

Personnel Records

1013.1 PURPOSE AND SCOPE

This policy governs the maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

1013.2 POLICY

It is the policy of this Agency to maintain personnel records and preserve the confidentiality of personnel records pursuant to the Constitution and the laws of Wisconsin (Wis. Stat. § 19.36(10)).

1013.3 AGENCY PERSONNEL FILE

The agency file shall be maintained as a record of a person's employment/appointment with this agency. The agency file should contain, at a minimum:

- (a) Personal data and marital status.
- (b) Personnel action reports reflecting assignments, promotions and other changes in employment/appointment status. These should be permanently retained.
- (c) Performance evaluations. These should be permanently maintained.
- (d) Discipline records, including copies of sustained personnel complaints.
- (e) Employee Activity Documentation records such as supervisor notes or memos may be retained in the agency file after the member has had the opportunity to read and initial the record.
 - 1. Once a member has had an opportunity to read and initial any Employee Activity Documentation records, the member shall be given the opportunity to respond in writing to the record.
 - 2. Any member response shall be attached to and retained with the original Employee Activity Documentation records (Wis. Stat. § 103.13).
 - 3. If a member refuses to initial or sign an Employee Activity Documentation records, at least one supervisor should note the date and time of such refusal on the original record. Such a refusal, however, shall not be deemed insubordination, nor shall it prohibit the entry of the record into the member's file.
- (f) Commendations and awards.
- (g) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

1013.4 DIVISION FILE

Division files may be separately maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The Division file may contain supervisor comments, notes, notices to correct and other materials that are intended to serve as a foundation for the completion of timely performance evaluations.

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1013.5 TRAINING FILE

An individual training file shall be maintained by the Training Director for each qualifying member. Training files will contain records of all training; original or photocopies of available certificates, transcripts, diplomas and other documentation; and education and firearms qualifications. Training records may also be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

- (a) The involved member is responsible for providing the Training Academy with evidence of completed training/education in a timely manner.
- (b) The Training Director or the authorized designee shall ensure that copies of such training records are placed in the member's training file.

1013.6 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the Internal Affairs Division in conjunction with the office of the Sheriff. Access to these files may only be approved by the Sheriff or the Internal Affairs Division supervisor.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition. Investigations of complaints that result in the following findings shall not be placed in the member's agency file but will be maintained in the internal affairs file:

- (a) Not sustained
- (b) Unfounded
- (c) Exonerated

1013.7 MEDICAL FILE

A medical file shall be maintained by Milwaukee County Department of Human Resources separately from all other personnel records. Any medical-related documents received by the agency shall be maintained in a separate file at the appropriate location.

1013.8 SECURITY

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

Personnel records are subject to disclosure only as provided in this policy, the Records Maintenance and Release Policy or according to applicable discovery procedures.

Nothing in this policy is intended to preclude review of personnel records by Human Resources, Milwaukee County Corporation Counsel or other attorneys or representatives of the County in connection with official business.

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1013.8.1 REQUESTS FOR DISCLOSURE

Any member receiving a request for a personnel record shall promptly notify the Custodian of Records or other person charged with the maintenance of such records (Wis. Stat. § 19.31 et seq.).

Upon receipt of any such request, the responsible person shall notify the affected member as soon as practicable that such a request has been made.

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

All requests for disclosure that result in access to a member's personnel records shall be logged in the corresponding file, and the affected employee will be notified in writing prior to access and within three days after the decision is made to permit access (Wis. Stat. § 19.356(2)(a)).

1013.9 MEMBER ACCESS TO HIS/HER OWN PERSONNEL RECORDS

Any member may request access to his/her own personnel records. The request shall occur during the normal business hours of those responsible for maintaining such files. Any member may request access to his/her own personnel records twice in a calendar year or more if authorized or as otherwise authorized in a collective bargaining agreement. If doing so requires the member to take time off work, arrangements for an alternate reasonable time should be made for the member to access the files. The Agency will grant the inspection within seven working days (Wis. Stat. § 103.13).

Any member seeking the removal or correction of any item from his/her personnel records shall file a written request to the Sheriff through the chain of command. The Agency may remove or correct any such item if appropriate, or within 30 days provide the member with a written explanation of why the contested item will not be removed or changed. If the contested item is not removed or changed, the member's request and the written response from the Agency shall be retained with the contested item in the member's corresponding personnel record as long as the contested item is a part of the file (Wis. Stat. § 103.13).

Members may obtain a copy of the information or part of the information contained in their file (Wis. Stat. § 103.13).

A member who is involved in a current grievance against the Agency may designate in writing a representative of the member's union or collective bargaining unit or other representative to inspect the member's personnel record which may have a bearing on the resolution of the grievance (Wis. Stat. § 103.13).

Members may be restricted from accessing files containing any of the following information (Wis. Stat. § 103.13):

- (a) An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the member of the intent to discipline.

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- (b) Confidential portions of internal affairs files that have not been sustained against the member.
- (c) Criminal investigations involving the member.
- (d) Letters of reference concerning employment/appointment, licensing or issuance of permits regarding the member.
- (e) Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.
- (f) Materials used by the Agency for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments or other comments or ratings used for agency planning purposes.
- (g) Information of a personal nature about a person other than the member if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.
- (h) Records relevant to any other pending claim between the Agency and the member that may be discovered in a judicial proceeding.
- (i) Medical records where it would have a detrimental effect on the member, in which case the Agency may release the medical records to a physician designated by the member so that the physician may release the medical records to the member.

1013.10 RETENTION AND PURGING

Unless provided otherwise in this policy, personnel records shall be maintained in accordance with the established records retention schedule.

- (a) During the preparation of each member's performance evaluation, all personnel complaints and disciplinary actions should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. Each supervisor responsible for completing the member's performance evaluation should determine whether any prior sustained disciplinary file should be retained beyond the required period for reasons other than pending litigation or other ongoing legal proceedings.
- (b) If a supervisor determines that records of prior discipline should be retained beyond the required period, approval for such retention should be obtained through the chain of command from the Sheriff.
- (c) If, in the opinion of the Sheriff, a personnel complaint or disciplinary action maintained beyond the required retention period is no longer relevant, all records of such matter may be destroyed in accordance with the established records retention schedule.