

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

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

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10 **A. RECORDS MAINTAINED**

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12 The following records must be maintained in the personnel file:

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

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

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

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38 1. Pre-Employment Information

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

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

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53 3. Medical Information

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

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58 a. health certificates (see policy 7120, Employee Health Certificate);

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60 b. drug test results, except that drug use or alcohol use contrary to board
61 policy or law also may be documented in the employee's personnel file
62 (see policy 7241, Drug and Alcohol Testing of Commercial Motor Vehicle
63 Operators);

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65 c. information related to an employee's communicable disease/condition or
66 possible occupational exposure to bloodborne pathogens (see policies
67 7260, Occupational Exposure to Bloodborne Pathogens, and 7262,
68 Communicable Diseases – Employees);

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70 d. medical information related to leave under the Family and Medical Leave
71 Act (see policy 7520, Family and Medical Leave); and

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73 e. genetic information, as defined by the Genetic Information
74 Nondiscrimination Act of 2008.

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76 4. Complaints/Reports of Harassment or Discrimination

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78 The superintendent or designee shall maintain records of all reports and
79 complaints of harassment and discrimination and the resolution of such
80 complaints. Allegations of harassment or discrimination must be kept
81 confidential to the extent possible. Employees involved in the allegations will be
82 identified only to individuals who need the information to investigate or resolve
83 the matter, or to ensure that due process is provided to the accused employee (see
84 policies 1710/4020/7230, Discrimination and Harassment Prohibited by Federal
85 Law, 1720/4030/7235, Title IX Nondiscrimination on the Basis of Sex,
86 1725/4035/7236, Title IX Sexual Harassment – Prohibited Conduct and Reporting
87 Process, 1726/4036/7237, Title IX Sexual Harassment Grievance Process, and
88 7232, Discrimination and Harassment in the Workplace).

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90 If the allegations are substantiated through investigation, the superintendent or
91 designee shall ensure that the provisions of Section C, below, are followed to the
92 extent that they do not conflict with the rights of any individual.
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94 **C. PLACEMENT OF RECORDS IN PERSONNEL FILE**
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96 All evaluations, commendations, complaints, or suggestions for correction or
97 improvement must be placed in the employee's central office personnel file after the
98 following requirements are met:
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- 100 1. the comment is signed and dated by the person who made the evaluation,
101 commendation, complaint, or suggestion;
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- 103 2. if the comment is a complaint, the employee's supervisor has attempted to resolve
104 the issue raised therein and documentation of such efforts is attached with the
105 supervisor's recommendation to the superintendent as to whether the complaint
106 contains any invalid, irrelevant, outdated, or false information; and
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- 108 3. the employee has received a copy of the evaluation, commendation, complaint, or
109 suggestion five days before it is placed in the file.
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111 All written complaints that are signed and dated must be submitted regardless of whether
112 the supervisor considers the complaint to be resolved.
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114 The supervisor is expected to use good judgment in determining when a document should
115 be submitted to the file immediately and when a delay is justified, such as when there
116 exists a plan of improvement that is frequently revised. However, all evaluations,
117 commendations, complaints, or suggestions for correction or improvement should be
118 submitted by the end of the school year or in time to be considered in an evaluation
119 process, whichever is sooner. The supervisor or principal should seek clarification from
120 the director of human resources as necessary to comply with this policy.
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122 The employee may offer a denial or explanation of the evaluation, commendation,
123 complaint, or suggestion, and any such denial or explanation will become part of his or
124 her personnel file, provided that it is signed and dated.
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126 The superintendent may exercise statutory authority not to place in an employee's file a
127 letter of complaint that contains invalid, irrelevant, outdated, or false information, or a
128 letter of complaint when there is no documentation of an attempt to resolve the issue.
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130 As provided in policy 7900, Resignation, if a career employee who has been
131 recommended for dismissal under the applicable state law resigns without the written
132 consent of the superintendent, then: (1) the superintendent shall report the matter to the

133 State Board of Education; (2) the employee shall be deemed to have consented to the
134 placement of the written notice of the superintendent's intention to recommend dismissal
135 in the employee's personnel file; and (3) the employee shall be deemed to have consented
136 to the release to prospective employers, upon request, of the fact that the superintendent
137 has reported this employee to the State Board of Education. For purposes of this
138 provision, "career employee" means (1) a teacher or an administrator with career status,
139 or (2) an administrator or a non-career status teacher during the term of his or her
140 contract.

