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Section-11 Human Resources	OP-110105	Page: 1	Effective Date: 09/10/2021
Employee Personnel Records	ACA Standards: 2-CO-1C-23, 5-ACI-1B-16, 5-ACI-1C-20, 5-ACI-1C-21, 4-ACRS-7E-11, 4-ACRS-7E-12, 4-APPFS-3E-12, 4-APPFS-3E-13		
Scott Crow, Director Oklahoma Department of Corrections		Signature on File	

Employee Personnel Records

This procedure, in conjunction with the Open Records Act and all other applicable rules and laws, governs the establishment, maintenance, and access to employee personnel records.

I. Personnel Record System

A. Personnel File

1. Establishment

- a. The agency will establish and maintain one personnel file for each active employee at each facility, unit, or office corresponding with the employee's permanent work location which has a designated staff person with responsibilities for personnel transactions. (2-CO-1C-23, 5-ACI-1B-16, 5-ACI-1C-20, 4-ACRS-7E-11, 4-APPFS-3E-12)
- b. Personnel files will be stored in locations inaccessible to inmates in lockable, fireproof file cabinets or fireproof compartments with fire rated doors and a sprinkler system.

- c. The personnel file will be transferred to the receiving permanent work location within 60 days when the employee changes permanent work locations.

2. Organization

The personnel file will be assembled in a six-part folder and organized in accordance with [Attachment A](#), entitled "Organization of the Personnel File" (attached). The employee's name and assigned identification number will be placed on the tab of the folder.

- a. Background investigation files of new employees, and/or background investigation files created for the promotion process will be kept with, but separate from, the personnel file. Any background investigation records for candidates who were not selected for the new position will be maintained in the interview file or scanned and retained electronically at the human resource office of the hiring location for two years before a request for destruction will be submitted to the agency's records disposition coordinator. Electronic records will be managed in accordance with [OP-020202](#) entitled "Management of Office Records."
- b. Background investigations that have been discontinued for cause or otherwise resulted in a failure to hire based on negative documented background investigation will be reported to HR programs manager of the Central Human Resources unit for entry into a central database as specified in [OP-110210](#) entitled, "Employee Background Investigations and Post Conditional Offer of Employment Testing."
- c. The appointing authority may determine that an employee is not eligible for rehire in accordance with [OP-110237](#) entitled "Employee Separation Process."

Whenever an employee is considered to be ineligible for rehire, the appointing authority will complete the "Ineligibility for Rehire" form ([OP-110237](#), [Attachment F](#)) [OP-110237](#) entitled, "Employee Separation Process" and place it in Section 2 of the personnel file, along with supporting documentation. A copy will be forwarded to the HR programs manager of the Central Human Resources unit for entry into a central database as specified in [OP-110237](#) entitled, "Employee Separation Process."

B. Supervision File

Supervisors may keep additional records regarding performance, conduct, and other job related matters which are not maintained in the personnel file. Pertinent supervisory information will be transferred to the new supervisor

when an employee has a change of supervisor, including transfers between facilities/units. When the employee leaves the agency, the supervision file will be destroyed.

C. Retention of Other Personnel Information (5-ACI-1C-20, 4-ACRS-7E-11, 4-APPFS-3E-12)

The following confidential employment information will be maintained separately from the personnel file and released only in accordance with the laws, rules and procedures governing such release (51 O.S § 24A.7.):

1. Employee medical records/information will be maintained in accordance with [OP-110218](#) entitled "Employee Medical Exams/Inquiries and Records."
2. Employee training records will be maintained by the Training unit in accordance with [OP-100101](#) entitled "Training and Staff Development."
3. Facilities/units and the Central Human Resources unit will maintain drug testing results in accordance with [OP-110601](#) entitled "Controlled Substances and Alcohol Use and Testing Procedures For Drivers of Commercial Motor Vehicles," [OP-110602](#) entitled "For-cause Drug and Alcohol Testing Program" and [OP-110603](#) entitled "Pre-Employment Drug Testing Program."
4. The Central Human Resources unit will maintain pre-employment physical results in accordance with [OP-140116](#), entitled "Employee Physical Examinations and Medical Screenings."
5. Workers' compensation information will be maintained by the Central Human Resources unit and by facilities/units in accordance with [OP-110345](#) entitled "Workers' Compensation Insurance and Accommodations for Injured/Impaired Employees."
6. Investigative material related to staff sexual misconduct will be maintained by the office of the Inspector General in accordance with [OP-110215](#) entitled "Rules Concerning the Individual Conduct of Employees."
7. Any records which relate to internal personnel investigations regarding the hiring or promotion process for candidates who were not selected, or discipline (except as directed in this procedure) will be maintained at the facility/unit of origin.
8. Any records included in a supervisory file.

D. Inactive Personnel Files

1. Inactive personnel files will be maintained in accordance with the

provisions of the Oklahoma Department of Libraries General Records Disposition Schedule of the Archives and Record Commission (ARC).

