



DEPARTMENT OF HUMAN RESOURCE MANAGEMENT POLICY
POLICY 6.05 PERSONNEL RECORDS DISCLOSURE

APPLICATION: All employees of state agencies, both classified and non-classified (refer to Policy 2.20, Types of Employment).

PURPOSE:

It is the policy of the Commonwealth to ensure compliance with the [Government Data Collection and Dissemination Practices Act](#) and the [Virginia Freedom of Information Act](#).

POLICY SUMMARY:

This policy sets forth guidelines for access to and release of personal information on employees which is maintained by state agencies.

AUTHORITY & INTERPRETATION:

Title 2.2 of the Code of Virginia

The Director of the Department of Human Resource Management is responsible for official interpretation of this policy, in accordance with §2.2-1201 of the Code of Virginia. The Department of Human Resource Management reserves the right to revise or eliminate this policy.

RELATED POLICIES:

Policy 6.10, Personnel Records Management

POLICY HISTORY:

EFFECTIVE DATE	DESCRIPTION
9/16/1993	Policy created.
7/1/2005	Policy revised.
12/28/2023	Policy revised.



DEPARTMENT OF HUMAN RESOURCE MANAGEMENT POLICY

POLICY 6.05 - PERSONNEL RECORDS DISCLOSURE

ADMINISTRATIVE PROCEDURES

PROCEDURES

RESPONSIBILITIES

General Provisions	Application
Agency Responsibilities	<ul style="list-style-type: none">● Agencies should review maintained information to ensure it is accurate and have a process available by which inaccurate information can be corrected.<ul style="list-style-type: none">○ Subject employees should be informed of their right to correct information in their files and the process by which it can be corrected.○ If information is changed or purged, subject employees should be notified.● Agencies are encouraged to institute a written request policy for individuals seeking personal information.● Agencies should record names of those third-party entities who have had access to personal information in employees' files over the last three years.● Agencies must take every reasonable precaution to ensure security of employees' personnel files whether electronic or physical.● Agency Heads and Human Resources are responsible for establishing written procedures for

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	<p>agency personnel to follow when responding to requests for work references. Such procedures should be communicated to all employees.</p> <ul style="list-style-type: none"> ● Agency Heads and Human Resources are responsible for notifying employees regarding appropriate handling of confidential information as well as disciplinary actions which may be taken for violations of confidentiality or this policy. ● Agency Heads and Human Resources are responsible for the consistent application of this policy within their agency.

DISCLOSURE OF INFORMATION TO THIRD PARTIES

General Provisions	Application
Disclosable Information	<p>Certain personal information must be disclosed to third parties upon request and may be disclosed without the knowledge and consent of the subject employee. This information includes:</p> <ul style="list-style-type: none"> ● employee's position title. ● employee's job classification title. ● dates of employment; and ● annual salary or rate of pay if such pay exceeds \$10,000 per year.
Non-disclosable Information	<p>Certain personal information may not be disclosed to third parties without the written consent of the subject employee. This information includes, but may not be limited to:</p> <ul style="list-style-type: none"> ● performance evaluations ● mental and medical records ● credit or payroll deduction information ● applications for employment

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	<ul style="list-style-type: none"> ● records of suspension or removal including disciplinary actions under the Standards of Conduct, Policy 1.60 ● records concerning grievances or complaints ● scholastic records ● records of criminal charges, convictions, or investigations ● material relating to Workers' Compensation claims ● material relating to Unemployment Compensation claims ● retirement records ● confidential letters of reference or recommendation ● results of pre-employment tests and ● personal information such as race, sex, age, home address, home telephone number, personal email address, marital status, dependents' names, insurance coverage, employee identification number, or social security number except in instances when required by law.
Access to Information	<p>The following individuals or agencies may have access to employee records without the consent of the subject employee. This information includes, but may not be limited to:</p> <ul style="list-style-type: none"> ● The employee's immediate supervisor and higher-level managers in the employee's supervisory chain. <ul style="list-style-type: none"> ○ NOTE: Employees appointed as a supervisor in a temporary acting capacity may need access to their employees' personnel files to perform their duties. With the approval of the Acting Supervisor's direct supervisor, access to employees' personnel files may be granted during the time they are acting if needed. ● The employee's agency head or designee and agency human resource employees, as necessary. ● Specific private entities which provide services to state agencies through contractual agreements (such as

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	health benefits, life insurance, Workers' Compensation, etc.) to provide such services.

