



State Records Center and Archives

New Mexico Commission of Public Records

SERIES: Human Resources (SRCA 400)

NUMBER: SRCA-410

TITLE: Employment and Personnel Files

PURPOSE: To establish conditions and eligibility for the review of personnel files.

SCOPE: This policy applies to all SRCA employees.

DEFINITIONS:

“Confidential Records” means any such records as identified in State Personnel Rule NMAC 1.7.1.12 and those records not available for public inspection under the Inspection of Public Records Act.

“Employee” means a person who is in probationary, career, term, temporary, emergency or exempt status.

“Matters of Public Record” means records available to the public under the Inspection of Public Records Act.

“SRCA” means the New Mexico Commission of Public Records - State Records Center and Archives.

A. GENERAL PROVISIONS: The SRCA human resources administrator shall maintain a record of each employee’s employment history in accordance with operational necessity and applicable state and federal law requirements.

Agency employees may review their personnel file at any time during normal working hours upon request to and in the presence of the human resource administrator. Employees may request photocopies of particular items and/or documents.

B. REVIEW OF RECORDS BY AGENCIES DURING INTERVIEW PROCESS: Pursuant to 1.7.1.12 NMAC, employee-related confidential records shall be available for inspection by agencies during the process of interviewing for employment when the employee has provided a signed release. The interviewing agency must submit a signed release from the employee authorizing the human resources administrator of the SRCA to allow the agency access to the employee’s personnel file. Upon receipt of the signed release, the SRCA human resources administrator will contact the requesting agency to schedule a time when the file may be reviewed. The review shall be conducted during normal working hours of the SRCA and in the presence of the SRCA human resources administrator, the State Records Administrator or the Deputy State Records Administrator. The review may be conducted by the agency head or the agency personnel officer of the interviewing agency or their designee. The SRCA human resources administrator shall require reviewer identification and a copy of the employment list, verifying that the reviewer is the personnel officer of the interviewing agency and that the employee is an applicant with the interviewing agency. If the reviewer is the agency head or personnel officer’s designee, the designee must also present a written statement on agency letterhead authorizing the review of the SRCA employee’s personnel file. All requests to access file information shall be kept confidential, with

exception to the employee, who will be notified of any requests made to review their file under this provision. No material in the employee's file may be copied or removed from the file.

C. CONTENT OF PERSONNEL FILE: No materials shall be placed in an employee's personnel file without providing the employee with a copy. Employees may submit written rebuttal to any material placed in their personnel file.

D. INSPECTION OF PUBLIC RECORDS: Employment records, except confidential records, are subjected to inspection by the general public. Such inspections shall take place under visual observation of the human resources administrator, the State Records Administrator or the Deputy.

E. CONFIDENTIAL RECORDS: Under the Inspection of Public Records Act, any person who submits a request may be given the opportunity to inspect and obtain copies of those documents in employee files which are authorized to be inspected. Such inspection shall take place under visual observation of the human resource administrator or designee. At no time will documents be allowed to be removed from the personnel file during the inspection. Agency employees will perform the photocopying.

Confidential records may also be inspected with the written permission of the employee or pursuant to a lawful court order. Confidential materials shall be regarded as those identified in 1.7.1.12 NMAC.

Employees with access to personnel files shall not disclose personnel or medical information to individuals who do not have a right to know. Likewise, employees who inadvertently come upon such medical data (e.g. by opening a misrouted letter) may not divulge such data. Violation of this provision is grounds for disciplinary action.

F. MEDICAL RECORDS: Employees authorized to be informed of or inspect employee or employee family member medical data may not divulge or release such data to unauthorized persons inside or outside SRCA. Employees who inadvertently come upon such medical data (e.g. by opening a misrouted letter) may not divulge such data to other persons. Violation of this provision is grounds for disciplinary action.

Medical information shall be forwarded to the human resources administrator to be maintained in locked files separate from any other information.

The use of medical information to discriminate in any manner against an employee is grounds for disciplinary action up to and including termination.

G. INTER-AGENCY TRANSFER, RETIREMENT AND TERMINATION: Upon inter-agency transfer, a copy of the personnel file will be retained by the SRCA on inactive status and retained in accordance with the Records and Disposition Schedule for general personnel records, Paragraph (1) of Subsection D of 1.15.6.101 NMAC. The Human Resource Administrator shall transfer the original records of an employee's employment history to the receiving agency within 15 working days of the effective date of transfer.

H. TRANSFER OF RECORDS TO STATE PERSONNEL OFFICE: When an employee leaves state government employment (e.g., retirement, death, termination), the original employee files shall be transferred to the state personnel office in accordance with the Records and Disposition Schedule for general personnel records and SPO procedures.

I. SUPERVISOR FILES: Supervisors may retain their own working files as they relate to the daily performance of an employee, for purposes of documenting oral reprimands, or other matters that may

affect the employee's status. Such documentation may be utilized as justification for action affecting the employee's status, as well as to serve as background data for an accurate performance evaluation. When such documentation is utilized in taking an action, copies must be furnished to the human resources administrator for incorporation in the employee's permanent personnel file. Working (non-record) files shall be properly destroyed at the time of the employee's retirement, resignation, transfer or termination.

[2.3.20.019, 12/27/97; renumbered 3/15/02; renumbered and amended 03/7/2014]

APPROVED:



John Hyrum Martinez
State Records Administrator

EFFECTIVE DATE:

March 7, 2014