



RULES OF THE STATE PERSONNEL BOARD

478-1-.09 Records

(1) Introduction:

The proper maintenance of employee records is an important component of agency administration. Well-maintained employment files assist agencies in making sound employment decisions and help to ensure that agencies comply with recordkeeping and reporting obligations in accordance with state and federal laws.

This Rule provides guidance regarding the proper handling, confidentiality, and use of employment-related records.

(2) Applicability:

This Rule applies to all agencies of the executive branch, local departments of public health, and community service boards. It does not apply to other public corporations, authorities, or the Board of Regents of the University System of Georgia.

(3) Definitions:

For the purposes of this Rule, the following terms and definitions apply in addition to those in 478-1-.02, *Terms and Definitions*:

- (a) "Confidential employment records" means records which must be maintained in files separate from or in a separate folder within the official personnel file. Such items include but are not limited to medical records, documents relating to certifications or recertifications under the federal Family and Medical Leave Act (FMLA), I-9 forms, workers' compensation records, and background check records.
- (b) "Official personnel file" means records documenting an employee's work history with an agency. Official personnel files should be stored in a secure location. Access should be restricted to those with a legitimate need for access or as required by law.
- (c) "Records" means all documents, papers, letters, maps, books (except books in formally organized libraries), microfilm, magnetic tape, computer-based or computer-generated information, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in performance of functions by any agency.
- (d) "Retention schedule" means a set of disposition instructions prescribing how long, where, and in what form a record series shall be kept.

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(4) Employment Records:

- (a) Each agency will maintain an official personnel file for each employee that includes information such as the employee's job application, resume, training records, performance-related documentation, salary history, dates of leave taken in accordance with the federal Family and Medical Leave Act (FMLA), as well as dates of other extended leaves of absence, and other employment-related information. If confidential employment records are stored in the official personnel file given lack of storage space or other reasons, they must be in a separate folder within the file and clearly marked as confidential so that confidential information can be easily removed by designated persons when necessary.
- (b) Employment records are the property of the employing agency and are subject to the Georgia Open Records Act.
- (c) When creating and maintaining employment records, agencies will strive to ensure that:
 - 1. All employment records are securely maintained;
 - 2. All personal and job-related information is accurate, complete, and relevant for its intended purpose; and
 - 3. All personal and job-related information is handled in a confidential, appropriate manner.
- (d) When collecting, maintaining, and disclosing employment information, agencies will make every effort to protect every employee's privacy rights and interests and to prevent inappropriate or unnecessary disclosures.
- (e) Agencies will collect and retain personal information only to the extent necessary to effectively conduct business and administer employment and benefit programs. Wherever possible, if additional personal information is needed, agencies will notify affected employees and provide them an opportunity to supply the requested data.
- (f) The Commissioner, agencies, and human resources officers may access agency employment records and any other records of the State Personnel Board and the Department of Administrative Services to the extent necessary to perform their duties. Such access will not be construed as impairing the confidential nature of human resources records or permitting disclosure of information protected by employees' privacy rights.

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(5) Employee Transfers:

- (a) In the event of an employee transfer from one executive branch agency to another, the employee's official personnel file must be transferred to the new employing agency within two weeks of the employee's last day of employment with the previous agency.
- (b) Confidential employment records should be removed from the personnel file before it is transferred and should be retained in accordance with applicable records retention schedules.

(6) Accuracy of Information:

Employees are required to provide their employing agency with accurate, up-to-date personal information, including but not limited to, name, home address, telephone numbers, tax withholding information, marital status, number of dependents, beneficiary designations, and emergency contacts.

(7) Employee Access:

Employees are entitled to review their employment records upon request. The review must take place in the presence of a member of the agency human resources office. An employee cannot remove any contents of the file, but photocopies must be provided within a reasonable time after the employee's review of the file and at the employee's expense, pursuant to the Georgia Open Records Act.

(8) Employment Records and the Georgia Open Records Act:

Unless specifically exempted by federal law, state law, or by an order of court, all documents, papers, letters, maps, books, tapes, photographs, data, data fields, computer-based or computer-generated information, or similar materials prepared and maintained or received by an agency in the course of its operations are public records that may be inspected by any individual at a reasonable time and place. When documents are to be produced to individuals other than the employee, confidential information must be redacted from the file prior to release.

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Authority:

O.C.G.A. §§45-20-3, 45-20-3.1, and 45-20-4 (duties and functions of the State Personnel Board and Department of Administrative Services related to the Rules of the State Personnel Board)

State Law References:

O.C.G.A. §34-9-12 (b) (confidentiality of workers' compensation records)

O.C.G.A. §50-18-70, et seq. (Georgia Open Records Act)

O.C.G.A. §50-18-90, et seq. (Georgia Records Act)

Federal Law Reference:

29 C.F.R. §825.500 (recordkeeping requirements under the FMLA)