REQUEST FOR INFORMATION - GENERAL

General Provisions	Application
Request for Information	<p>All requests for information about employees by third parties should be directed to the agency's Human Resources or Freedom of Information (FOIA) Officer. It is not necessary for these requests to be in writing.</p> <ul style="list-style-type: none"> ● Requests for information which do not make specific reference to the Virginia Freedom of Information Act should be treated under the requirements of that Act. ● Requests under the Virginia Freedom Information Act must be answered by the custodian of the record within five workdays of their receipt. The response must: <ul style="list-style-type: none"> ○ provide the requested information; or ○ if the records are exempt from disclosure under the Virginia Personnel Act, explain why the information cannot be provided, the specific Code section which exempts the records must be referenced; or ○ if portions of the records are exempt and others are not, provide the portions of the information which are not exempt and redact those portions which are exempt, referencing the appropriate section of the Virginia Code which addresses the exemptions. ● Agencies are not required to provide information when the request is not reasonably specific. Agencies should ask for clarification of such requests. ● Agencies are not required to provide information that does not already exist or to convert a record from one format to another to comply with requests.

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	<ul style="list-style-type: none"> ● Agencies are not required to interpret official records or to supply additional information which is not part of the records. ● Agencies are not required to entertain requests for future records or for continuing records. ● If agencies determine that it is impossible to provide the information requested pursuant to the Freedom of Information Act, they must notify the requestor within five workdays. ● If agencies find that they are unable to determine if the records are available within the five-workday period, they must notify the requestor within this time. The agency then has seven additional workdays to provide a response. ● Records maintained in an electronic data processing system, computer database, or any other structured collection of data shall be made available to a requester at a reasonable cost, as stipulated in the Virginia Freedom of Information Act. When electronic or other databases are combined or contain exempt and nonexempt records, the agency may provide access to the exempt records if not otherwise prohibited by law but shall provide access to the nonexempt records as provided by the Freedom of Information Act. ● Agencies shall produce nonexempt records maintained in an electronic database in any tangible medium identified by the requester, including, where the agency has the capability, the option of posting the records on a website or delivering the records through an electronic mail address provided by the requester, if that medium is used by the agency in the regular course of business. No agency shall be required to produce records from an electronic database in a format not regularly used by the agency. However, the agency shall make reasonable efforts to provide records in any format under such terms and conditions as agreed between the requester and agency, including the payment of reasonable costs. The excision of exempt fields of information from a database or the conversion of data from one available

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	<p>format to another shall not be deemed the creation, preparation, or compilation of a new public record.</p> <ul style="list-style-type: none"> ● If the wrong agency is contacted for information, the agency must, within five workdays, advise the requesting party and, if known, inform the requesting party where to obtain the information. Refer to the Virginia Freedom of Information Act for further information regarding the disclosure of records.
Employment References	<p>Employment references should be provided by the agency Human Resources.</p> <ul style="list-style-type: none"> ● Agencies are under no obligation to provide employment references on current or past employees to external prospective employers. However, Executive Branch agencies are encouraged to provide references to other Executive Branch agencies. ● If employment references are provided by the agency, the information given should be accurate, verifiable and should be limited to employment-related information. ● Before releasing employment references, written authorization from the subject employee should be received. <p>Employee information needed to affect transfer, rehire, etc., may be released to other state agencies. Please refer to Policy 6.10, Personnel Records Management.</p>

REQUEST FOR INFORMATION – COURT ORDERS

General Provisions	Application
Request for information	<ul style="list-style-type: none"> ● Agencies must comply with subpoenas ordering employee records to be turned over to the court. ● Agencies may inform subject employees of such subpoenas but are not required to do so. ● When the court requests but does not order employees' files, copies of the requests and files should be

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	forwarded immediately to the Attorney General's Office. The Attorney General's office will respond to the request.

