Policy 0520

From Human Resources

Revision as of 17:11, 24 December 2009 by Uballr1 (Talk | contribs)
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PERSONNEL POLICY MANUAL
MoDOT Personnel Policy Title: Personnel Files and Employee Records **Policy Number**: 0520 **Chapter Title**: Employment **Effective Date**: November 1, 2006 **Supersedes Policy Number**: 1023 **Dated**: May 1, 2003
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POLICY STATEMENT

The department will maintain employee records in accordance with federal and state record-keeping laws, and provide employees a reasonable opportunity to review and copy documents contained in their personnel files, as well as other employee records maintained separately from their personnel file.

DEFINITIONS

Official Personnel File: A hardcopy file, maintained by the Human Resources Division, for each department employee.

Work Location Personnel File: A hardcopy file, maintained by the division leader/state engineer or district engineer, for each employee in the district/division/office.

Personnel File: refers to both the official personnel file and work location personnel file.

Performance Management File: A hardcopy file, maintained by an employee's immediate supervisor, containing the supervisor's documentation for all phases of the performance management process for the employee.

Former Employee: An employee, who has retired, resigned, was released, or for any other reason, is no longer employed with the department.

Purge: To destroy documents or files by shredding or other method.

PROVISIONS / REQUIREMENTS

GENERAL

1. The human resources (HR) director is considered the official Custodian of Records for all personnel files and employment records of the department.

2. In the case of a lawsuit, administrative charge, or internal grievance, documents contained in personnel files, performance management files, and other employee records related to such are not to be purged until final disposition of the lawsuit, administrative charge, or internal grievance, or the record retention periods established herein, whichever is longer.

OFFICIAL PERSONNEL FILE AND WORK LOCATION PERSONNEL FILE

3. An employee's official personnel file shall be limited to the documents listed below. These documents are not to be purged from this file unless stated below.

A. Original P-1, "Application for Employment," including the Equal Employment Opportunity Supplemental Sheet, resume, and other documents submitted with the application.

B. Copies of official school transcripts, training certificates, and certificates showing professional registration or certification.

C. Correspondence involving employment such as offer and acceptance, commendations, prior state service, retirement, department service dates, and other department correspondence deemed appropriate by the human resources director. Regret letters regarding jobs for which an employee has applied, but was not selected, are not to be kept in the personnel file.

D. Original Form P-2, "Personnel Clearance," transactions processed prior to the implementation of the SAM II HR/Payroll System (prior to November 1, 2000) and printouts of Employment Status Maintenance (ESMT) transactions from the SAM II HR/Payroll System reflecting changes to employment status. Only the first page and, if available, comments section of the ESMT will be kept.

E. Original Form P-3, "Employee Information Changes," Form P-3A, "Employee Education and Licenses Information Update," and Form P-3B, "Employee Address Changes."

F. Copies of disciplinary letters that result in disciplinary transfers, demotions, suspensions (except those involving drug or alcohol testing as described in paragraph 3h), and termination.

G. Copies of disciplinary letters that result in disciplinary probation (except those involving drug or alcohol testing as described in paragraph 3i), which are not to be considered three years after completion of the probationary period and will be purged from the file.

H. Copies of letters informing employees of failure to pass a drug or alcohol test, which are to be purged after two years from the date of the letter.

I. Copies of requests for disaster relief volunteer services from the American Red Cross (or other approved agencies) and any subsequent letters or memos, including approval or denial of the request.

4. Each district/division/office must maintain a work location personnel file on each employee in their area. The work location personnel file does not have to be an exact duplicate of the official personnel file. However, the documents described in paragraph 5 must be stored separately from personnel files. At a minimum, the work location personnel file must contain the following documents:

A. Copies of Form P-1, "Application for Employment," and other documents submitted with the application.

B. Original "New Employee Orientation Checklist" forms.

C. Copies of official school transcripts, training certificates, and certificates showing professional registration or certification.

D. Copies of completed "MoDOT Accountability and Performance System" (MAPS) forms and "Summary Performance Rating" forms, which are not to be considered after three years and are to be purged from the files.

E. Copies of disciplinary letters that result in disciplinary transfers, demotions, suspensions (except those involving drug or alcohol testing as described in paragraph 4g), and termination.

F. Copies of disciplinary letters that result in disciplinary probation (except those involving drug or alcohol testing as described in paragraph 4g), which are not to be considered three years after completion of the probationary period and will be purged from the file.

G. Copies of letters informing employees of failure to pass a drug or alcohol test, which are to be purged after two years from the date of the letter.

