MIDDLETOWN UNIFIED SCHOOL DISTRICT

Regulation 4212.6: Personnel Files

Original Adopted Date: 1/17/2024

The Superintendent or designee shall maintain personnel files for all current employees at the district's central office or at the location where the employee works.

The Superintendent or designee shall determine the types of information to be included in personnel files, including, but not limited to, records required by law, and shall process all material to be placed in such files.

Personnel files for district police or security officers shall be maintained and accessed in accordance with Government Code 3305-3306.5 and AR 3515.3 - District Police/Security Department.

Placement of Material in Personnel Files

Any supervisor or administrator who places written material or drafts written material for placement in an employee's file shall sign the material and indicate the date of the placement.

When an employee is asked to sign any material that is to be placed in his/her file, he/she shall be informed that the signature only signifies that he/she has read the material and does not necessarily indicate that he/she agrees with its contents.

Any request by an employee to include materials in his/her personnel file must be approved by the Superintendent or designee.

An employee may initiate a written reaction or response to his/her performance evaluation. The response shall be permanently attached to the evaluation and placed in the employee's personnel file.

Derogatory Information

Information of a derogatory nature shall not be entered into an employee's personnel file unless and until the employee is given notice and an opportunity to review and comment on that information. Such a review shall take place during normal business hours. The employee shall be released from duty for this purpose without a salary reduction. The employee may enter his/her own comments and have them attached to the derogatory statement. (Education Code 44031)

Persons with Authorized Access

The Superintendent or designee shall maintain the confidentiality of any personnel records which, if inappropriately disclosed, would constitute an unwarranted invasion of the employee's privacy.

Access to an employee's personnel file shall be granted only to the employee, persons authorized by the employee, district personnel, and others with a valid "right to know" or "need to know" who are authorized access by the Superintendent or designee.

Individual Governing Board members shall not be allowed to access personnel files, but the Board may request pertinent information from an employee's file in cases of personnel action.

Any authorized reviewer shall maintain strict confidence of the contents of a personnel file. Personnel files shall be reviewed and replaced within the shortest time possible. In no case shall a personnel file be left unattended or left unsecured overnight.

File Review by Employee

Any employee wishing to inspect his/her personnel record shall contact the Superintendent or designee.

With the exceptions noted below, all personnel records related to the employee's performance or to any grievance concerning the employee shall be made available for inspection by the employee. Noncredentialed employees shall have access to any numerical scores obtained as a result of written examinations. (Education Code 44031; Labor Code 1198.5)

The Superintendent or designee shall not be required to make available to the employee: (Education Code 44031; Labor Code 1198.5)

1. Records related to the investigation of a possible criminal offense

2. Letters of reference

3. Ratings, reports, or records that were obtained prior to the employee's employment, prepared by identifiable examination committee members, or obtained in connection with a promotional examination

Personnel records related to the employee's job performance or to any grievance concerning him/her shall be made available to the employee at reasonable intervals and at reasonable times. The Superintendent or designee shall not be required to make such records available at a time when the employee is required to render services to the district, unless the employee is required to view the file where it is stored. (Education Code 44031; Labor Code 1198.5)

The Superintendent or designee shall do one of the following: (Labor Code 1198.5)

1. Keep a copy of each employee's personnel records at the place where the employee reports to work

2. Make the employee's personnel records available at the place where the employee reports to work within a reasonable period of time following the employee's request

3. Permit the employee to inspect the personnel records at the location where the district stores the personnel records, with no loss of compensation to the employee

The employee may be accompanied by a representative of his/her choice while reviewing his/her personnel records.

Inspection shall take place in the presence of the Superintendent or designee. The Superintendent or designee shall keep a record of the date and time the file was reviewed and the name and title of the person(s) present during the review.

In no instance shall any material be removed from the records. Requests for copies of material in a personnel record must be made in writing.

Record Retention

Personnel records for current and former employees shall be retained in accordance with 5 CCR 16023.