2. Following an employee's termination from employment, the personnel file will be stored with the Human Resources Management Specialist (HRMS) at the facility/unit/office for a period of five years.
3. Prior to forwarding the file to the Central Human Resources unit, the following documents will be separated from the file and placed in an envelope marked "Permanent Records for Archiving/Do Not Destroy" and labeled with the employee's legal name, identification number and separation date. The envelope containing the documents (in the same order as listed below) will be placed inside the personnel file:
 - a. "Ineligibility for Rehire" Form ([OP-110237](#), [Attachment F](#));
 - b. Documentation relating to disciplinary action;
 - c. Requests for Personnel Action (HCM-14 forms in chronological order from separation back to hiring);
 - d. Correspondence relating to interagency transfers;
 - e. Application for Withdrawal (OPERS 515-118W or equivalent);
 - f. Retirement Notice and Application (OPERS 515-117-10 or 515-117hd-10 or equivalent);
 - g. Retirement Enrollment Applications (or Pathfinder Participant Enrollment form, or equivalent);
 - h. Individual Leave Record (HCM-1 or equivalent, if available);
 - i. Correspondence relating to leave without pay;
 - j. Longevity Certification Form (HCM-52 or equivalent);
 - k. Employment history cards (as applicable);
 - l. Employment Application (all documents used during hiring process to include background investigation files); and
 - m. Department of Defense form (DD 214).

II. Access to Personnel Files

Each location maintaining personnel files will have an HRMS or designee available during regular business hours to release records for inspection, copying or mechanical reproduction (51 O.S. § 24A.5.6).

The HRMS will maintain a log to record inspection or release of a personnel file to an authorized person, to include the date of inspection or release, the name of the person inspecting or to whom released, and the date of return if released.

A. Public Inspection and Copying

1. Inspection will occur during regular business hours and will be continuously observed by the HRMS or designee.
2. Copies of public documents will be provided at a cost of \$0.25 per page (51 O.S. § 24A.5.4) payable by check or money order to the Oklahoma Department of Corrections.
3. Personnel records listed below are confidential and will not be open to public inspection or copying:
 - a. Disciplinary action except for any final action resulting in loss of pay, suspension, demotion or termination (51 O.S. § 24A.7.A.1. and B.4); and
 - b. Records where disclosure would constitute a clearly unwarranted invasion of personal privacy (51 O.S. § 24A.7.A.2) such as:
 - (1) Employee evaluations; however, such evaluations are not held to be confidential in the event the request for inspection or copying is from a state agency to which the employee or former employee has made application for employment;
 - (2) Payroll deductions;
 - (3) Documents submitted for positions/promotions by employees who did not obtain those positions/promotions;
 - (4) A current or former employee's home address, home telephone number, social security number or information related to personal electronic communication devices without written permission from the current or former employee or without an order from a court of competent jurisdiction (74 O.S. § 840-2.11 and 51 O.S. § 24A.7.D). Material contained in the personnel file which would be ordinarily open for public inspection and contain an employee's home address, home telephone number or social security number will be provided for inspection or copying after the confidential information is deleted or obscured;

- (5) Background investigations (51 O.S. § 24A.7); and
- (6) State employee birth dates and identification numbers (OK 68:267P.3d838). See Oklahoma Public Employees Association v. State ex rel. Oklahoma Office of Personnel Management, 2011.

B. Inspection and Copying by Employees/Former Employees

1. Employees and former employees may have access to their own personnel and supervisory files during regular business hours (51 O.S. § 24A.7.C.). Information/documentation related to internal personnel background investigations will not be maintained in the supervisory file.
2. Any such examination will be continuously observed by the HRMS or designee.
3. No charge will be made for any copying of ten pages or less.
4. Background investigations will not be made available for inspection (51 O.S. § 24A.7.).
5. Investigative reports by the office of the Inspector General and Employee Rights and Relations unit are not personnel records and are not available for inspection in accordance with [OP-040117](#) entitled "Investigations" or [OP-110410](#) entitled "Prohibited Discrimination, Harassment and Retaliation."

C. Inspection by Investigatory Agencies and Third Parties

Employee personnel files, in their entirety, are subject to review by authorized state or federal agencies with the legal authority to conduct investigations, or pursuant to a valid legal subpoena.

D. Access to Personnel Files by Other Agency Employees

All access to personnel files must be made through the HRMS or designee. When possible, access will be limited to those documents required to conduct business as follows:

1. Employees with authority to conduct investigations may have access to employee personnel files for the purpose of conducting an authorized investigation.
2. Supervisors may have access to any employee personnel file within their chain of supervision and any employee personnel file for such purposes as conducting investigations, preparing disciplinary actions, making promotional decisions, and responding to grievances.

