

Metro | *Policies and procedures*

Subject Employee Records: Personnel Files and Medical Files
Section Human Resources
Approved by Martha Bennett, Chief Operating Officer; MERC Commission

POLICY

It is Metro's policy to maintain personnel records and medical records separately and in accordance with state and federal law, and to comply with procedures designed to protect the accuracy and confidentiality of these records.

Applicable to

All employees.

Where provisions of an applicable collective bargaining agreement directly conflict with this policy, the provisions of that agreement will prevail.

Definitions

Medical Records: All records containing individually identifiable information about an employee or family member's health or medical history. Examples of medical records include personal medical information relating to:

- a. Employee health insurance and other benefits;
- b. Disability accommodation;
- c. Medical leave;
- d. On-the-job injuries and workers' compensation;
- e. Non-occupational medical conditions;
- f. Fitness for duty examination information; and
- g. Drug and alcohol testing results.

Personnel Records: All records used to determine an employee's qualification for employment, promotion, additional compensation, termination, or other disciplinary action.

1. Examples include:

- a. Job applications, résumés, and cover letters;
- b. Reference checks;

- c. Performance evaluations;
 - d. Records of promotions, transfers, and demotions;
 - e. Salary information;
 - f. Supervisory notes or memos used for disciplinary purposes or to determine terms and conditions of employment;
 - g. Disciplinary notices, including written records of oral warnings and reprimands, and related investigative records.
2. The personnel file may also include personal information that has been provided to Metro in the course of application and employment, except as specified below.
 3. Personnel records do not include:
 - a. Records relating to the conviction, arrest, or investigation of criminal conduct;
 - b. Confidential reports from previous employers;
 - c. Confidential medical records;
 - d. Payroll records;
 - e. Attendance records unless relevant to a disciplinary decision;
 - f. Routine supervisory notes that are not used for disciplinary purposes or decisions related to the terms and conditions of employment;
 - g. Grievance records.

Guidelines

1. The Human Resources (HR) Department will maintain a personnel file containing each employee's personnel records. This file constitutes the official record of an individual's employment with Metro.
2. An employee's medical information will be kept in a confidential file maintained separately from the employee's personnel file.

Procedures

File Maintenance

1. Personnel files and medical files will be maintained by the HR Department in a locked, confidential area.
 - a. Access to the personnel file will be limited to the employee, management staff, Office of Metro Attorney staff and HR Department staff.
 - b. Access to the confidential medical file will be limited to the employee, Office of Metro Attorney staff and HR Department staff. Management staff will be provided with medical information only as needed to manage work restrictions, requests for leave, disability accommodations, and medical response protocols (e.g., for an employee with a medical condition requiring particular first aid procedures) or to consider as a mitigating factor in a disciplinary process.
2. To ensure proper records management, employees must notify the HR Department of any changes to their name, home address, phone number or emergency contacts.
3. Supervisors must promptly send HR:

- a. Copies of all notes or records used as a basis for discipline or to determine the terms and conditions of employment; and
 - b. Originals of all medical records.
 - i. Supervisors may not keep copies of medical records, except that they may retain information about modified duty restrictions, disability accommodations, and medical response protocols while they are in effect.
4. Metro will not place disciplinary records or other information that reflects critically upon an employee in the employee's personnel file without giving a copy to the employee.
 - a. The employee will be asked to sign to acknowledge receipt, however a signature is not required to place the document in the personnel file.
 - b. In the event that the employee does not sign, the supervisor will note the date the document was presented to the employee.
5. Personnel records and medical records will be treated as exempt from public disclosure to the maximum extent permitted by Oregon Public Records law and other legal requirements.
 - a. If contacted for an employment reference, Metro will provide the employee's dates of employment, positions held, and salary history. Metro may agree to provide additional information if requested by the employee.
 - b. In certain circumstances, disclosure of otherwise confidential records may be required by law. Metro will limit the scope of disclosure to information necessary to comply with the required legal process.
6. Metro will retain personnel records and medical records for a minimum of 3 years.

Viewing and Copying Personnel Records and Medical Records

7. **Employees:** Employees may view their personnel files and medical files in the HR Department office during regular business hours.
 - a. Employees are encouraged to make appointments in advance to ensure that HR staff will be available.
 - b. Employees will be given copies of material in their personnel files and medical files upon request. Metro will certify that the copies provided are true and correct copies of the originals.
 - c. Employees who are unable to come to the HR Department in person may call the department to make other arrangements.
 - d. An employee may provide written authorization to allow another person (such as a union representative) to view or obtain copies of his or her personnel file or medical file.
8. **Managers:** A manager may access an employee's personnel file or medical file only if there is a job-related reason to do so. Before viewing the file, the manager must sign a statement identifying the job-related purpose of the request and acknowledging confidentiality requirements. This statement will be reviewed by HR and considered prior to a decision regarding access.
9. **Former employees:** Following separation from employment, Metro will provide a former employee with a certified copy of his or her existing personnel records or

medical records within 45 days of a written request from the employee or his or her authorized representative.

10. Metro may charge a fee for providing information under this policy, but this fee will not exceed an amount reasonably calculated to recover the actual costs for copying and labor. Current employees will not be charged for viewing or copying their files.
11. No one other than HR Department staff is authorized to add or remove information from an official personnel file or medical file. Metro employees and managers who add or remove information without authorization may be subject to discipline.
 - a. If an employee or manager believes information should be added to a personnel or medical file, he or she may submit the information to the HR Department. The HR Department will determine whether it is appropriate to include in the file.
 - b. Documents may be removed from the employee's official personnel or medical file only upon the mutual agreement of the HR Director or designee and the employee or the employee's representative.
 - i. The Oregon public records law prohibits destruction of public records except when certain conditions are met. Documents that are removed from the official personnel file may be retained consistent with applicable law, but will not be used as a basis for future discipline or other employment decisions.
12. Original personnel records and medical records must be viewed in the presence of HR Department staff. Original records may not be removed from the HR Department without approval from the HR Director.

Responsibilities

Employees:

- Comply with procedures for viewing and copying personnel files and medical files.
- Promptly notify your supervisor and the HR Department of changes to your name, home address and contact information, and emergency contacts.

Supervisors and managers:

- Comply with procedures for viewing and copying personnel files and medical files.
- Promptly provide the HR Department with any notes or records used to determine an employee's qualification for employment, promotion, additional compensation, termination, or other disciplinary action.
- Promptly send any medical records received from an employee or any other source to the HR Department without keeping a copy, except that information about work restrictions, disability accommodations, and medical response protocols may be retained while they are in effect.
- Maintain the confidentiality of medical records and other private information.

Human Resources Department:

- Maintain employees' official personnel file and medical file in accordance with this policy and applicable legal and contractual requirements.

- Oversee the inspection and copying of personnel records.

References

ORS 652.750 (personnel records)

ORS 192.001 *et seq.* (public records)

Metro Records Retention Schedule