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142 **D. ACCESS TO PERSONNEL FILE**
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- 144 1. Every employee has the right to inspect his or her personnel file, including any
145 portions of the file maintained in electronic format only, during regular working
146 hours, provided that three days' notice is given to the human resources office.
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- 148 2. The following persons may be permitted to access a personnel file without the
149 consent of the employee about whom the file is maintained:
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- 151 a. school officials involved in the screening, selection, or evaluation of the
152 individual for employment or other personnel action;
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 - 154 b. members of the board of education, if the examination of the file relates to
155 the duties and responsibilities of the board member;
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 - 157 c. the board attorney;
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 - 159 d. the superintendent and other supervisory personnel;
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 - 161 e. the hearing officer in a demotion or dismissal procedure regarding the
162 employee; and
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 - 164 f. law enforcement and the District Attorney to assist in the investigation of
165 a report made to law enforcement pursuant to G.S. 115C-288(g) or
166 regarding an arson; an attempted arson; or the destruction of, theft from,
167 theft of, embezzlement from, or embezzlement of any personal or real
168 property owned by the board. Five days' written notice will be given to
169 the employee prior to such disclosure.
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- 171 3. No other person may have access to a personnel file except under the following
172 circumstances:
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- 174 a. when an employee gives written consent to the release of his or her
175 records, which specifies the records to be released and to whom they are to
176 be released;

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- 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.

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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.

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266 4. ~~Unless an employee submits a written objection to the human resources office, the~~
267 ~~board also may make the following information available about each employee as~~
268 ~~part of an employee directory:~~
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270 a. ~~address;~~
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272 b. ~~telephone number;~~
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274 c. ~~photograph;~~
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276 d. ~~participation in officially recognized activities and sports; and~~
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278 e. ~~degrees and awards received.~~
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280 5. ~~Employees will be notified of their right to object before any such directory is~~
281 ~~compiled or revised.~~
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283 4. Under no circumstances will the following be released pursuant to a public
284 records request or as part of an employee directory:
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286 a. personal identifying information, as defined in policy 4705/7825,
287 Confidentiality of Personal Identifying Information; or
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289 b. the name, address, or telephone number of a participant in the North
290 Carolina Address Confidentiality Program.
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292 G. REMOVAL OF RECORDS

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294 An employee may petition the board to remove any information from his or her personnel
295 file that the employee deems invalid, irrelevant, or outdated.
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297 Legal References: Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. 2000ff *et seq.*;
298 Elementary and Secondary Education Act, 20 U.S.C. 6312(e)(1)(A); 34 C.F.R. 200.61; G.S.
299 115C-36, -47(18), -209.1, -288(g), -319 to -321, -325(b) and (o) (applicable to career status
300 teachers), -325.2 and -325.9 (applicable to non-career status teachers); 143B-931; 16 N.C.A.C.
301 6C .0313
302

303 Cross References: Discrimination and Harassment Prohibited by Federal Law (policy
304 1710/4020/7230), Title IX Nondiscrimination on the Basis of Sex (policy 1720/4030/7235), Title
305 IX Sexual Harassment – Prohibited Conduct and Reporting Process (policy 1725/4035/7236),
306 Title IX Sexual Harassment Grievance Process (policy 1726/4036/7237), Confidential
307 Information (policy 2125/7315), North Carolina Address Confidentiality Program (policy
308 4250/5075/7316), Confidentiality of Personal Identifying Information (policy 4705/7825), Public

309 Records – Retention, Release, and Disposition (policy 5070/7350), Employee Health Certificate
310 (policy 7120), Discrimination and Harassment in the Workplace (policy 7232), Drug and
311 Alcohol Testing of Commercial Motor Vehicle Operators (policy 7241), Occupational Exposure
312 to Bloodborne Pathogens (policy 7260), Communicable Diseases – Employees (policy 7262),
313 Family and Medical Leave (policy 7520), Petition for Removal of Personnel Records (policy
314 7821), Resignation (policy 7900)

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