

1012.31 - Personnel files

Effective July 1, 2021

The statute describes how personnel records should be maintained.

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=1000-1099/1012/Sections/1012.31.html

1012.31 Personnel files.—

Public school system employee personnel files shall be maintained according to the following provisions:

(1)

(a) Except for materials pertaining to work performance or such other matters that may be cause for discipline, suspension, or dismissal under laws of this state, no derogatory materials relating to an employee's conduct, service, character, or personality shall be placed in the personnel file of such employee.

(b) No anonymous letter or anonymous materials shall be placed in the personnel file.

(2)

(a) Materials relating to work performance, discipline, suspension, or dismissal must be reduced to writing and signed by a person competent to know the facts or make the judgment. In cases of separation due to termination or resignation in lieu of termination, the person shall execute and maintain an affidavit of separation, on the form adopted by the Department of Education, setting forth in detail the facts and reasons for such separation. The affidavit must expressly disclose when separation is due to a report of sexual misconduct with a student. The affidavit of separation must be executed under oath and constitutes an official statement within the purview of s. 837.06. The affidavit of separation must include conspicuous language that intentional false execution of the affidavit constitutes a misdemeanor of the second degree.

(b)

1. No such materials may be placed in a personnel file unless they have been reduced to writing within 45 days, exclusive of the summer vacation period, of the school system administration becoming aware of the facts reflected in the materials.

2. Additional information related to such written materials previously placed in the file may be appended to such materials to clarify or amplify them as needed.

(c) A copy of such materials to be added to an employee's personnel file shall be provided to the employee either:

1. By certified mail, return receipt requested, to his or her address of record; or

2. By personal delivery. The employee's signature on a copy of the materials to be filed shall be proof that such materials were given to the employee, with the understanding that such signature merely signifies receipt and does not necessarily indicate agreement with its contents.

(d) An employee has the right to answer in writing any such materials in a personnel file on July 1, 1983, as well as any such materials filed thereafter, and the answer shall be attached to the file copy. An employee has the right to request that the district school superintendent or the superintendent's designee make an informal inquiry regarding material in the employee's personnel file which the employee believes to be false. The official who makes the inquiry shall append to the material a written report of his or her findings.

(e) Upon request, an employee, or any person designated in writing by the employee, shall be permitted to examine the personnel file of such employee. The employee shall be permitted conveniently to reproduce any materials in the file, at a cost no greater than the fees prescribed in s. 119.07(4).

(f) The custodian of the record shall maintain a record in the file of those persons reviewing the file each time it is reviewed.

(3)

(a) Public school system employee personnel files are subject to the provisions of s. 119.07(1), except as follows:

1. Any complaint and any material relating to the investigation of a complaint against an employee shall be confidential and exempt from the provisions of s. 119.07(1) until the conclusion of the preliminary investigation or until such time as the preliminary investigation ceases to be active. If the preliminary investigation is concluded with the finding that there is no probable cause to proceed further and with no disciplinary action taken or charges filed, a statement to that effect signed by the responsible investigating official shall be attached to the complaint, and the complaint and all such materials shall be open thereafter to inspection pursuant to s. 119.07(1). If the preliminary investigation is concluded with the finding that there is probable cause to proceed further or with disciplinary action taken or charges filed, the complaint and all such materials shall be open thereafter to inspection pursuant to s. 119.07(1). If the preliminary investigation ceases to be active, the complaint and all such materials shall be open thereafter to inspection pursuant to s. 119.07(1). For the purpose of this subsection, a preliminary investigation shall be considered active as long as it is continuing with a reasonable, good faith anticipation that an administrative finding will be made in the foreseeable future. An investigation shall be presumed to be inactive if no finding relating to probable cause is made within 60 days after the complaint is made. This subparagraph does not absolve the school district of its duty to provide any legally sufficient complaint to the department within 30 days after the date on which the subject matter of the complaint comes to the attention of the school district pursuant to s. 1012.796(1)(d)1., regardless of the status of the complaint.

2. An employee evaluation prepared pursuant to s. 1012.33, s. 1012.34, or s. 1012.56 or rules adopted by the State Board of Education or district school board under the authority of those sections shall be confidential and exempt from the provisions of s. 119.07(1) until the end of the school year immediately following the school year in which the evaluation was made. No evaluation prepared before July 1, 1983, shall be made public pursuant to this section.

3. No material derogatory to an employee shall be open to inspection until 10 days after the employee has been notified pursuant to paragraph (2)(c).

4. The payroll deduction records of an employee shall be confidential and exempt from the provisions of s. 119.07(1).

5. Employee medical records, including psychiatric and psychological records, shall be confidential and exempt from the provisions of s. 119.07(1); however, at any hearing relative to the competency or performance of an employee, the administrative law judge, hearing officer, or panel shall have access to such records.

(b) Notwithstanding other provisions of this subsection, all aspects of the personnel file of each employee shall be open to inspection at all times by district school board members, the district school superintendent,

and the principal, or their respective designees, in the exercise of their respective duties.

(c) Notwithstanding other provisions of this subsection, all aspects of the personnel file of each employee shall be made available to law enforcement personnel in the conduct of a lawful criminal investigation.

(4)

The term “personnel file,” as used in this section, means all records, information, data, or materials maintained by a public school system, in any form or retrieval system whatsoever, with respect to any of its employees, which is uniquely applicable to that employee whether maintained in one or more locations.

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