

Policies and Procedures

Title: Personnel Records - **DRAFT**

Purpose: The Department of Human Resources is responsible for the personnel records of SPA and EPA Non-Faculty employees and for advising departments on the State laws and University policies concerning the privacy of personnel records. This policy provides guidance to employees about their privileges and obligations with respect to their own personnel records, and guides UNC Asheville personnel responsible for producing and maintaining personnel records in the appropriate handling of those records.

Scope: These provisions apply to SPA, EPA Non-Faculty and Temporary employees and applicants for employment to positions in these classifications.

Definitions: **Personnel File** - For the purposes of this policy, a personnel file consists of any employment-related or personal information gathered by the agency or the University, the Retirement Systems Division of the Department of State Treasurer, the Office of State Personnel.

Employment-related information includes information related to an individual's:

- individual's application,
- selection,
- promotions, demotions, transfers,
- salary,
- leave,
- contract for employment,
- benefits
- performance evaluation forms, and
- suspension, disciplinary actions and termination.

Personal information includes an individual's:

- home address,
- social security number,
- medical history,
- personal financial data,
- marital status, dependents and
- beneficiaries.

Policy: Human Resources maintains the official personnel record for each current SPA, EPA Non-Faculty, and Temporary employee. Departmental files should only contain the departmental copy of the employee's job description, performance management documents and leave documents. All personnel files should be maintained in a secure area.

Proper handling of employee personnel records by The University of North Carolina at Asheville as a public institution requires coordination of the interests of the employees, UNC Asheville as the employer, and the general public. State law in North Carolina places certain requirements on handling state employee personnel records and establishes penalties for their violation. No access to or disclosure from employee personnel records is permitted except in accordance with these requirements. Human Resources reviews requests for access to, or disclosure of, a personnel record and releases this information as provided in State law.

I. Contents of Personnel Records

Personnel Records for the University contain both confidential information and records that are considered public information (or records open to inspection).

A. Public Information / Records Open for Inspection

The law requires the university to allow the public to have access to the following information from UNC Asheville's personnel records:

1. Name,
2. Age,
3. Date of original employment or appointment,
4. Contracts (terms, whether written or oral, past and current, to the extent that the university has the written contract or a record of the oral contract in its possession),
5. Current position title,
6. Current salary (pay, benefits, incentives, bonuses and deferred and all other forms of compensation paid by the employing agency);
7. Date and amount of most recent change in salary
8. Date of most recent promotion, demotion, transfer, suspension, separation, or other change in position classification, and
9. Agency/university and location to which employee is currently assigned.

B. Confidential Information

All employment-related and personal information in an employee's personnel file not specified under "Records Open for Inspection" is confidential.

The University maintains in personnel records only information that is relevant to accomplishing personnel administration purposes. Information obtained regarding the medical condition or history of an applicant that is collected by the agency must be maintained in a separate file in compliance with the Americans with Disabilities Act (42 U.S.C. 12112)

Advisory Note: Some information may be kept in an employee's personnel file which an employee believes is confidential but which does not fall into any of the above categories (e.g., information about an employee's benefits.) If a public records request is made for any information that is kept in an employee's personnel file, and the information is not open for inspection under G.S. 126-23, the University should get both the consent of the employee and the advice of counsel before releasing such information.

All requests for access to personnel information from any person or agency except the subject employee or the employee's supervisors (see section V below) should be referred to the Human Resources Department.

II. Disclosure of Personnel Records

The information listed above shall be made available for inspection and examination and copies thereof made by any persons during regular business hours, subject to the following provisions:

- A. All disclosures of records shall be accounted for by keeping a written record of the following information:
 1. Name of employee
 2. Information disclosed

3. Date information was requested
4. Name and address of the person to whom the disclosure is made (if the person requesting the information is willing to provide such information)

The information must be retained for a period of two years. This does not apply to the processing of personnel records or routine credit reference.

- B. Upon request, the record of disclosure shall be made available to the employee to whom it pertains.
- C. An individual examining a personnel record may copy the information; any available photocopying facilities may be provided and the cost may be assessed to the individual.
- D. Any person denied access to any records shall have a right to compel compliance with these provisions by application to a court for a writ of mandamus or other appropriate relief.

III. Location of Personnel Records

- A. Employees - Personnel records for SPA and EPA Non-Faculty employees are retained in the Human Resources Department.
- B. Applicants – Personnel records on all unsuccessful applicants for SPA and EPA Non-Faculty positions are retained in the Human Resources Department

IV. Retention Schedule

Records are maintained in accordance with the *University General Records Retention and Disposition Schedule*, available on the North Carolina Office of Archives and History web site:

http://www.ah.dcr.state.nc.us/records/schedules/unc_system_general_schedule.pdf

V. Employee Inspection of His/Her Personnel File

An employee, former employee or applicant who wishes to inspect his/her file should make a written request to the Director of Human Resources. The Director of Human Resources will arrange for a human resources representative to schedule a time for the individual to inspect his/her personnel file per legal guidelines.

