

PERSONNEL FILES - FREQUENTLY ASKED QUESTIONS

Who Does the Personnel File Belong To?

- ◆ The School District.

How Can Derogatory Information be Entered Into A Personnel File?

- ◆ The employee must be notified about the information, given the opportunity to review it, and given the right to have his or her comments attached to it. This must be done in a timely fashion.
- ◆ The employee's comments should be taken into consideration before a decision is made to place the document into the file.

How Can Derogatory Material be Challenged?

Personnel files are considered Class 1 – Permanent and must be retained indefinitely. Derogatory information cannot be classified as Class 1 – Permanent until the information becomes final, that is, when the time for filing a grievance has lapsed, or an objection to the derogatory materials has been sustained in the grievance process (California Code of Regulations, Title 5, subsection 16023 subdivision (c) (1) (B)).

Who Can Review My Personnel File?

- ◆ Employee Access
 - > An employee is entitled to review and receive copies of materials in his/her file
 - > Review must be in the presence of the custodian of the records or designee
 - > The employee does not have access to ratings, reports, or records obtained prior to employment, or criminal investigations
 - > Must sign a log recording the name, date and time the file is reviewed
- ◆ District Administrators
 - > May be reviewed on a "need to know" basis
 - > Limited to items related to the performance of the employee
 - > Restricted to items relevant to an inquiry
- ◆ Union Access
 - > Only with the employee's written consent
- ◆ By subpoena
 - > District must be given either
 - >> a proof of service showing the employee has been warned his/her records are being subpoenaed; OR
 - >> written authorization to release the records signed by the employee or his/her attorney.
 - > If neither is provided, the district need not produce the records.

When Can Personnel Files Be Viewed?

"The employer shall make the contents of those personnel records available to the employee at reasonable intervals and at reasonable times. Except as provided in paragraph (3) of subsection (c), (see Labor Code 1198.5 cited above), the employer shall not be required to make those personnel records available at a time when the employee is actually required to render service to the employer" (Labor Code 1198.5 (b)).

Employees may review their own personnel file by making an appointment with Personnel Department. They may also grant permission in writing for a bargaining unit representative to review their personnel file.

How Long Are Personnel Records Kept?

- ◆ Forever - they are considered Class 1 or permanent records.

Public Access to Personnel Files

- ◆ Personnel Records are exempt from disclosure under the Public Records Act.
- ◆ Home addresses and telephone numbers are not deemed public records.
- ◆ Certain personnel file items are disclosable public records and may be released without a subpoena or employee authorization. These things include:
 - > employment contracts
 - > salary information
 - > dates of service