

§ 126A-16-5. Confidential information in personnel files.

(a) All other information contained in a personnel file is confidential and shall not be open for inspection and examination, except to the following persons:

- (1) The employee or his or her properly authorized agent, who may examine his or her own personnel file in its entirety except for (i) letter of references solicited prior to employment or (ii) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to a patient. An employee's medical record may be disclosed to a licensed physician designated in writing by the employee.
- (2) The supervisor and indirect supervisors of the employee.
- (3) A potential agency supervisor during the interview process, only with regard to performance management documents or to prevent application fraud.
- (4) Members of the General Assembly who may inspect and examine personnel records under the authority of G.S. 120-19.
- (5) A party by authority of a proper court order may inspect and examine a particular confidential portion of an employee's personnel file. In this subdivision, "court order" includes a lawfully issued subpoena or discovery request so long as the parties have moved for the court to issue a protective order regarding the confidential personnel file information. A party may lawfully delay producing requested confidential personnel file documents until the court has ruled on that party's motion for protective order regarding those documents.
- (6) An official of an agency of the federal government, State government, or any political subdivision thereof. The official may inspect any personnel records when the inspection is deemed by the agency head as necessary and essential to the proper function of the agency or to protect the safety of another person. This information shall not be divulged for purposes of assisting in a criminal prosecution or for purposes of assisting in a tax investigation.
- (7) Staff performing human resources functions at the employing agency or OSHR.
- (8) Persons accessing a personnel file under G.S. 17C-10.2 or G.S. 17E-7.1.
- (9) A grievant's, during a grievance hearing held by the employing agency, personnel file information may be provided to the grievant to the extent necessary to adjudicate the grievance. If the agency provides confidential personnel file information of a person other than the grievant, the grievant shall keep that information confidential.
- (10) An employing agency subject to this Article conducting a quasi-judicial hearing or a party to that quasi-judicial hearing may have access to relevant material in personnel files and may introduce copies of that material or information based on that material as evidence in the hearing, either (i) upon consent of the employee, former employee, or applicant for employment or (ii) upon subpoena properly issued by the agency either upon request of a party or on its own motion. Nothing in this Chapter shall impose liability on any agent or officer of the State for compliance with this provision.

(b) Notwithstanding any other provision of this Article, an agency head may, in his or her discretion, disclose to a person any promotion, demotion, suspension, reinstatement, transfer, separation, dismissal, employment, or nonemployment of any employee and the reasons for the action. An agency head may also permit any person to inspect or examine the personnel file, or any portion of the file, of an employee when he or she determines that disclosure is essential to maintaining the integrity of the agency or the level or quality of services it provides. Before

releasing any information or making any file available under this subsection, the agency head shall prepare a memorandum stating the circumstances requiring disclosure and identifying the information to be disclosed. The memorandum shall be retained in agency files and shall be a public record. (2026-40, s. 1.)