VI. Maintaining Confidentiality and Permitting Access

Employees responsible for maintaining personnel records and files of UNC Asheville employees should permit access to those records **only** in accordance with the requirements in this section unless they receive special instructions from their supervisor.

Each individual requesting access to confidential information will be required to submit satisfactory proof of identity.

A record shall be made of each disclosure (except disclosures to the employee and his or her supervisor) and the record shall be placed in the employee's file.

Access should be permitted to:

- A. The department head of the employee who is the subject of the records, or persons in that supervisory chain, or persons authorized by those supervisors to carry out personnel administration functions, may allow their personnel file to be examined

by any person or corporation when such department head determines that inspection is essential to maintaining the integrity of the department or maintaining the level or quality of services provided by the department, but only for purposes of official University business.

In these circumstances, the department head may, in his or her discretion, inform any person or corporation of any promotion, demotion, suspension, reinstatement, transfer, separation, dismissal, employment or non-employment of such applicant, employee, or former employee or other confidential matters contained in the personnel file.

- B. The employee (or his/her authorized agent), applicant for employment, or former employee who is the subject of a personnel record who may have access to the personnel record in its entirety, **except for** confidential letters of recommendation solicited prior to employment and certain medical records.
 - 1. Confidential letters of recommendation include notes from telephone reference checks and statements from UNC Asheville and other individuals solicited prior to the initial date of employment. Once a new employee begins at UNC Asheville, all copies of such confidential letters of recommendation should be forwarded to the Human Resources Department.
 - 2. Medical records containing information concerning a medical disability, mental or physical, that a prudent physician would not reveal to a patient. When medical information is obtained on any employee, the physician should indicate any information that should not be disclosed to the employee. The medical record may be released to a licensed physician designated in writing by the employee.

Because medical records require special confidentiality requirements, all copies of such documents should be forwarded to the Benefits Office in the Department of Human Resources.

Employees responsible for maintaining personnel files are expected to review the personnel file for the presence of confidential recommendations and medical records before permitting any employee access to his or her personnel file.

VII. Relevance

Information and documents not relevant to personnel administration should not be retained in the personnel file.

VIII. Remedies for Employee Objections to Material in the Personnel File

Any present or former employee is legally entitled to take either or both of the following actions if he or she considers the material in the personnel file to be inaccurate or misleading:

- A. Place in the file a statement relating to the material considered inaccurate or misleading
- B. Seek removal of material in the file in accordance with grievance procedure applicable to the employee's category of employment

IX. Notice to Employee of Disclosure of Confidential Information to Outside Agencies

The University will notify the employee as promptly as possible when it makes a disclosure of confidential information required or permitted by law, as in response to a subpoena, court order, or to a properly authorized government official. The University official making such disclosure is responsible for notifying the employee in writing, with a copy of the notice to the personnel file. No such notice will be given when the only information requested is information available to the general public.

X. Access to Information Used For Personnel Actions

Information used in making a determination about employment or other personnel actions should, to the extent practical, be obtained directly from the individual. There may be instances where it is necessary to obtain information from other sources. This may be obtained either directly from those sources or by the use of a consumer reporting agency.

If a consumer reporting agency is utilized, the requirements of the Fair Credit Reporting Act, Title VI of The Consumer Credit Protection Act (Public Law 91-508) must be followed.

- A. When a consumer reporting agency furnishes a report and employment, promotion, or reassignment is denied on the basis, in whole or in part, of information in the report, the applicant or employee must be informed and given the name and address of the consumer reporting agency. The appointing authority does not have to reveal the contents of the report.
- B. When an investigative consumer report is requested from a consumer reporting agency, the individual must be notified within three days, and told that he/she can make a written request for the “nature and scope” of the investigation. “Nature and scope” includes a description of the questions asked, disclosure of numbers and types of persons interviewed, and the name and address of the investigating agency.

XI. Legal Considerations

- A. Penalty for Permitting Access to Confidential File By Unauthorized Person - G.S. 126-27 provides that any public official or employee who permits any person to have access to or custody or possession of any portion of a personnel file designated as confidential, when that person is not specifically authorized to have access to the information, is guilty of a misdemeanor; upon conviction he or she may be fined up to \$500 in the discretion of the court.
- B. Penalty for Examining, Copying, etc., Confidential File Without Authority – G.S. 126-28 provides that any person, not specifically authorized to have access to a personnel file designed as confidential, who examines in its official filing place, removes, or copies any portion of a confidential personnel file, is guilty of a misdemeanor; upon conviction he or she may be fined up to \$500 in the discretion of the court.

Approved on: MM/DD/YYYY
Next review: MM/DD/YYYY