The Superintendent or designee shall not expunge from an employee's personnel file, nor enter into an agreement that would authorize expunging from an employee's personnel file, credible complaints of, substantiated investigations into, or discipline for egregious misconduct as defined in Education Code 44932. However, such documentation may be removed if, during a hearing before the Board, an arbiter, personnel commission, Commission on Professional Competence, or administrative law judge, the employee prevailed, the allegations were determined to be false, not credible, or unsubstantiated, or a determination was made that the discipline was not warranted. (Education Code 44939.5)

Policy Reference Disclaimer:
These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State	Description
5 CCR 16020-16022	Records; general provisions
5 CCR 16023-16027	District records; retention and destruction
Ed. Code 35253	Regulations to destroy records
Ed. Code 44031	Personnel file contents and inspection
Ed. Code 44663	Performance appraisals and related materials
Ed. Code 44932	Grounds for dismissal of permanent employees
Ed. Code 44939.5	Report of egregious misconduct
Gov. Code 3305-3306.5	District police officers; personnel files
Gov. Code 7920.000-7930.215	California Public Records Act
Gov. Code 7927.700	Exemption for personnel records if invasion of personal privacy
Gov. Code 7928.300	Disclosure of employee contact information to employee organization
Lab. Code 1198.5	Personnel records related to performance and grievance
Pen. Code 11165.14	Report of investigation of child abuse complaint

Management Resources	Description
Attorney General Opinion	Cal. Atty. Gen., Indexed Letter, no. IL 75-73 (June 6, 1975)
Court Decision	Bakersfield City School District v. Superior Ct. (2004) 118 Cal.App.4th 1041
Court Decision	Marken v. Santa Monica-Malibu Unified School District, (2012) 202 Cal.App.4th 1250
Website	CSBA District and County Office of Education Legal Services

Cross References

Code	Description
0440	District Technology Plan
0440	District Technology Plan
1312.1	Complaints Concerning District Employees
1312.1	Complaints Concerning District Employees
1340	Access To District Records
1340	Access To District Records
3400	Management Of District Assets/Accounts
3400	Management Of District Assets/Accounts
3514.1	Hazardous Substances
3514.1	Hazardous Substances
3515	Campus Security
3515	Campus Security
3515.3	District Police/Security Department
3515.3	District Police/Security Department
3580	District Records
3580	District Records
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4032	Reasonable Accommodation
4111.2	Legal Status Requirement
4111.2	Legal Status Requirement
4112.2	Certification
4112.2	Certification
4112.41	Employee Drug Testing
4112.41	Employee Drug Testing
4112.5	Criminal Record Check
4112.5-E(1)	Criminal Record Check
4112.61	Employment References
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4115	Evaluation/Supervision

4115	Evaluation/Supervision
4117.5	Termination Agreements
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.23	Unauthorized Release Of Confidential/Privileged Information
4131.1	Teacher Support And Guidance
4131.1	Teacher Support And Guidance
4144	Complaints
4144	Complaints
4151	Employee Compensation
4154	Health And Welfare Benefits
4154	Health And Welfare Benefits
4211.2	Legal Status Requirement
4211.2	Legal Status Requirement
4212.41	Employee Drug Testing
4212.41	Employee Drug Testing
4212.5	Criminal Record Check
4212.5-E(1)	Criminal Record Check
4212.61	Employment References
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4215	Evaluation/Supervision
4217.5	Termination Agreements
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4218.1	Dismissal/Suspension/Disciplinary Action (Merit System)
4219.23	Unauthorized Release Of Confidential/Privileged Information
4251	Employee Compensation
4254	Health And Welfare Benefits
4254	Health And Welfare Benefits
4311.2	Legal Status Requirement
4311.2	Legal Status Requirement
4312.41	Employee Drug Testing

4312.41	Employee Drug Testing
4312.5	Criminal Record Check
4312.5-E(1)	Criminal Record Check
4312.61	Employment References
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4315	Evaluation/Supervision
4317.5	Termination Agreements
4319.23	Unauthorized Release Of Confidential/Privileged Information
4344	Complaints
4344	Complaints
4351	Employee Compensation
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5148	Child Care And Development
5148	Child Care And Development
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
9011	Disclosure Of Confidential/Privileged Information
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session