If the allegations are substantiated through investigation, the superintendent or designee shall ensure that the provisions of Section C, below, are followed to the extent that they do not conflict with the rights of any individual.

#### C. PLACEMENT OF RECORDS IN PERSONNEL FILE

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

1. the comment is signed and dated by the person who made the evaluation, commendation, complaint, or suggestion;
2. if the comment is a complaint, the employee's supervisor has attempted to resolve the issue raised therein and documentation of such efforts is attached with the supervisor's recommendation to the superintendent as to whether the complaint contains any invalid, irrelevant, outdated, or false information; and
3. the employee has received a copy of the evaluation, commendation, complaint, or suggestion five days before it is placed in the file.

All written complaints that are signed and dated must be submitted regardless of whether the supervisor considers the complaint to be resolved.

The supervisor is expected to use good judgment in determining when a document should be submitted to the 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. The supervisor or principal should seek clarification from the director of human resources as necessary to comply with this policy.

The employee may offer a denial or explanation of the evaluation, commendation, complaint, or suggestion, and any such denial or explanation will become part of his or her personnel file, provided that it is signed and dated.

The superintendent may exercise statutory 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 when there is no documentation of an attempt to resolve the issue.

As provided in policy 7900, Resignation, if a career employee who has been recommended for dismissal under the applicable state law resigns without the written consent of the superintendent, then: (1) the superintendent shall report the matter to the State Board of Education; (2) the employee shall be deemed to have consented to the placement of the written notice of the superintendent's intention to recommend dismissal in the employee's personnel file; and (3) the employee shall be deemed to have consented to the release to prospective employers, upon request, of the fact that the superintendent has reported this employee to the State Board of Education. For purposes of this provision, "career employee" means (1) a teacher or an administrator with career status, or (2) an administrator or a non-career status teacher during the term of his or her contract.

**D. ACCESS TO PERSONNEL FILE**

1. Every employee has the right to inspect his or her personnel file, including any portions of the file maintained in electronic format only, during regular working hours, provided that three days' notice is given to the human resources office.
2. The following persons may be permitted to access a personnel file without the consent of the employee about whom the file is maintained:
  - a. school officials involved in the screening, selection, or evaluation of the individual for employment or other personnel action;
  - b. members of the board of education, if the examination of the file relates to the duties and responsibilities of the board member;
  - c. the board attorney;
  - d. the superintendent and other supervisory personnel;
  - e. the hearing officer in a demotion or dismissal procedure regarding the employee; and
  - f. law enforcement and the District Attorney to assist in the investigation of a report made to law enforcement pursuant to G.S. 115C-288(g) or regarding an arson; an attempted arson; or the destruction of, theft from, theft of, embezzlement from, or embezzlement of any personal or real property owned by the board. Five days' written notice will be given to the employee prior to such disclosure.
3. No other person may have access to a personnel file except under the following circumstances:

- a. when an employee gives written consent to the release of his or her records, which specifies the records to be released and to whom they are to be released;
  - b. pursuant to a subpoena or court order;
  - c. when the board has determined, and the superintendent has documented, that the release or inspection of information is essential to maintaining the integrity of the board or the quality of services provided by the board; or
  - d. the superintendent or designee determines that disclosure to a court of law, or a state or federal administrative agency having a quasi-judicial function, is necessary to adequately defend against a claim filed by a current or former employee against the board or a school official or employee for any alleged act or omission arising during the course and scope of his or her official duties or employment. Such disclosures will be limited to those confidential portions of the personnel file of the employee who filed the claim and only to the extent necessary for the defense of the board.
4. 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:
    - a. knowingly, willfully, and with malice, permit any unauthorized person to have access to information contained in a personnel file; or
    - b. knowingly and willfully examine, remove, or copy a personnel file that he or she is not specifically authorized to access pursuant to G.S. 115C-321.

**E. INFORMATION AVAILABLE TO PARENTS OF STUDENTS ATTENDING TITLE I SCHOOLS**

The following information about a student's teacher(s) or paraprofessional(s) providing services to a student must be provided upon request to the parent of a student attending a Title I school:

1. whether the teacher has met North Carolina qualification and licensing criteria for the grade level(s) and subject area(s) in which the teacher provides instruction;
2. whether the teacher is teaching under emergency or other provisional status through which North Carolina qualification or licensing criteria have been waived;
3. whether the teacher is teaching in the field of discipline of his or her certification;

and

4. the qualifications of any paraprofessional providing services to the student.

**F. PUBLIC INFORMATION**

1. The following information contained in an employee's personnel file must be open to inspection upon request by members of the general public:
  - a. name;
  - b. age;
  - c. the date of original employment or appointment;
  - d. 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;
  - e. current position;
  - f. title;
  - g. current salary (includes pay, benefits, incentives, bonuses, deferred compensation, and all other forms of compensation paid to the employee);
  - h. the date and amount of each increase or decrease in salary with the board;
  - i. the date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with the board;
  - j. the date and general description of the reasons for each promotion with the board;
  - k. the date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the board, and if the disciplinary action was a dismissal, a copy of the written notice of the final decision of the board setting forth the specific acts or omissions that are the basis of the dismissal; and
  - l. the office or station to which the employee is currently assigned.

2. 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.
3. Volunteer records are not considered public records.
4. Unless an employee submits a written objection to the human resources office, the board also may make the following information available about each employee as part of an employee directory:
  - a. address;
  - b. telephone number;
  - c. photograph;
  - d. participation in officially recognized activities and sports; and
  - e. degrees and awards received.
5. Employees will be notified of their right to object before any such directory is compiled or revised.
6. Under no circumstances will the following be released pursuant to a public records request or as part of an employee directory:
  - a. personal identifying information, as defined in policy 4705/7825, Confidentiality of Personal Identifying Information; or
  - b. the name, address, or telephone number of a participant in the North Carolina Address Confidentiality Program.

#### **G. REMOVAL OF RECORDS**

An employee may petition the board to remove any information from his or her personnel file that the employee deems invalid, irrelevant, or outdated.

Legal References: Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. 2000ff *et seq.*; Elementary and Secondary Education Act, 20 U.S.C. 6312(e)(1)(A); 34 C.F.R. 200.61; G.S. 115C-36, -47(18), -209.1, -288(g), -319 to -321, -325(b) and (o) (applicable to career status teachers), -325.2 and -325.9 (applicable to non-career status teachers); 143B-931; 16 N.C.A.C. 6C .0313

Cross References: ~~Prohibition Against Discrimination, Harassment, and Bullying (policy 1710/4021/7230), Discrimination, Harassment, and Bullying Complaint Procedure (policy 1720/4015/7225),~~ **Discrimination and Harassment Prohibited by Federal Law (policy 1710/4020/7230), Title IX Nondiscrimination on the Basis of Sex (policy 1720/4030/7235), Title IX Sexual Harassment – Prohibited Conduct and Reporting Process (policy 1725/4035/7236), Title IX Sexual Harassment Grievance Process (policy 1726/4036/7237), Confidential Information (policy 2125/7315), North Carolina Address Confidentiality Program (policy 4250/5075/7316), Confidentiality of Personal Identifying Information (policy 4705/7825), Public Records – Retention, Release, and Disposition (policy 5070/7350), Employee Health Certificate (policy 7120), Discrimination and Harassment in the Workplace (policy 7232), Drug and Alcohol Testing of Commercial Motor Vehicle Operators (policy 7241), Occupational Exposure to Bloodborne Pathogens (policy 7260), Communicable Diseases – Employees (policy 7262), Family and Medical Leave (policy 7520), Petition for Removal of Personnel Records (policy 7821), Resignation (policy 7900)**

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