

Employee Personnel Files**3.3.4****PURPOSE**

Individual personnel files are maintained for each City employee in the Department of Human Resources. These files provide a compilation of documents pertaining to the individual's employment with the City and are used for reference and as an aid for various administrative functions. It is the policy of the City to maintain these files in a manner that protects individual privacy, maintains appropriate security, prevents misuse of information, and complies with government record-keeping requirements. Personnel files are maintained for all classified and unclassified City employees; they are not maintained for contract employees, City Council members, or members of Boards or Commissions.

AUTHORITY

Personnel files will be controlled and access to them shall be restricted and safeguarded in accordance with U. S. Privacy Act of 1974. Following is a summary of some of the key features of this Act:

- *CONDITIONS OF DISCLOSURE OF EMPLOYEE INFORMATION*

The City shall not disclose any record contained in a system of records, by any means of communication, to any person, or to another agency, except pursuant to a written request by the employee to whom the record pertains, or with that individual's prior written consent, unless disclosure of the record would be:

 - a. To those City officials who have a need for the record in the performance of their duties;
 - b. To those agencies who for business purposes request by telephone the dates of employee employment;
 - c. To a recipient who has provided the City with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;
 - d. To any governmental jurisdiction for a civil or criminal law enforcement activity if the agency specifies the particular portion desired and the law enforcement activity for which the record is sought;
 - e. To a person pursuant to a showing of compelling circumstance affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;
 - f. Pursuant to the order of a court of competent jurisdiction.
- *ACCOUNTING OF CERTAIN DISCLOSURES*

Except for those disclosures that meet the description of item "a" above, the City shall maintain an accurate accounting:

 - a. Of the date, nature, and purpose of each disclosure of a record to any person or to another agency; and,
 - b. Of the name and address of the person or agency to whom the disclosure is made;

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- c. While retaining the accounting made for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made;
 - d. Except for disclosures that meet the description of item “d” above, make the accounting available to the individual named in the record at his request; and,
 - e. By informing any person or other agency about any correction or notation of dispute made by the City in accordance with access to records procedures.
- **RECORD MODIFICATION REQUESTS**
If an employee has requested amendment of a record pertaining to his City employment, the City shall respond within ten (10) business days. The City will either amend the record or inform the individual that the City has refused to amend the record. If the City has refused to amend the record, it must then provide the reason for its refusal, and provide information about procedures that the individual may use in requesting a review of the City’s refusal to amend the record.

POLICY**1. Information contained in employee personnel files.**

Contents of employee personnel folders are limited to information relevant and necessary to accomplish business purposes of the City, and directly related to employees’ job histories. Types of documents include:

A. APPOINTMENTS AND PERFORMANCE DOCUMENTS

- Job applications
- Resumes and degrees (for initial hires)
- Medical status form
- Change of employee status form
- Performance reports
- Letter of reprimand and suspension
- Rejection from probation letters
- Notice of separation from the City
- Perusal form (documenting who has reviewed the file)

B. MISCELLANEOUS

- Certificates/Awards/Degrees (copies after initial hire)
- Suggestion Award letters
- Leave of absence authorizations
- Letters of commendation (directly related to work accomplishments)
- Outside work permits (prior to 1998)
- Military authorization documents (copies)
- Subpoenas

C. RETIREMENT (may be viewed ONLY by employee or Human Resources staff with the need to know)

- Designation of beneficiary forms

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- Joiners
- Dissolution of marriage
- Marriage certificate
- Return of retirement contributions

Generally, information that is not included in one of the above categories will not be added to an employee file.

2. Documents submitted by employees for personnel files.

Employees who wish to submit documents suitable for inclusion in personnel files, such as formal letters of appreciation, significant certificates of training achievement, copies of diplomas, degrees, or awards, or rebuttals to performance appraisals should submit the documents to Human Resources. The Department's staff will review and file the documents, if suited for inclusion, or return them if the documents are not consistent with the types of documents retained in personnel files.

3. Confidentiality of information: file security and access to files.

Personnel files are retained and secured in locked cabinets in Human Resources. They may not be removed or checked out from Human Resources.

