

*Policy*

**PERSONNEL RECORDS**

*Code GAK Issued 12/15/21*

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**Section 1 – Maintenance of records**

*Personnel File*

- The personnel office shall maintain a personnel file for each employee.
- Each personnel file shall include all records and documents collected by the district concerning an employee. The file shall include any of the records below that are retained by the district:
  - performance evaluations,
  - commendations for and complaints against the employee,
  - written suggestions for corrections and improvements made by the administration,
  - teaching credentials,
  - health certificates,
  - transcripts,
  - pre-employment references,
  - application records and
  - all other records kept about an employee.

*Location of file*

- The personnel file will be maintained by the Human Resources Office. The district will keep health records and medical records in separate files to protect confidentiality.
- Pre-employment records such as pre-employment references or comments from interviews are confidential and access to this information is limited to the superintendent or his/her designee. Pre-employment records will be maintained by human resources.

**Section 2 – Additions to the personnel file**

No evaluation, commendation, complaint or suggestion may be placed in a personnel file unless it meets the two requirements below:

- the comment must be signed and dated by the person making the evaluation, commendation, complaint or suggestion; and
- The employee must have an opportunity to review the information or receive a copy of the performance evaluation, complaint or suggestion prior to placement in the employee's

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personnel file.

The employee will have the right to

- sign or initial the evaluation, commendation, complaint or suggestion written about him to indicate that he has inspected it and
- offer a denial or explanation of the evaluation, commendation or suggestion, and any such denial or explanation will become a part of his personnel file.

### **Section 3 – General access to a personnel file**

Access to a personnel file may be permitted to the persons listed below without the consent of the employee about whom the file is maintained:

- employee's school principal/immediate supervisor
- superintendent or his/her designee
- any school official involved in the evaluation process of the employee;
- those with a "need to know" as determined by the superintendent or his/her designee; and
- the Board, if its examination of the file relates to the duties and responsibilities of the Board regarding promotion, demotion, suspension, or dismissal of an employee.

No other person may have access to a personnel file except under the circumstances listed below:

- when the employee gives written consent to the release of his records, the written consent must specify the records to be released and to whom they are to be released with each request for consent handled separately – blanket permission for release of information shall not be accepted – **or**
- when required by law, lawfully subpoenaed or under court order.

The district keeps information, records and documents collected by the district to handle an employee's payroll account in a file separate from records noted above. The district limits access to this information to those persons involved in the payroll.

### **Section 4 – Responsibility for the personnel file**

The superintendent or his/her designee will have the overall responsibility for maintaining and preserving the confidentiality of an employee's personnel files.

- The superintendent may designate another school official to perform these duties.
- The superintendent or his/her designee is responsible for granting or denying access to records on the basis of this policy.

### **Section 5 – Employee's access to his personnel file**

Each employee shall have the right, upon request, to review the contents of his personnel file, with the exception of references and recommendations provided to the district on a confidential

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basis when a waiver has been signed by the employee.

### **Section 6 – Immigration regulations**

The Immigration Reform and Control Act of 1986 prohibits employers from hiring aliens not legally eligible to work in the United States. The district will comply with the provisions of the Immigration and Naturalization Service (INS) regulations under the act by requiring each employee to complete an INS Form I-9. The district will use the federal work authorization program E-verify for verification of work authorization submitted by an employee.

- Each employee hired must complete the form no later than three business days after his first working day.
  - If an individual is unable to provide the required document or documents to complete the Form I-9 within the three-day period, the individual must present a receipt for the application of the document or documents within three days of his employment and present the required document or documents within 21 days of his employment.
- The completed Form I-9 will be maintained in a file separate from other personnel records to prevent unauthorized review of personnel files.
- The district requires three-days notice prior to inspection of the Form I-9 by an authorized service officer.
- The Form I-9 will be retained for a period of three years after the date of hire or one year after the date of employment is terminated, whichever is later.

### **Health Insurance Portability and Accountability Act (HIPAA)**

The district qualifies as a health plan, a hybrid entity under the Health Insurance Portability and Accountability Act of 1996, and is therefore subject to HIPAA privacy laws and regulations. The district will maintain all protected health information in accordance with law. Protected health information does not include individually identifiable health information in employment records held by the district in its role as an employer.

Protected health information will only be available to designated employees who need to have access to those records in their employment capacity with the district and with other authorized entities. The district will train its employees who may have contact with protected health information on the law and the district's procedures as necessary and appropriate for the employee's position. Any employee failing to comply with the law or district procedures may be subject to disciplinary action.

Adopted 8/21/18; Revised 12/14/21

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Legal references:

- A. South Carolina Code, 1976, as amended:
  - 1. Section 30-4-10 et seq. - Freedom of Information Act, especially Sections 30-4-20 and 30-4-40

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2. Section 30-2-10 et seq. - Family Privacy Act of 2002
  3. Section 30-2-300, et seq. - Prohibits disclosure of social security number.
  4. Section 30-4-10, et seq. - S.C. Freedom of Information Act.
- B. South Carolina State Board of Education Regulations:
1. R-43-202 – Personnel records
- C. Code of Federal Regulations:
1. Final regulations issued by INS in response to passage of the Immigration Reform and Control Act of 1986 (P.L. 99603) [Federal Register, May 1, 1987]
  2. Immigration Regulations for Employers, 8 CFR Part 274a.
- D. United States Code of Laws, as amended:
1. Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936.
  2. Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C.A. Section 1101, et seq.
  3. Immigration Reform and Control Act of 1986, 8 U.S.C.A. Section 1324a.