

Personnel Files

1.0 Purpose To set the standards for maintaining of personnel and related files.

2.0 Personnel Records Maintenance

Such personnel records as are necessary for the proper administration of the Human Resources system will be maintained by the Human Resources Director. The County shall maintain in personnel records only information that is necessary and relevant to accomplishing legitimate Human Resources administrative needs.

The file shall contain information that can legally be the basis for an employment-related decision in the file. Employment decisions include hiring, firing, promotion, demotion, layoff, training opportunities, and all other actions taken regarding employees. Employment decisions may **NOT** be made on the basis of gender, race, national origin, color, religion, or veteran's status, so all equal employment opportunity records will be kept separate. Making decisions based on a person's disability status is illegal, thus all medical information will be kept separate. Garnishment orders cannot be used as a basis for employment decisions, so all paperwork having to do with garnishment must be kept separately. I-9 forms must be available on demand to Department of Labor inspectors. I-9 forms will be kept in a separate place for convenience. See the chart in Section 9.

3.0 Information Open to the Public

In accordance with the "Changes to Public Records Law" enacted October 1, 2010, Personnel Records are protected from release except for the following, which is public record:

- A. Name of the employee
- B. Age of the employee
- C. Date of original employment or appointment to county service
- D. Terms of any contract
- E. Current position and title
- F. Current Salary
- G. The office to which the employee is currently assigned
- H. Date and amount of each increase or decrease in salary with the county
- I. Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with the county
- J. Date and general description of the reasons for each promotion with the county
- K. Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the county
- L. For dismissals due to disciplinary reasons, a copy of the written notice of the final decision of the county setting forth the specific acts or omissions that are the basis for the dismissal
- M. **Dismissal Letter – Public Information**

If an employee is dismissed and appeals his dismissal through the agency grievance procedure, the final agency decision shall set forth the specific acts

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or omissions that are the basis of the employee's dismissal. In addition, the employee shall be informed in the final agency decision letter that the final agency decision letter is a public record and that the agency is required by law to release it pursuant to any public record requests.

Refusal to comply with a request for public records may be challenged by the requesting party. If the challenging party prevails, the party can be awarded attorney fees, which may be charged directly against the county. Test to determine if attorney fees are awarded is whether the county was substantially justified in denying access to the record. By order of the court, attorney fees can be charged directly to any public employee or public official individually if the court finds the refusal to provide public records was knowingly or intentionally committed in violation of the law.

There is a formal mediation process in place for dispute of refusal to comply with record requests as outlined in NCGS 7A-38.3E. A request for mediation may be filed prior to civil action being filed. Mediation is required if a civil action is filed pursuant to a denial of public records request.

An employee may sign a written release permitting Bladen County to give non-public information about the employee to prospective employers or others. The State statute is for the employee's protection and s/he may waive that protection in the limited circumstances that s/he authorizes.

4.0 Access to Personnel Records

As required by G.S. 153A-98, any person may have access to the information listed in Section 3.0 of this article for the purpose of inspection, examination, and copying during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Board of County Commissioners may adopt, by putting their request in writing.

5.0 Confidential Information

All information contained in a County employee's personnel file, other than the information listed in Section 3.0 of this article, will be maintained as confidential in accordance with the Requirement of G.S. 153A-98 and shall be open to public inspection only in the following instances:

- 5.1 The employee or his or her duly authorized agent may examine all portions of the employee's personnel file, except (1) letters of reference solicited before employment and (2) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to a patient.
- 5.2 A licensed physician designated in writing by the employee may examine the employee's medical record.
- 5.3 A County employee having supervisory authority over the employee may examine all material in the employee's personnel file.

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- 5.4 By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- 5.5 An official of any agency of the state or federal government or any political subdivision of the state may inspect any portion of a personnel file when such information is deemed by the person having custody of the file to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee or for the purpose of assisting in an investigation of the employee's tax liability.
- 5.6 Each individual requesting access to confidential information will be required to submit satisfactory proof of identify.
- 5.7 A record shall be made of each disclosure and placed in the employee's file (except of disclosures to the employee and the supervisor).

6.0 How to Handle Employees Objection to Material in File

An employee who objects to material in his or her personnel file may place in the file a statement relating to the material the employee considers to be inaccurate or misleading. The employee may seek the removal of such material in accordance with the complaint resolution procedure.

7.0 Penalty for Permitting Access to Confidential File by Unauthorized Person

Any public official or employee who knowingly and willfully permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized by the designated custodian, may be judged guilty of a misdemeanor and upon conviction be fined in an amount not to exceed five hundred dollars (\$500.00).

8.0 Destruction of Records

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with G.S. 121-5(b), without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever alters, defaces, mutilates, or destroys it, will be guilty of a misdemeanor and upon conviction will be fined not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00) as provided in G.S. 132-3.

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9.0 Records to Keep, and the Recommended Number of Years to Keep Them

Record	Years	Notes
Hiring Records* Job applications, resumes, records relating to refusal to hire, advertisements about openings, promotions, or training opportunities	Two Years	Keep EEO information separate
Basic Employee Information: I-9 for all, work permits for minors	Three Years after termination	Keep I-9s separate
Payroll Records: name, address, SSN, date of birth, job classification, occupation, daily schedules, pay rate, weekly compensation, amounts and dates of payments, daily and weekly hours, overtime hours and pay, annuity and pension payments, benefits, deductions, and additions.	Seven Years	
Tax Records	Four Years	
Employment Actions: Hires, separations, rehires, promotions, demotions, transfers, layoffs, recalls, training opportunities, unemployment test results	Disciplinary action Eighteen months for employees	
Health, Medical, Safety Data	Varies	Keep separate
Job related illnesses and injuries	Five years	Keep separate
Requests for accommodation of disability	One year	Keep separate
Medical exams	Thirty years	Keep separate
Toxic substance exposure records	Thirty years after employment ends	Keep separate
Blood-borne pathogen exposure records	Thirty years	Keep separate