Although documentation about verbal warnings and copies of written warnings must be kept in the employee's performance management file, additional copies may be kept in the work location personnel file. Documentation about verbal warnings and written warnings are not to be considered after three years from the dates of the letters and will be purged from files.

OTHER EMPLOYEE RECORDS

5. The following employee records are to be stored separately from personnel files; where possible, these records should be stored in a file cabinet or cabinet drawer separate from personnel files storage.

Type of Record	Where Maintained**	How Long to Keep
Original I-9 "Employment Eligibility Verification" form and related documents	Local HR Office	5 years following termination
Staffing records that support employment decisions (hiring, promotion, etc.) including, but not limited to, job advertisements, internal postings, internal applications, qualified applicant lists, interview questions and summaries	Local HR Office	5 years following the effective date of related employment transaction
Supporting documentation from grievances and investigations, except for documentation of verbal and written warnings and formal disciplinary letters described in paragraphs 3 and 4	Local HR Office, AI and supervisors	5 years after the incident is officially considered "closed"
Medical information and files, including FMLA forms and information on disabilities being accommodated under the Americans with Disabilities Act	HRD, Local HR Office, and supervisors, as instructed by HRD	Indefinitely
Worker's Compensation files	RID and Local RI Office	Indefinitely
Results from drug tests and physicals	RID	Indefinitely

Driving and Criminal Background records obtained through background checks	HRD	Indefinitely
Payroll records, such as wages paid, taxes collected, tax withholdings, insurance beneficiary forms, deduction forms, and garnishment forms	CT, Local BB, and divisions/offices, as instructed by CT	As specified in federal regulations or in the CT "Document Retention Record"
Form A-571, "Medical Plan Statements of Health," and other documents obtained in the processing of medical insurance claims	EB	As specified in the Health Insurance Portability and Accountability Act (HIPAA)
Form GR-11481-10, "Hartford Life Personal Health Statement"	EB	As specified in the HIPAA
Audits and Investigations Unit (AI), Controller's Division (CT), Business and Benefits (BB), Employee Benefits (EB), Human Resources (HR), Human Resources Division (HRD), Risk Management (RI), and Risk Management Division (RID). "Local HR Office" refers to district HR for districts and HR Services for the Central Office.		

EMPLOYEE ACCESS TO PERSONNEL FILES AND OTHER EMPLOYEE RECORDS

6. Any department employee is entitled to review the entire contents of his/her own personnel file or performance management file, and may obtain a copy of any document within these files. The employee may not remove his/her personnel file from the premises of the HR Division or the district/division/office where the personnel file is stored.

7. Employees will not be charged annual leave for a reasonable amount of time (generally 15 to 30 minutes) spent reviewing their work location personnel file or performance management file, including travel time. For efficiency, supervisors may take a work location personnel file or performance management file to an employee in the field. In these situations, supervisors are responsible for safeguarding all documents, ensuring that all documents are returned to the appropriate file, and that the file is returned to the proper location.

An employee may use annual leave or compensatory time to travel to the HR Division to review his/her official personnel file, or the employee may obtain a copy of his/her official personnel file by sending a request in writing to his/her local human resources representative or the HR Division. The request must be notarized, signed, and dated by the employee and include the employee's full name as it appears on his/her social security card and the last four digits of his/her social security number. The copied information will then be sent to the employee's mailing address (the address to which paychecks and direct deposit stubs are mailed).

8. A designated supervisor or HR representative must be present as the employee is reviewing the personnel file or performance management file.

9. An employee may not change or delete information from his/her personnel file, but may request that information contained in the file be corrected or deleted, or may write a statement of disagreement with any item in the file that will be placed in the pertinent personnel file. An employee may submit the request for correction, deletion, or statement of disagreement for the personnel file to his/her local human resources representative or the HR Division. The HR director will determine whether to make the requested correction or deletion. If the requested change is denied, the statement of disagreement will be placed in the file.

10. Except as stated below, any employee may have access to view and copy any form or document described in paragraph 5 that he/she has personally signed or completed, but will be prohibited from access to all other documents referenced in paragraph 5.

An employee's right of access to Form A-571, "Medical Plan Statements of Health," and other documents obtained in the processing of medical insurance claims maintained by Employee Benefit's shall be governed by federal regulations.

11. Employees will not be granted access to the SAM II HR/Payroll System or the MoDOT HR/Payroll Data Mart, unless such access is necessary to perform the duties assigned to their position.

