



PERSONNEL DEPARTMENT
COUNTY OF SONOMA

PERSONNEL BUILDING
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DEPARTMENT MEMO NO. 92-001-P

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TO: Department Heads and Payroll Clerks

SUBJECT: Personnel File Guidelines

Since individual departments have the official and complete employee personnel files, it is unnecessary for the Personnel Department to maintain duplicate incomplete personnel files. Therefore, we are transferring our incomplete personnel files to the proper departments to be merged with your official files. Any duplicate records could be discarded.

A revised Payroll Clerk's Sign Up Sheet has been designed, with input from the departments. It is attached for your information.

The following is a list of policies and procedures for maintaining the official personnel files in each department:
(Please note that this list is not meant to be all inclusive.)

1. File contents:

- A. Application for Employment/Employee Contracts - Personnel will forward the original application after the person is employed.
- B. Notice of Employment/Change of Status forms
- C. Loyalty Oath
- D. Performance Appraisals
- E. Request for Temporary Promotion/Promotion to Alternate Class
- F. Transfer Requests
- G. Certifications and correspondence such as letters of commendation.
- H. Disciplinary action (unless appealed or overturned).
- I. Letters of counselling and sick leave management memos.

- J. Licenses, if required by the class.
 - K. New employee sign up check list.
 - L. Training acknowledgements of completion.
2. When an employee is transferring from one department to another, the former department must send the employee's original personnel file to the new department. The original department need not keep a duplicate copy of the employee personnel file. (However, if the original department decides to keep a copy, a note should be placed in the file indicating that it is a copy and the original file is in the employee's new department.)
 3. When signing up an employee, the sign up check list will have a notation on whether the employee has worked for the County before and in what department. If the individual has worked for the County before, within the last 7 years, the Payroll Clerk may check with Personnel for prior employment history to track down the previous file. The prior file should be reinstated so only one file exists for that individual.
 4. County Counsel has given legal opinions on the following issues:
 - A. Loyalty Oaths: A former employee must take a new oath of office upon their reemployment by the County.
 - B. Disclosure of Personnel Records to Prospective Employers Based on Signed Release: Permission for release of information should be in writing and signed by employee. Also, the written release should be specific in identifying what types of documents may be released, and to whom. Documents obtained from third parties upon a promise of confidentiality, such as letters for reference, should not be disclosed based on the release from the employee. Neither should the department disclose sensitive information such as documents relating to a criminal investigation; nor medical information before consulting with County Counsel.

Releases should be dated and contain an expiration date. If there is no expiration date, disclosure should only occur within a reasonable time of the date of the release. Each statement should include a statement to the following effect: "I do hereby agree to release, save, defend, and hold harmless the County and/or its officers, employees, and agents from any claims arising from the release of such employment information."

- C. Disclosure of Personnel Information to Governmental Agencies: On requests for background or security checks, it is recommended that departments follow the same rules

outlined for disclosure of personnel information to prospective employers. Persons requesting such information should produce identification.

- D. Access of Former Employees to Their Personnel Files: Former employees have the right to inspect their personnel files at a reasonable time for the period during which the statute of limitations runs on an employment claim. (Generally, we recommend that departments retain the personnel files of terminated employees for a year or two before sending them to off site storage.) However, they are not entitled to see documents relating to a criminal investigation, letters of reference or other materials obtained on a promise of confidentiality. Departments should review the file before allowing inspection to ensure that it does not contain such information, and remove any such items before providing it to the employee.
- E. Staff Access to Personnel Files: Access to the file should only be on a need-to-know basis. Precautions should be taken to ensure their confidentiality. Extra precautions should be taken to preserve the confidentiality of any medical information (such as medical leave of absence information). Such information should be maintained separately in a sealed envelope, or in a separate file altogether. In either case, access should be highly restrictive, and steps should be taken to ensure that medical information is not disclosed or accessible to anyone but authorized personnel. Absent the employee's consent, medical information should be disclosed only in the very limited circumstances authorized by law, e.g., to the extent necessary to make reasonable accommodation, and then only to those individuals who have a need to know. If there is any doubt or the information includes HIV status, contact the department's Deputy County Counsel. (The potential consequences for unauthorized disclosure of medical information are quite serious.)
- F. Interdepartmental Access to Personnel Files: For hiring purposes, a department head may inspect the file, provided that the employee is certified for such promotion or transfer. This procedure excludes the Water Agency, Fair, Open Space District, Air Pollution Control District, and Community Development Commission as they constitute separate legal entities from the County. In the course of considering disciplinary action against an employee, a department head may review documents placed in the employee's personnel file while he or she

was in another County department. Again this disclosure should be restricted to a need-to-know basis.

- G. Retention of Medical Leave Without Pay Information: This should be kept in a sealed envelope separately from other documents. (Departments may wish to keep a separate department-wide file on this issue and catastrophic leave requests.)
- H. Race/Ethnic/Employee's Sex Information: Department Payroll Clerks should verify the information on the Notice of Employment, and then discard the Employee Race/Ethnic Identification Form as this information is retained as part of the automated data processing payroll system.
- I. Part-Time Dental/Health Authorization Form: Information should be checked off on the COS/NOE, then the form may be discarded.
- J. Union (SCOPE) Address Release Form: Only employees wishing to become union members should complete this form. The forms should be sent to the Personnel Department to be forwarded to SCOPE. Effective June 23, 1992, Agency shop provisions will likely replace this provision. New employees hired on or after 6/23/92 will have information routinely provided to SCOPE.
- K. Purging of Files: We recommend that documents not be purged or removed from official personnel files. A performance evaluation should be maintained for the career of the employee. Under certain circumstances, you may want to discuss with the County Counsel's Office the concept of sealing a disciplinary action for review only by the department head or his/her designee.

The following items should not be kept in a personnel file. Rather they should be kept separately:

1. Medical information (except in very limited circumstances - consult your Deputy County Counsel);
2. Reasonable accommodation information (kept separately);
3. Grievances and resolution of grievances;
4. Project assignments and general workload items;
5. Conflict of Interest statements.
6. I-9 Immigration Forms (kept in Personnel Department)

7. Supervisory notes and informal correspondence, unless seen and signed by employee.

Please note that both Labor Code Section 1198.5 and Government Code Sections 31011 and 3306 (peace officers), as well as most labor contracts, provide that employees have a right to review and respond in writing or orally to any information about which the employee disagrees and/or is adverse to him/her, which is being placed in their personnel file.

The retention period for personnel files is 7 years. Within one year of an employee terminating County employment, the personnel file should be forwarded to Records Management for long term retention.

If you have other questions, please contact your assigned Personnel Analyst or Deputy County Counsel.



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mb:perfile

attachment: signup sheet

c: Employee organizations
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