

KANSAS DEPARTMENT OF CORRECTIONS

	INTERNAL MANAGEMENT POLICY AND PROCEDURE	SECTION NUMBER 02-119D	PAGE NUMBER 1 of 7
	SUBJECT: HUMAN RESOURCES: Personnel Records		
Approved By:  Secretary of Corrections		Original Date Issued: 06-30-15	
		Replaces Version Issued: N/A	
		CURRENT VERSION EFFECTIVE: 06-30-15	

APPLICABILITY:	<input type="checkbox"/> ADULT Operations Only	<input type="checkbox"/> JUVENILE Operations Only	<input checked="" type="checkbox"/> DEPARTMENT-WIDE
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POLICY STATEMENT

Personnel records shall be maintained for each employee of the Department and shall be accurate, current, complete, and confidential as provided by statute(s) or regulation(s). (ACO 2-1C-23; ACI 3-4065; APPFS 3-3066) Each employee shall have reasonable access to his or her personnel records. Any employee may challenge information in his or her personnel file and have it corrected or removed if the information is proved inaccurate or inappropriate. (ACI 3-4066; APPFS 3-3067)

DEFINITIONS

Appointing Authority: The person designated pursuant to IMPP 02-109 for each respective division or facility of the department.

Formal Disciplinary Action: Disciplinary action taken by an appointing authority that results in an employee being suspended, demoted or dismissed under the provisions of K.S.A. 75-2946 or K.S.A. 75-2949.

Inappropriate Material: That which is a violation of personal privacy or unrelated to employment.

Informal Disciplinary Action: Letters of reprimand, letters of counseling, or other less severe forms of disciplinary action intended to serve as a warning step in the progressive discipline procedures.

Official Record: A current and accurate record of the employee's work history, including all- important information relating to it, as described in K.A.R. 1-13-1a.

Supervision records: A file, kept by an employee's immediate supervisor, containing documents pertaining to the supervision and performance review of the employee during the current performance review period.

PROCEDURES

I. Personnel Record Responsibility

- A. Official personnel records for facilities and Kansas Correctional Industries shall be maintained by the facilities' human resources managers.
- B. The official personnel records of Central Office, Parole Services and Reentry Services employees shall be maintained by the agency Central Office.

1. Parole Services and Central Office employees reporting to a facility appointing authority shall have their personnel records maintained at their assigned facility human resources department.

II. Personnel Record Content and Maintenance

- A. Official personnel records shall contain the following information:
 1. The employee's name, age, and/or date of birth, address, and emergency notification material if provided by the employee.
 - a. The Secretary of State's Office has created a "Safe at Home" program that:
 - (1) Creates a substitute address for victims of domestic violence, sexual abuse, stalking, and trafficking that can be used on all public records instead of the victim's actual residential address; and,
 - (2) A mail forwarding system at no costs to the victim.
 - b. Employees who are enrolled in this program shall provide their program participant card to their Human Resources Director/Human Resources Manager.
 - c. The Human Resources Director/Human Resources Manager shall make a copy of both the front and back of the employee's participant card for placement the employee's personnel file.
 - d. The Human Resources Director/Human Resources Manager shall develop and maintain a system for identifying employees who are participants in the "Safe at Home" program and maintaining the confidentiality of the participant's actual home address."
 2. Employment application(s) and supporting application information submitted by the employee for all positions held.
 3. Copies of all documents related to the employee's appointment, date of employment, transfers, promotions, demotions, separations, salary status, salary changes, leaves of absence, or other changes in employment status.
 4. Copies of all performance reviews. The individual employee file shall not contain any initial review changed as a result of a formal performance review appeal or any material related to an appeal except final reviews signed by appeal committee members.
 5. Letters of commendation, documentation of outstanding performance, letters of reprimand, rebuttal letters to reprimand letters, and records of formal disciplinary action, including letters of proposed disciplinary action if the action is final.
 - a. All documentation of informal and formal disciplinary action for sexual abuse or sexual harassment of an offender shall be maintained in the employee's personnel file.
 6. Other information determined by the Human Resources Director/Human Resources Manager to be necessary and relevant to provide personnel service to the employee, including records on leave balances, retirement, health insurance, life insurance, and deferred compensation.
- B. Official personnel records shall not include unsupported allegations, information that is not relevant to an employee's work history, or records of any informal disciplinary actions, other than that noted above in Section II.A.6.a., letters of reprimand and rebuttals to letters of reprimand. Except for routine time and leave/payroll, and benefits documents, only those documents which

the employee has both seen, as evidenced by his or her signature, and has had an opportunity to respond to shall be maintained within the employee's official personnel file.