ACCESS TO PERSONNEL FILES AND EMPLOYEE RECORDS BY OTHER MoDOT EMPLOYEES AND NON-MoDOT PEOPLE/u>

12. Access by MoDOT employees to personnel files, performance management files, other employee records, and information in the SAM II HR/Payroll System or MoDOT HR/Payroll Data Mart is limited to those documents and system screens required to conduct business and will be granted to:

A. Department supervisors and other department staff responsible for reviewing performance management ratings, conducting investigations, preparing disciplinary actions, making promotion decisions, and responding to grievances.

B. Members of the Chief Counsel's Office, AI, and HR staff, or other department employees who have been delegated authority on behalf of MoDOT or the Missouri Highways and Transportation Commission, as necessary, to conduct their business.

13. Except as stated in paragraph 14, the release of information contained in personnel files, performance management files, and other employee records to people who are not department employees is limited to information which is not a closed record under the Missouri Sunshine Law. Specifically, <u>release of information shall be limited to first, middle, and last name; job title; salary; employment dates; and work location. At their discretion, districts/divisions/offices may require requests to be submitted in writing. Requests for employment verification may be referred to the State of Missouri's toll-free hotline, "The Work Number."

In addition to the items described above, employee work location addresses will be released upon written request to the HR Division.

An employee's home address and home telephone number are considered confidential and will not be released, with the exception that home phone numbers may be provided to police/fire departments as part of an emergency response system. However, a Form P-3B, "Employee Address Form," signed and dated by the employee, indicating he/she agrees to allow the state of Missouri to release his/her home address, will operate as a waiver to release the home address to anyone who should request it.

14. Federal and state government agencies requesting access to employee files and records may be allowed access to the relevant portion of any personnel file, performance management file, or other employee record necessary to conduct their business, provided proper identification and proof of legal authority to investigate or gain access is furnished. An employee or former employee may waive limitations set out in paragraph 13 and allow additional specific information to be released to other individuals. To make a waiver, a notarized written request signed and dated by the employee or former employee, specifically stating the employee's full name, the last four digits of his/her social security number, and what information is to be released and to whom, must be submitted to his/her local human resources representative or the HR Division.

A. Except as noted in paragraph 14b and 14c, all requests of this nature shall be sent to the human resources director for response.

B. Equal Employment Opportunity Commission and Missouri Commission on Human Rights requests for employee information shall be forwarded to AI for response.

C. Requests to review documents or files related to medical insurance claims must be forwarded to the employee benefits manager for response.

15. Requests for employee information, other than what is allowed for in this policy, must be submitted in accordance with the "Open Records Policy and Procedure," described in the Executive Policies, Section 3, of the MoDOT Policy Manual.

MAINTENANCE OF PERSONNEL FILES AND PERFORMANCE MANAGEMENT FILES/u>

16. Personnel files must be stored in locked cabinets except when authorized personnel are granted access, in which case the individual granted access is responsible for maintaining the confidentiality of all documents contained in the files.

17. The HR Division is responsible for maintaining documents in official personnel files in accordance with retention periods specified in paragraph 3, and will retain, indefinitely, the official personnel files of former employees, who terminate after 1972.

18. The work location personnel file must transfer with an employee to another district/division/office, if a transfer should occur. District HR managers, for district employees, and division leaders/state engineers, for Central Office employees, are responsible for maintaining documents in work location personnel files in accordance with retention periods specified in paragraph 4 and will retain work location personnel files of former employees for a minimum of five years following termination, after which time the files may be purged.

19. Performance management forms and related documentation in an employee's performance management file and all other files <u>are not to be considered after three years from the date of annual performance review and will be purged from these files. When an employee transfers or is promoted to a new position, the employee's performance management file is to be sent to the receiving supervisor. Upon a supervisor's termination from employment or transfer to a new position, the performance management files the supervisor had been maintaining shall transfer to the new supervisor. An employee's immediate supervisor is responsible for maintaining performance management files in accordance with Personnel Policy 1017, "Performance Management and Evaluation." Supervisors will retain the performance management files of former employees for three years following termination, after which time he/she will purge the files.

CROSS REFERENCES

"MoDOT Open Records Policy and Procedure:" (http://lnapp2/AO/Director.nsf/cbc6844582bca05e86256ae90066c169/e5d14d2450929ff2862571d800618451?OpenDocument)

Health Insurance and Portability Accountability Act of 1996 (http://www.cms.hhs.gov/HIPAAGenInfo/Downloads/HIPAALaw.pdf)

Personnel Policy 1017, "Performance Management and Evaluation"

RsMO Chapter 610, Section 610.021, Subparagraph 13 (Missouri Sunshine Law (http://ago.mo.gov/sunshinelaw/chapter610.htm#header5)

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