



Approved:

**City of Commerce, California
Human Resources Policy and Procedure Manual**

Teresa McAllister
Director of Human Resources
[Signature]
City Administrator

Number: III-2 Effective Date: 10/7/08

SUBJECT: PERSONNEL RECORDS AND GENERAL PERSONNEL FILES

PURPOSE:

To establish guidelines for the collection, maintenance, access to, and retention of the official personnel records of employees and the general personnel files of the Human Resources Department.

DEFINITION:

The Official File in the Human Resources Department is the repository of personnel records concerning individual employees. The formal and permanent employee record shall be maintained in the Human Resources Office.

POLICY:

Employees must report promptly to the Human Resources Department, changes in the following status: name, address, telephone number, marital status, name and birth date of dependents, formal education, courses completed and other training or skills acquired, persons to notify in case of emergency, physical or other limitations, and insurance beneficiaries.

1. OFFICIAL PERSONNEL FILE - Contains those records and documents pertaining to an employee's work history with the City from date of hire to separation. The Human Resources Department shall maintain the Official Personnel File for each City employee.
 - a. Disciplinary Action Records - Written documents relating to disciplinary actions taken for the purpose of correcting the conduct or performance of employees shall be filed in the Official Personnel File. This file shall contain copies of all written materials pertaining to formal notice of

disciplinary action (written reprimands), and punitive disciplinary actions (suspension, demotion, termination, extension or reinstatement of probation, and denial of step increase).

All disciplinary actions will remain part of an employee's permanent record unless removal of a specific item is requested in writing to the Human Resources Director and approved by the City Administrator.

- b. Access to Personnel Files - Physical review of records and documents in the official files shall be limited to the following persons and shall be in conformance with state law:

- 1) The employee
- 2) An employee representative designated in writing by the employee
- 3) Human Resources Department staff
- 4) City Administrator
- 5) Chief Financial Officer and designated department staff
- 6) Staff of the employee's department designated by the department head
- 7) The City Attorney and designated department staff

Actual review of contents of the file by the employee or authorized employee representative shall be scheduled at the mutual convenience of the employee or authorized representative and authorized Human Resources Department staff, and shall be accomplished in the presence of such authorized staff. As a normal practice, an employee may, at reasonable times and at reasonable intervals, during usual business hours, with no loss of compensation, inspect their personnel files, upon receiving approval (for scheduling purposes) from the division or department head, or designee.

- c. Copies of Documents in Personnel Files - Copies of most records and documents signed by the employee and placed in the personnel files are routinely provided to the employee. Copies of records and documents not routinely provided may be requested by the employee. Copies of documents of a negative nature shall be provided to an employee prior to placement in Official Personnel files (examples: notices of disciplinary action, unsatisfactory performance evaluations and related records).

Copies of records and documents subpoenaed by the courts or legally constituted Boards or Commissions shall be provided and fees collected if applicable.

- d. Rebuttal of Documents in Personnel Files – An employee has ten (10) business days, from receipt of the copy of the document, to submit a request for change, deletion or a letter of rebuttal to his/her department head. The department head then has ten (10) business days to respond in writing to the employee's request and to notify the employee of his/her decision. The department head must indicate whether the requested change or deletion will be granted or denied. In the event that the employee did not send a request for change or deletion but simply sent a letter of rebuttal, the department head must acknowledge receipt of the letter and send a copy of it to the employee's official file to accompany the original document.

In the event that the employee is dissatisfied with the department head's response, the employee may request to meet with his/her department head to discuss the matter further. The employee must request this meeting within ten (10) business days of the department head's written response. The department head will notify the employee, at the conclusion of the meeting, of his/her decision whether to uphold or modify the initial document. The employee then has ten (10) business days, from the meeting, within which to submit a final rebuttal. The final rebuttal will be placed in the employee's official file and will accompany the initial document if not changed or deleted and any previously submitted rebuttal letters which pertain to this incident.