- C. Upon an employee's transfer to or employment by another facility or office of the Department of Corrections or agency of the State of Kansas, excluding regents institutions, the facility/office previously employing the individual shall forward the employee's personnel and training file to the employee's new work location.
 - 1. Records related to medical matters shall be transferred to the other KDOC facility or office, but shall not be transferred to a non-KDOC agency and instead shall be retained by the facility/office in compliance with Section II.D. of this policy.
- D. Except as discussed in Section II.C., all official personnel records shall be retained under the supervision of the Department for the length of the employee's tenure plus five (5) years either in original or microfilm form, in accordance with the State Records Board's retention schedule.
 - 1. Records retained do not include Payroll Deduction Authorization records or documents superseded periodically.
 - 2. Records shall be retained and disposed of per the State's general schedule.

III. Training and Supervision Records

- A. Original training records shall be kept separately from each employee's personnel record and maintained in the form and manner prescribed in IMPP 03-110D.
 - 1. Copies of training certificates attesting to successful completion of basic corrections officer training, parole officer training, basic supervisory training, as appropriate, and documentation to indicate satisfactory completion of probationary status shall be maintained in the training file.

IV. Supervision Records

- A. Supervision records shall be kept separately from each employee's personnel record, and shall only be incorporated with the personnel record upon the employee's resignation or other separation from the Department, and then only in the manner specified within appropriate provisions of IMPP 02-107D. Only those documents which the employee has both seen, as evidenced by his or her signature, and has had an opportunity to respond to shall be maintained within a supervision file.
 - 1. Only information that is relevant to the employee's current performance review period may be maintained in supervision records. Unless otherwise approved by the Human Resources Director, the Chief Legal Counsel, or the Secretary of Corrections, all contents of a supervision record referenced in a performance review shall be destroyed as soon as the official performance rating is entered into the State's computerized Personnel and Payroll system.
 - a. Documentation related to established patterns of behavior such as ongoing absenteeism or tardiness, may be maintained indefinitely for reference.
 - 2. Under no circumstances shall a supervision file contain any information related to an employee's medical or emotional condition, including, but not limited to FMLA information, health care provider certifications of any kind, and/or health care provider releases. Such material shall be handled in compliance with Section V. of this IMPP.

V. Medical Records

- A. Information obtained regarding the medical condition or history of employees and results of any drug and/or alcohol testing shall be collected and maintained on separate forms and in separate

locked files within the human resources office. Such files shall be treated as confidential records with restricted access. (ACI 3-4065; APPFS 3-3066)

1. Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations.
 2. First aid and safety personnel may be informed of a disability that might require emergency treatment or which would require the employee be provided assistance to evacuate the premises in case of emergency.
 3. Officials investigating Worker's Compensation claims, compliance with Equal Employment Opportunity laws, or compliance with the Americans with Disabilities Act shall be provided relevant medical information on request.
 4. Records related to drug or alcohol testing are **not** subject to the Open Record Act and shall be disclosed only to those individuals designated by the Department of Administration to have access to the records.
 5. Medical, psychological, and drug or alcohol test results may be disclosed publicly in Civil Service Board Hearings regarding action taken against an employee in compliance with IMPP 02-110D or IMPP 02-127, or as a result of disciplinary actions taken in compliance with other established rules, policies, and/or laws.
- B. Each facility shall maintain the medical records of its employees and of those employees of Kansas Correctional Industries located at the facility.
- C. Medical records for employees in Central Office and Parole Services shall be maintained in the Central Office Human Resources Division. (APPFS 3-3066)

VI. Personnel/Medical Record Access

- A. Each employee shall have reasonable access to his or her personnel/medical records, including supervisor's files containing information that has been or may be used in reviewing the employee's performance or in any disciplinary action against the employee.
1. An employee may not remove his or her files from the custody of the designated human resources manager or representative, or supervisor.
 2. A reasonable fee may be charged by the agency for making copies of materials in the file for the employee. Revenue collected from such charges shall be deposited in the facility's General Fee Fund, if applicable, or the State General Fund.
- B. The following individuals, in carrying out their official duties and after establishing a need for information, may have access to appropriate employee personnel records:
1. From within the Department of Corrections:
 - a. The employee's immediate supervisor;
 - b. The appointing authority;
 - c. The Secretary of Corrections or designee;
 - d. Director, KDOC Human Resource Division or designee; and,
 - e. The Chief Legal Counsel or designee;
 - f. Director of Enforcement, Apprehension, and Investigation, or designee.

