PERSONNEL RECORDS

Number 5.4

Effective Date: September 13, 2015

Supersedes: Policy 5.4, dated March 1, 1996
Policy 5.45, dated May 22, 2007
Policy 5.5, dated March 1, 1996

Subject: PERSONNEL RECORDS

Applicable To: Any agency, board, department, commission, committee, branch, instrumentality, or authority of the Executive Branch of the State or employees thereof that produces or maintains personnel records in the course of public agency business.

Issued By: Department of Human Resources

Approved By: Justin Johnson, Secretary of Administration

PURPOSE & POLICY STATEMENT

The purpose of this policy is to establish procedures and responsibilities for the handling, maintenance and disposition of personnel records. All personnel records shall be maintained in accordance with the applicable records retention schedules and collective bargaining agreements.

DEFINITIONS

Record - any written or recorded information, regardless of physical form or characteristics, and includes electronic or digital records and data. (1 V.S.A. § 317)

Personnel Record - any record related to the employment of a particular individual. This includes records pertaining to classified, exempt, appointed, and temporary employees with the Executive Branch of the State of Vermont, or any employee whose pay or benefits are administered by the Department of Human Resources.

Employee Information - all information that pertains to and may be linked to a particular employee and that is created or maintained in a personnel records system, regardless of its source

TYPES OF PERSONNEL RECORDS SYSTEMS

Personnel records may be maintained in a variety of systems, including in electronic formats, and are rarely maintained in hardcopy "files" as in the past. Discrete systems of personnel records continue to exist, however, including but not limited to those listed below.

The Official Personnel File

An employee's official personnel file (OPF) contains basic information about an employee. It consists of categories of documents described below which are maintained by DHR and disposed of after an employee leaves State employment, in accordance with applicable retention registers and collective bargaining agreements.

The OPF consists of the following information:

1. The employee's job application for the position currently held, if any.
2. The in-processing checklist completed during employee orientation, if any.
3. Performance evaluations.
4. Disciplinary actions including any reprimands, suspensions, demotions, or dismissal, and any rebuttal provided by the employee, to be removed in accordance with the Employee Personnel Records Article of the current collective bargaining agreements.
5. Stipulated agreements between the employee and the State.
6. Any other material required by the applicable collective bargaining agreements. For example, under a collective bargaining agreement, an employee may have the option of placing any work-related commendations in his/her OPF, with the concurrence of the appointing authority.

Upon request, employees may receive a copy of all documents that are part of the OPF. Employees may also provide written authorization for a representative to act for them in requesting access to the OPF. As part of the grievance process, pursuant to current collective bargaining agreements, employees and their authorized representatives may have access to any material that the State plans to use in any grievance hearing involving the employee. If employees desire more than one copy, they may be charged for the extra copies at the going rate for photocopy per page.

Medical Files

Managers, supervisors, and/or DHR may be required to maintain records containing employee medical information for the purpose of administering leave, reasonable accommodation, fitness for duty and other work related medical programs. Employee medical information will not be kept in the OPF, but in separate file(s), which are secured as necessary to maintain confidentiality and restrict access to those with an official need-to-know in accordance with the Health Insurance Portability and Accountability Act (HIPPA.)

Supervisory Files

Supervisors may maintain informal files on individual employees for operational reasons. Items contained in these are often transitory in nature and are not part of the OPF unless merged into formal actions contained therein.

Employment History

Changes in an employee's employment status, such as change of position, classification or pay, are managed in an electronic personnel processing system. An employee may request a report which reflects all changes in employment status.

Employee Self-Service

Employees may obtain many types of employment information pertaining to them directly, online. For example, leave and benefit plans and elections, payroll deductions and withholdings, and other compensation information.

PROTECTION OF EMPLOYEE INFORMATION

Public Information. The following information pertaining to employees is public:

- Department where employed;
- Title and pay grade of position;
- Salary range for the paygrade;
- Gross salary and gross salary history;
- Employment category (such as full-,or part-time, temporary, exempt, classified); and;
- The length of employment with dates and titles of positions held.

Confidential Information.

With the exception of the public information listed above, information that pertains to and may be linked to a particular employee and that is created or maintained in a personnel records system, regardless of its source, is presumed confidential.

Examples of confidential employee information include, but are not limited to, the following. Social security number, driver's license number, marital, domestic partner, or civil union status, race, ethnicity, disability, religion, gender, gender identity, sexual orientation, date of birth, age, personal phone number and home address, personal email address, medical information, financial information, dependent information, worker's compensation records, test and other evaluation scores, employment applications, information gathered as part of background checks, records of investigation or discipline for misconduct, performance ratings, and statements made as witnesses to crime or other misconduct in the workplace.

Access to Employee Information: Employee Information may be accessed by State personnel with a need to know the information in order to conduct official State business. Additionally, Employee Information may be provided to third parties with external authority to access it for example access may be permitted by applicable rules of discovery, civil and criminal procedure, collective bargaining agreements, and the Vermont Public Records Statute, 1 V.S.A. 315, *et. al.*

Handling Confidential Information.

It is the responsibility of those who have access to Employee Information to understand the policies governing its use. Employee Information may be accessed or used only when carrying out job duties for a legitimate State business need, and should not be disclosed to others who do not have a legitimate business-related need to know. Employees responsible for collection, use, maintenance, dissemination and/or disposal of Employee Information shall take all necessary precautions to ensure that proper administrative, technical, and physical safeguards are established and followed in order to protect the confidentiality of such information and to prevent its disclosure to unauthorized individuals or entities. Failure to comply with the provisions of this policy may result in appropriate disciplinary action up to and including termination of employment.

This policy is not meant to prohibit the development of memoranda of understanding, inter-departmental agreements, and/or contractual agreements regarding the use of information resources such as Employee Information, as long as those agreements are in compliance with this policy. *New agency policies and revisions to existing policies regarding Employee Information must be approved and on file with DHR.*

An employee who becomes aware of a security breach of State-maintained Employee Information or other information resources, or suspects the potential of it being lost or misused, should notify his or her agency's Appointing Authority and DHR immediately.

Approved:

Justin Johnson
Secretary of Administration

9/11/2015
Date