

# Personnel Records Management Policy

Regulation Number: 44

Adopted: TBD

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## I. Purpose:

The purpose of this policy is to ensure Guilford County's compliance with G.S. §153A-98 for maintaining the privacy of employee personnel records except for the information deemed public by the General Statutes.

## II. Policy:

### **Public Records Requests for Information Contained in a Personnel Record**

All public records request for information contained in an employee personnel file will be directed to Guilford County's web portal:

<https://guilfordcountync.nextrequest.com>

### **Maintenance of Personnel Records**

The Human Resources Department is responsible for the orderly and efficient maintenance of all employee personnel records in physical or digital format. Medical information collected during employment will be filed separately and maintained in accordance with this policy. The Human Resources Department will maintain a listing of items generally filed in a personnel record distinguishing those items that may be maintained at the supervisor/department level (insert hyperlink).

### **Access to Employee Records**

Personnel records of employees, former employees, or applicants for employment maintained by the County are subject to inspection and may be disclosed only as provided by this policy, in accordance with G.S. §153A-98. If any portion of this policy conflicts with state or federal rules, regulations or laws relating to personnel records, those rules, regulations, and laws will take precedence.

For purposes of this policy, an employee's personnel file consists of any information, in any form (both written and electronic), gathered by the County with respect to that employee, any document submitted for employment including application, selection and non-selection documents, performance, promotions, demotions, transfers, suspension and other disciplinary actions, evaluation forms, leave, salary, and termination of employment. All background check information kept as part of an employment hiring record, or used to make an employment decision, should be kept with the employee's personnel file in the Human Resources Department. The County will ensure that all information obtained from the reference and background check

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process will only be used as a part of the employment process and kept strictly confidential according to the Fair Credit Reporting Act.

As used in this policy, "employee" includes former employees of the County.

The following information with respect to each county employee is a matter of public record:

- Name
- Age
- Date of original employment or appointment to County service
- Terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the County has the written contract or a record of the oral contract in its possession
- Current position
- Job title
- Current salary
- Date and amount of each increase or decrease in salary with the County
- Date and type of each promotion, demotion, transfer, suspension, separation or other change in position classification with the County
- Date and general description of the reason(s) for each promotion with the County
- Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the County. If the disciplinary action was a dismissal, a copy of the written notice of the County's final decision setting forth the specific acts or omissions that are the basis of the dismissal
- The department and unit to which the employee is currently assigned

## Confidential Information

All information contained in the County employee's personnel file, other than the information listed as public records above, is confidential and shall be open to inspection only in the following instances:

- a) When the employee or their duly authorized<sup>1</sup> agent wishes to inspect the employee's personnel file;
- b) Inspection by another employee having supervisor authority over the employee; or as directed by court order;

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<sup>1</sup> A duly authorized agent is an individual named as such in writing and signed by the employee granting access.

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- c) When upon order of a court of competent jurisdiction, any person is permitted to examine such portion of an employee's personnel file as may be ordered by the court;
- d) Upon request by an official agency of the State or Federal government, or any political subdivision of the State, records may be released if inspection is determined to be necessary and essential to the pursuance of a proper function of the inspecting agency, except that no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of such records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation;
- e) An employee may sign a written release, to be placed with their personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release; or
- f) The County Manager, with concurrence of the Board of County Commissioners, may inform any person of the employment, nonemployment, promotion, demotion, suspension, or other disciplinary action, reinstatement, transfer, or termination of a county employee and the reasons for that personnel action. Before releasing the information, the manager or board shall determine in writing that the release is essential to maintaining the public confidence in the administration of county services or to maintaining the level and quality of county services.

Even if considered part of an employee's personnel file, the following information shall not be disclosed to an employee nor to any other person:

- Letters of reference and background check(s) solicited prior to employment. Completed reference and background check forms should be emailed to Human Resources and will become a part of the selected candidate's personnel file.
- Information concerning a medical disability, mental or physical, that a prudent physician would not divulge to the patient. Investigative reports or memoranda and other information concerning the investigation of possible criminal actions of an employee, until the investigation is complete, and no criminal action taken, or until the criminal action is concluded.

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- Testing or examination materials used solely to determine individual qualifications for appointment, employment, or promotion in the County's service, when disclosure would compromise the objectivity or the fairness of the testing or examination process.
- Information that might identify an undercover law enforcement officer or a law enforcement informer.
- Notes, preliminary drafts, and internal communications concerning an employee. In the event such materials are used for any official personnel decision, then the employee or duly authorized agent shall have a right to inspect such materials.

System-related documentation in the Human Resources Information System (HRIS), Applicant Tracking System (ATS), Learning Management System (LMS), Performance Management and other modules is considered confidential.

## **Procedure for Employees Requesting Examination of their Personnel File**

County employees desiring to examine their personnel file may do so by contacting the Human Resources Department to schedule an appointment to review the file. In order to ensure the security and confidentiality of the records, the employee or the employee's delegate must show proof of identity and a human resources representative will be present while the employee reviews the file. Requests for copies of documents from the personnel file can be made in writing to the Human Resources Department. The Human Resources Department will be responsible for making the copies of the requested documents and the cost may be assessed to the employee requesting the copies. Copies of personnel files requested under 11 NCAC 23A.0607 will not be assessed costs. Human Resources will not email copies of an employee's or former employee's personnel record unencrypted.