2. From outside the Department (Agency head or designee only):
 - a. Kansas Department of Administration;
 - b. Kansas Attorney General's Office (includes KBI);
 - c. Federal Equal Employment Opportunity Commission;
 - d. Kansas Human Rights Commission;
 - e. Kansas Civil Service Board;
 - f. Legislative Post Audit; and/or,
 - g. Child Support Enforcement Specialists of the Kansas Department for Children and Families.
- C. An individual or firm designated by the employee, when authorized in writing by the employee may review the employee's official personnel records upon request to the appointing authority.
 1. Such a review shall be made consistent with the conditions established by the appointing authority and at a time and place mutually convenient to the parties.
 2. A copy of the employee's written authorization shall be placed in the employee's personnel file.
- D. The head of any State agency or a designee, having proper interest and an established need to review an employee's personnel records, may review such records upon request to and approval of the appointing authority.
- E. The official personnel records of any specifically named employee shall be made available for inspection in connection with litigation pursuant to the terms of an order entered by a judge of any federal, State, or municipal court properly having jurisdiction over such litigation.
- F. Unauthorized individuals shall not be allowed access to employee personnel records or information contained in such records.

VII. Public Disclosure

- A. All requests for information concerning a current or former employee, whether related to prospective employment or access to public information, shall be referred to the human resources office for response.
- B. The following information shall be deemed public information and shall be disclosed by the human resources manager to interested individuals upon written request:
 1. Name of employee;
 2. Name of employing State agency;
 3. Current title and job position description;
 4. Current or prior rates of pay;
 5. Length of employment with the State;
 6. Length of employment with the Department, office, or facility; and,
 7. Length of time the employee has served in his or her current position.

- C. In addition to the information listed above in V.B., the following information may be disclosed by the Human Resources Manager to prospective employers without requiring a release of information form signed by the employee:
1. Any letters of commendation.
- D. The human resources manager who responds in writing to a written request concerning a current or former employee from a prospective employer of that employee may disclose the following information:
1. Written employee evaluations which were conducted prior to the employee's separation from the employer and to which an employee shall be given a copy upon request; and,
 2. Whether the employee was voluntarily or involuntarily released from service and the reasons for the separation.
 - a. K.S.A. 44-117 provides that any employer of labor in this State, after having discharged any person from his service, shall not prevent or attempt to prevent by word, sign or writing of any kind whatsoever any such discharged employee from obtaining employment from any other person, company or corporation, except by furnishing in writing, on request, the cause of such discharge.
- E. The human resources manager shall allow access to information contained in official personnel records to the following agencies, when such agency has established a need for the information in carrying forth its official duties:
1. The Kansas Department of Administration;
 2. The Kansas Attorney General's Office, including the Kansas Bureau of Investigation.
 3. The Federal Equal Employment Opportunity Commission and Kansas Human Right Commission;
 4. The Kansas Civil Service Board;
 5. Legislative Post Audit;
 6. The state agency employing the employee; and,
 7. Child Support Enforcement specialists of the Kansas Department for Children and Families.
- F. All other information shall be held confidential and released only by written authorization of the employee.

VIII. Challenging File Content (ACI 3-4066; APPFS 3-3067)

- A. An employee may challenge the inclusion of a document or documents in his or her file and have the document(s) amended or removed if such material is proven to be inaccurate, inappropriate, or a violation of personal privacy unrelated to employment.
1. Only information in an employee's personnel file, or otherwise provided to the employee, may be used in completing his or her formal performance review or evaluating promotional opportunities.
 2. An employee may challenge the inclusion of a document or documents by writing to the appointing authority and requesting that a document or documents be removed from his or her personnel file.

- a. If an employee has a written reprimand placed in his or her personnel file, but does not receive another disciplinary action within one (1) year, the employee may, upon written request, petition for the removal of the document from the personnel file, unless the disciplinary action is for sexual abuse or sexual harassment of an offender.
 - b. All documentation of informal and formal disciplinary action for sexual abuse or sexual harassment of an offender shall be maintained in the employee's personnel file.
3. An employee's challenge of the inclusion of a document or documents in his or her personnel record, if not resolved informally, shall be subject to the Department's grievance procedure, per IMPP 02-115D.
 4. Following a grievance hearing that finds in favor of the employee the agency shall remove any copy of the document(s) in question from any and all personnel files.

NOTE: The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

REPORTS REQUIRED

None.

REFERENCES

42 U.S.C. § 15601, *et seq.*
28 C.F.R. §§ 115.76, 115.17, 115.376 and 115.317
K.S.A. 44-119a(c), 44-117, 45-221, 75-2946, 75-2949, 75-4362, 75-4363
K.A.R. 1-2-9, 1-2-30, 1-6-32, 1-9-19, 1-13-1a
IMPP 02-107D, 02-109D, 02-110D, 02-115D, 02-120, 02-127, 03-110D, 10-103D
ACO 2-1C-23
ACI 3-4065, 3-4066
APPF 3-3066, 3-3067
JTS 3-JTS-1C-21, 3-JTS-1C-22

ATTACHMENTS

None.