E. Reference Checks and Employment Verification/Performance Evaluations

1. Any person may have access to personnel or employment information which is open to public inspection.
2. Information from an employee's personnel file which is held to be confidential under these procedures or law may be released in response to a properly executed release form by the employee. The release form will be maintained in the personnel file. Employees may use [Attachment B](#) (attached) entitled "Oklahoma Department of Corrections Authorization to Release Confidential Employment Information" form to authorize the release of confidential information from their personnel files.
3. Information regarding an employee or former employee's job performance (including the completed evaluation form) may be disclosed to a prospective employer only with the consent, or at the request of the employee (40 O.S. § 61).
4. Information regarding an employee or former employee's job performance (including the completed evaluation form) may be disclosed to another state agency without the employee's consent if the requesting state agency is a prospective employer (40 O.S. § 61).
5. Employee evaluations must be used by the agency for decisions regarding promotions, demotions, appointments, discharges and performance pay increases (74 O.S. § 840-4.17A) (1995 OK AG 68) and will be released to the appropriate supervisors for those purposes, with or without the consent of the employee.
6. The agency will provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom the employee has applied to work. (28 CFR Part 115, Section 115.17 [P.R.E.A.]).

An "institutional employer" includes state or private prisons, jails and correctional facilities (with which the agency contracts); detention facilities; facilities or institutions for persons who are mentally ill, disabled, developmentally disabled or chronically ill or handicapped; residential care or treatment facilities; and facilities that provide skilled nursing, intermediate or long-term care, or custodial or residential care.

F. Requests for Records Pursuant to the Open Records Act

When responding to requests for documents from the personnel file pursuant to the Open Records Act, the facility/unit will ensure that the

requestor furnishes a written request (does not include e-mail) which is forwarded to the office of the General Counsel. Approval from the office of the General Counsel will be obtained prior to providing the requested documents.

III. Removal, Correction or Addition of Personnel Information (5-ACI-1C-21, 4-ACRS-7E-12, 4-APPFS-3E-13)

Employees may challenge the accuracy or existence of material found in their personnel files. Material contained in the personnel file that is determined to be inaccurate or a violation of law, rule or procedure will be corrected or removed by the responsible designee. Material pertaining to disciplinary matters will be removed only in accordance with an order from a court or the Merit Protection Commission or an internal grievance decision.

IV. References

Policy Statement No. P-110100 entitled "Uniform Personnel Standards"

OP-020202 entitled "Management of Office Records"

OP-040117 entitled "Investigations"

OP-100101 entitled "Training and Staff Development"

OP-110210 entitled "Employee Background Investigations and Post Conditional Offer of Employment Testing"

OP-110215 entitled "Rules Concerning the Individual Conduct of Employees"

OP-110218 entitled "Employee Medical Exams/Inquiries and Records"

OP-110237 entitled "Employee Separation Process"

OP-110345 entitled "Workers' Compensation Insurance and Accommodations for Injured/Impaired Employees"

OP-110410 entitled "Prohibited Discrimination, Harassment and Retaliation"

OP-110601 entitled "Controlled Substances and Alcohol Use and Testing Procedures for Drivers of Commercial Motor Vehicles"

OP-110602 entitled "For-cause Drug and Alcohol Testing Program"

OP-110603 entitled "Pre-Employment Drug Testing Program"

OP-140116 entitled "Employee Physical Examinations and Medical Screenings"

28 CFR Part 115, Section 115.17 [(P.R.E.A.)]

51 O.S. § 24A.5.4

51 O.S. § 24A.5.6

51 O.S. § 24A.7

51 O.S. § 24A.7.A.1.

51 O.S. § 24A.7.B.4

51 O.S. § 24A.7.A.2

51 O.S. § 24A.7.C

51 O.S. § 24A.7.D

74 O.S. § 840-2.11

74 O.S. § 840-4.17A

40 O.S. § 61

1995 OK AG 68

Department of Libraries General Records Disposition Schedule Section 3-1D (51 O.S. § 24A.7)

(OK 68:267P.3d838). See Oklahoma Public Employees Association v. State ex rel. Oklahoma Office of Personnel Management, 2011

V. Action

The chief administrators are responsible for compliance with this procedure.

The chief administrator of Human Resources is responsible for the annual review and revisions.

Any exceptions to this procedure will require prior written approval of the agency director.

This procedure is effective as indicated.

Replaced: Operations Memorandum No. OP-110105 entitled "Employee Personnel Records" dated August 20, 2020

Distribution: Policy and Operations Manual
Agency Website

<u>Referenced Forms</u>	<u>Title</u>	<u>Location</u>
DD214	“Department of Defense form”	DOD
515-116-97R	“Change or Designation of Beneficiary” or equivalent	OPERS
515-117-10	“Application for Withdrawal”	OPERS
515-117-10 or 515-117hd-10	“Retirement Notice and Application” or equivalent	OPERS

HCM-1	“Individual Leave Record” or equivalent	OPERS
HCM-52	“Longevity Certificate” or equivalent	OPERS

<u>Attachments</u>	<u>Title</u>	<u>Location</u>
Attachment A	“Organization of the Personnel File”	Attached
Attachment B	“Oklahoma Department of Corrections Authorization to Release Employment Information”	Attached Confidential
Attachment F	“Ineligibility for Rehire”	OP-110237