

# ARTICLE 11

## Personnel Records

### **Section 1101 Personnel Records Maintenance**

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Such personnel records as are necessary for the proper administration of the personnel 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 personnel administration needs.

### **Section 1102 Information Open to the Public**

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The following information on each County employee, whether active or inactive status, is public information:

- A. Name.
- B. Age.
- C. Date of original employment or appointment to County service.
- D. The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the County has the written contract or a record of the oral contract in its possession.
- E. Current position and title.
- F. Current salary. For the purposes of this policy, the term “salary” includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the County.
- G. Date and amount of each increase or decrease in salary.

- H. Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification. Date and general description of the reasons for each promotion with the County.
- I. Date and type of each dismissal, suspension or demotion for disciplinary reasons taken by the County. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the County setting forth the specific acts or omissions that are the basis of the dismissal.
- J. Office to which the employee is currently assigned.

### **Section 1103 Access to Personnel Records**

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As required by G.S.153A-98, any person may have access to the information listed in Section 1102 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 Commissioners may adopt. Any person denied access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue such orders.

### **Section 1104 Confidential Information**

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All information contained in a County employee's personnel file, other than the information made public and listed in Section 1102 of this article, will be maintained as confidential in accordance with the requirement of G.S. 153A-98 and shall be open to inspection only in the following instances:

- A. The employee or the duly authorized agent may examine all portions of the personnel file, except (1) letters of reference solicited prior to employment and (2) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to a patient.
- B. A licensed physician designated in writing by the employee may examine the employee's medical record.
- C. A County employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- D. By order of a court of competent jurisdiction, any person may examine such portion of an employee's personnel file as may be ordered by the court.

- E. 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 inspection is deemed by the official having custody of such records to be inspected 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. However, the official having custody of such records may release the name, address and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
- F. An employee may sign a written release, to be placed with his personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
- G. The County Manager, with concurrence of the Board of County Commissioners, may inform any person of the employment or non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer or termination of an employee and the reasons for that personnel action. Before releasing the information, the County Manager or Board of Commissioners shall determine in writing that the release is essential to maintaining public confidence in the administration of County services or to maintaining the level and quality of County services. This written determination shall be retained in the office of the Manager or the County Clerk, is a record available for public inspection and shall become part of the employee's personnel file.
- H. Even if considered part of an employee's personnel file, the following information need not be disclosed to an employee nor to any other person:
  - 1. Testing or examination material used solely to determine individual qualifications for appointment, employment or promotion in the County's service, when disclosure would compromise the objectivity or the fairness of testing or examination process.
  - 2. Investigative reports or memoranda and other information concerning the investigation of possible criminal actions of an employee, until the investigation is completed and no criminal action taken, or until the criminal action is concluded.
  - 3. Information that might identify an undercover law enforcement officer or a law enforcement informer.
  - 4. Notes, preliminary drafts and internal communications concerning an employee. In the event such materials are used for any official personnel decision, then the employee or his duly authorized agent shall have a right to inspect such materials.

## **Section 1105 Remedies of Employees Objecting to Material in File**

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An employee who objects to material in his or her 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 grievance procedure.

## **Section 1106 Penalty for Permitting Access to Confidential File by Unauthorized Person**

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Any public official or employee who knowingly, willfully, and with malice permits any person to have access to information contained in an employee personnel file, except as expressly authorized by this policy, is guilty of a Class 3 misdemeanor and, upon conviction, shall only be fined an amount not more than five hundred dollars (\$500.00). Any person, not specifically authorized by this policy to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a Class 3 misdemeanor and upon conviction shall only be fined in the discretion of the court but not in excess of five hundred dollars (\$500.00).

## **Section 1107 Destruction of Records**

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No person 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 alters, mutilates, or destroys it, shall be guilty of a Class 3 misdemeanor and, upon conviction, only fined at the discretion of the court.