Examination of personnel records may be done only with the approval of an authorized Human Resources staff member. While a personnel file is being reviewed by an employee, or other authorized individual, a Human Resources staff member shall be present at all times to assure the integrity of the file.

In order to ensure that no improper access occurs, an employee seeking to review his/her file may be asked to furnish identification in the form of a California Driver's license, City identification card, or other suitable form of identification. A personal appearance is necessary for review of an employee file; no information regarding the file will be furnished via the telephone.

4. Access to employee personnel files by individuals other than the employee.

Department Heads or his/her representatives (as confirmed with written authorization), criminal investigators, certain Human Resources staff members, and present or potential future supervisors, are the only persons authorized to review an individual's file without a statement signed by the employee. Any other person *must* have either a written authorization (release) signed by the employee, or a subpoena issued by a court of proper jurisdiction. Supervisors and potential future supervisors must sign a Perusal Form before looking at an employee's file. "Potential supervisors" are individuals who are capable of selecting a particular employee because they are authorized to fill a vacant position for which the employee is eligible to be hired.

Any other individual seeking to view an employee's file must first receive permission to do so from the individual employee. This permission is given in the form of written

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authorization signed by the individual employee for whom the file exists. No access is provided without this signed written authorization.

5. Restrictions on “retirement” information.

All documents stored in the “Retirement” section of each personnel file are not open for review by anyone other than that employee and Human Resources or Retirement staff members with a business need to know.

Whenever a personnel file is provided to an individual for review, the Retirement section of the file will be removed and put aside while the remaining sections of the file are delivered for review.

6. Requests for copies of personnel file documents.

An employee who requests copies of his/her performance review, job application, or other file documents will be provided up to five pages, free of charge. However, if six (6) or more copies are made, the employee will be charged 15 cents per copy (excluding the first five pages). Payment may be in the form of cash, for which a receipt will be issued or by a check payable to “City of San José.”

7. Referral and retention of personnel files after an employee’s separation.

Employee personnel files become inactive when a City employee separates from City service for any reason. When an employee *retires* from City service, that portion of their file containing “retirement” documents is extracted from the file and sent to Retirement Services for administration of retirement benefits.

Otherwise, personnel files are retained in the Human Resources office until approximately two (2) years following the employee’s separation, at which time they are transferred to the City’s Records Center for long-term storage. The adopted records retention schedule for employee files specifies that the file may be purged ten (10) years after the date of the employee’s separation.

8. Requests for salary, employment, loan information.

Written requests for employee salary information, proof of employment, and loan information related to former and active employees should be directed to Finance- Compensation Accounting which routinely provides this service. Salary and employment verification requests that are received by phone are provided by Human Resources based on the data maintained in the automated ES system and not the documents contained in employee personnel files.

9. Employees should keep their personnel information up-to-date.

Employees have a responsibility to keep their personnel records up to date and should notify Human Resources as soon as possible of a change in any of the following:

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- a. Legal name
- b. Home address
- c. Telephone number
- d. Marital status
- e. Number of dependents
- f. Changes of beneficiaries
- g. Persons to be notified in cases of emergency

Documentation of these changes will not necessarily be retained in the employee's file; however, coverage or benefits that an employee receives could be negatively affected if this information is incorrect.

PROCEDURES**Reviewing Personnel Files**

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| Employee | 1. Schedule an appointment by phone with the ES staff member responsible for administering employee files, if possible. If request is to review the file of another employee, obtain the appropriate approval such as the signed written authorization. |
| Employee | 2. At the time of the appointment, bring written authorization required for access and provide it to H.R. staff along with an acceptable form of identification. Sign the Perusal Form to document viewing another employee's file. |
| Human Resources Staff | 3. Retrieve the file requested and remove retirement documents before presenting file for review, unless the reviewer is the employee or a specified Human Resources or Retirement staff member. |
| | 4. Monitor the review to assure that documents are not removed. Provide photocopies of any requested documents or arrange for the copies to be made at a later time. |
| | 5. Upon completion of the review, update the file by adding the Perusal Form and return the file to the locked storage area. |

Approved:

/s/ Nona Tobin
Director of Human Resources

November 29, 1999
Date