- e. Release of Information from Personnel Files - Information generally available without authorization from the employee, and provided by Human Resources Department staff from the employee's Official Personnel file, shall include the following:
- 1) Verification data sufficient to ensure proper identification of the employee,
 - 2) Employment verification data, including current status, hire date, termination date, position title and department, and current or final salary.
 - 3) Information necessary to process claims for Workers' Compensation, Unemployment Compensation Insurance, City vehicle accident, City liability, and City retirement.
 - 4) Requests for materials subpoenaed or otherwise, received in connection with some legal action or investigation must specify the

items sought. The investigator's credentials must be checked, and a record of the investigator's name and date of access preserved.

- 5) Release of information not specified above, including reference checks, which shall be the responsibility of the current/former employee's department, may only be considered when accompanied by signed authorization from the employee concerned.
- f. Retention of Personnel Files - The contents of the employee's Official Personnel Files shall be retained for five years on electronic imaging software, originals destroyed, and the files transferred on compact disc and placed in records storage.
2. GENERAL PERSONNEL FILES - These files are the repository for all matters (correspondence, statements, memos, reports and other data, information, materials, etc.) concerned with the administration of the City personnel program including, but not limited to, the recruiting, examining, placement, classification, pay, Workers' Compensation, legal, safety and benefits administration.

These files shall be confidential in accordance with the Public Records Act with access limited to Human Resources Department staff and such other personnel and/or individuals determined appropriate by the Human Resources Director.

Retention of all materials in these files shall be governed by various legal requirements (Federal and State) and the City Records Retention Program.
3. GRIEVANCE FILES - These files shall be maintained in the Human Resources Department separate from the Official Personnel File. The employee, the Human Resources Department, the affected employee organization, the affected department head and/or their official designee, and any outside arbitrator responsible for determining the final disposition of the grievance shall be the only persons with access to these records.
4. MEDICAL RECORDS - These files are considered highly confidential and shall be maintained in the Human Resources Department separate from the Official Personnel File with limited access available only to the affected employee and the Human Resources Department.
5. DEPARTMENTAL WORKING PERSONNEL FILE - Employees shall have access to their departmental working personnel file during the regular business hours of City hall, provided they notify the department head. The review of the

file shall be accomplished in the presence of such authorized staff. All verbal reprimands shall be documented in the departmental working personnel file, and the employee will be required to sign the documentation before it is placed in the file. In the event that an employee refuses to sign, this will be noted on the documentation and the department head will cross-sign the document.

Information contained in the departmental working file should be destroyed following employee separation. Departments should ensure all required documents have been forwarded to Human Resources Department to include in the employee's official personnel file.

The verbal reprimand shall remain in effect for a period of twelve (12) months. After the twelve (12) month period has elapsed, the documentation of the verbal reprimand shall be pulled from the departmental working file.

The formal and permanent record shall be maintained in the Human Resources Office.

PROCEDURE:

| Responsibility | Action |
|----------------------------|---|
| Employee | <ol style="list-style-type: none">1. Notifies Human Resources Department or employing department, orally or in writing, that he/she wants to review contents of own personnel folder. If employee designates a representative for this review, prepares, dates and signs a written statement of authorization. |
| Human Resources/Department | <ol style="list-style-type: none">2. Sets up mutually convenient time for the review during office hours, designates location and staff member for the review. |
| Employee | <ol style="list-style-type: none">3. Arranges with immediate supervisor in accordance with City policy, for the review of personnel file. |

Human Resources Staff Member

4. Checks identification of employee and/or employee representative, if necessary. Records name of representative.
5. Provides Official or Departmental Working Personnel Folder for review and personally monitors review.

Employee and/or Representative

6. Reviews contents of personnel folder in presence of staff member.
 - a. If copies wanted, identifies document and number of copies desired.
 - b. If employee wants to rebut a particular document where provision for rebuttal was not provided on the document, identifies document and prepares, signs and submits rebuttal to Department Head.

Human Resources Staff Member

7. Photocopies and, if applicable, collects the appropriate fee for copies of documents issued to separated employees.
8. Receives and files signed rebuttals and appropriate documents after review by the Department Head.