## **Penalty for Permitting Access by Unauthorized Persons**

Any public officer or employee who knowingly, willfully, and maliciously permits any person to have access to any information contained in an employee's personnel file, except as is permitted by that statute, is guilty of a Class 3 misdemeanor and upon conviction shall be fined in an amount not to exceed five hundred dollars (\$500.00) and subject to the County's disciplinary measures.

## **Penalty for Examining or Copying Confidential Material**

Any person not specifically authorized to have access to an employee's personnel file

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designated as confidential, who shall knowingly and willfully examine it in its official filing place, remove, or copy any portion of a confidential personnel employee file shall be guilty of a Class 3 misdemeanor and upon conviction shall be fined in the discretion of the court, but not in excess of five hundred dollars (\$500.00) and subject to the County's disciplinary measures.

## **Records Retention Requirements**

Personnel records must be retained in accordance with the Records Retention and Disposition Schedules as issued by the North Carolina Department of Natural and Cultural Resources. During active employment, some of these records may be held by the Supervisor of Record consistent with Human Resources guidance. Other records must be explicitly transferred to the Human Resources Department. When an employee leaves the job or the County, the employee's Supervisor of Record must transmit the employee's locally held personnel file for any records in whatever form to the Human Resources Department.

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with State law, without the consent of the North Carolina Department of Natural and Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or alters, defaces, mutilates, or destroys it will be guilty of a misdemeanor and upon conviction will be fined not less than ten dollars (\$10.00) and not more than five hundred dollars (\$500.00) and subject to disciplinary measures outlined in Guilford County Personnel Regulation Number 28.

## **Records and Retention of Hiring Decisions**

The Equal Employment Opportunity Commission requires state and local governments to preserve all records related to hiring decisions including all application and interview forms, regardless of whether the applicant was hired, and other records related to hiring.

*See Summary of Selected Recordkeeping Obligations in 29 CFR Part 1602 at: [https://www.eeoc.gov/employers/recordkeeping\\_obligations.cfm](https://www.eeoc.gov/employers/recordkeeping_obligations.cfm)*

Human Resources is required to maintain all documentation on each hiring event for a minimum of two (2) years from the date the offer letter is sent. If a grievance has been filed on the vacancy, documentation must be maintained for one (1) year after resolution of the charge. These files shall be maintained within the Human Resources Department.

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Documentation maintained within Human Resources should include at a minimum:

- Completed interview questionnaires for those interviewed and all notes taken during the process
- Assessments for those interviewed (if applicable)
- Rating methodology (if applicable)
- Testing or examination material used solely to determine individual qualifications for appointment, employment, or promotion in the County's service.

The below documentation shall be housed in the Human Resources Department:

- Reference check forms
- Final offer letter signed by the employee
- Background check information (if applicable): Background check information kept as a part of an employment record, or used to make an employment decision, is confidential and shall only be kept separate from the employee's personnel file.

Once all applicable recordkeeping requirements have been satisfied, the records may be securely disposed. This can include pulverizing, burning, or shredding paper documents and disposing of electronic information so that it cannot be read or reconstructed.

## **Information Technology Records Request**

As part of an internal investigation or disciplinary procedure, the following records may be requested for an employee by a Department Director with the prior approval from the Human Resources Department or by the Human Resources Department:

- Employee email
- Files from local hard drives
- Files from personal network repositories
- Internet usage and activity reports
- Video and access control records

### **III. Definitions:**

Employee Personnel File (Official Copy)- A file that is maintained in the Human

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Resources Department or that is a part of the Human Resources Information Systems and contains information relating to the employment record of any applicant to, employee of, former employee, or retiree of Guilford County.

Medical Record- A file that is maintained in the Human Resources or Risk Management Department that contains medical records or medically related information that concerns an employee's disability, illness, and fitness to perform their duties and responsibilities.

Personnel Records (Supervisor Copy) - A record maintained by a department or the supervisor or director that may include such items as a copy of required credentials/licenses, job performance or coaching documents, and job descriptions.

#### IV. **Applicability:**

This policy applies to all Guilford County employees and departments.

#### V. **Policy Responsibility and Management:**

- Human Resources is responsible for the development and implementation of the Personnel Records Policy. Additionally, Supervisors and Human Resources Representatives at the department level are responsible for ensuring adherence to the policy as well as the County's Records Retention Policies.
- The Human Resources Department communicates this policy through e-mail messages, the County's intranet website, course offerings including classroom training, and webinars via the County's Learning Management System.
- The Human Resources Department shall consult with the County Attorney regarding any disputes related to the administration of this policy or for any guidance related to the interpretation of G.S. §153A-98.
- In consultation with the County Attorney's Office, the County Manger may make the necessary technical edits to this policy based on changes to G.S. §153A-98, court decisions or minor changes affecting the administration of this policy.