REVIEWING PERSONNEL FILES

General Provisions	Application
Procedures	<ul style="list-style-type: none"> • Agencies are encouraged to institute a written request policy for individuals seeking personal information. • Agencies should record names of those third-party entities who have had access to personal information in employees' files over the last three years. • Agencies must take every reasonable precaution to ensure security of employees' personnel files. • Agency heads and human resource officers are responsible for establishing written procedures for agency personnel to follow when responding to requests for work references. Such procedures should be communicated to all employees. • Agency heads and human resource officers are responsible for notifying employees regarding appropriate handling of confidential information as well as disciplinary actions which may be taken for violations of confidentiality or this policy. • Agency heads and human resource officers are responsible for the consistent application of this policy within their agency or facility.
Access to Information	<p>Employees have access to information retained in their personnel files, in accordance with law.</p> <p>Two exceptions are provided below:</p> <ol style="list-style-type: none"> 1. When employees' physicians have requested in writing that employees' medical and/or mental health records remain confidential, their request shall be honored, and the subject-employees will be denied access to those records. 2. Under the provisions of the Government Data Collection and Dissemination Act (§2.2-3806), state agencies may, but are not required to make employment references and letters of recommendation available to the individual who

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	<p>is the subject of these materials. Educational agencies and institutions are exempted by §2.2-3705.4 of the Freedom of Information Act from the requirement to release these documents to the subject of the material.</p>
Review information in personnel file	<p>Agencies should review information which is maintained to ensure it is accurate and have a process available by which inaccurate information can be corrected.</p> <ul style="list-style-type: none"> • Employees should be informed of their right to correct information in their files and the process by which it can be corrected. • If information is changed or purged, employees should be notified. • Employees may not purge or adjust documents that are accurate and correct.
Reviewing personnel file	<p>Individuals seeking access to their personnel files should schedule an appointment with their agency human resource officer or their designee.</p> <ul style="list-style-type: none"> • Employees are not required to obtain their supervisors' approval prior to reviewing their official personnel file. However, they must provide adequate notice to supervisors when they wish to obtain releases from work to review their files. • Agency Human Resource officers may designate the location in which personnel files may be reviewed. • In educational institutions only, confidential letters of reference may be removed from the file before it is released for review. • A representative of the human resource office should be present during the review of personnel files. Supervisors are not required to be present while employees review their personnel files. • Employees will not be charged for reasonable time away from work to review their files. • Releases from work to review files will be granted based on agencies' needs.
Reviewing supervisor file	<p>Employees may review supervisors' files of which they are the subject.</p>

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	<ul style="list-style-type: none"> • Employees should make arrangements with their supervisors to review these files. • The supervisor or a designee should be present during the review.

COPYING RECORDS

General Provisions	Application
Copying Fees	Agencies may charge fees for providing information to requestors. These charges may not exceed the actual cost of providing the information. Charges may include the actual copying costs plus the costs for labor involved in locating and copying the information.

GLOSSARY

Data Subject	An individual about whom personal information is indexed or may be located under his/her name, personal number, or other identifiable particulars, in an information system.
Information Systems	The total components and operations of a record-keeping process, including information collected or managed by means of computer networks and the Internet, whether automated or manual, containing personal information and the name, personal number, or other identifying particulars of a data subject.
Official Records	All written or printed books, papers, letters, documents, maps and tapes, photographs, films, sound recordings, reports or other material, regardless of physical or electronic form, prepared, owned, or in the possession of a public body or any employee or officer of a public body in the transaction of public business.
Personal Information	All information that: <ol style="list-style-type: none"> 1. Describes, locates or indexes anything about an individual including his or her real or personal property holdings derived from tax returns, his or her education, financial transactions, medical history, ancestry, religion, political ideology, criminal or employment records, or that affords a basis for inferring personal characteristics, such as finger and voice prints, photographs, or things done by or to such individual; and the

record of his or her presence, registration, or membership in an organization or activity, or admission to an institution.

2. The term does not include routine information maintained for the purpose of internal office administration; nor does the term include real estate assessment information.

Third Parties

Individuals other than the subjects of the records, including other state agencies, citizens of the Commonwealth, representatives of newspapers and magazines with circulation in the Commonwealth, and representatives of radio and television stations broadcasting in or into the Commonwealth who request information from the records maintained by agencies.