

CITY OF HAMILTON, OHIO

NO. 320

ADMINISTRATIVE DIRECTIVE

Effective date January 11, 1989

Supersedes _____

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Approved _____

SUBJECT: PUBLIC RECORDS – EMPLOYEES

PURPOSE: To safeguard employee rights in the retention and use of information contained in personnel records.

REFERENCES: “Disclosure of Personal Information in Public Records” opinion by Mr. Lester W. Koehler, dated 10-13-88. Letter by Mr. J. P. Becker in reference to the use of “Personnel Payroll Change Notice” dated 11-15-88. Action by City Council, Committee of Whole Report, dated 11-23-88.

GENERAL: It is apparent from recent State Supreme Court cases that every document, except personnel medical records, in the City of Hamilton, or any other City, would be considered public information. (See attached opinion dated October 13, 1988.) This does not allow for much latitude in affording protection to individual City employees and/or various types of customer accounts.

POLICY:

- I. The Civil Service and Personnel Office shall be considered the official depository of records pertaining to any and all City employees.
 1. Any change affecting an employee’s payroll status must be initiated through a Personnel Payroll Change Notice. (See attached Memo dated November 15, 1988.) By this method, the employee, the appointing official, the Finance Department and the Personnel Office are made aware of any change that would affect payroll, such as suspensions, promotions, demotions, transfers, etc. The City Manager’s office is also made aware of these changes because any Personnel Payroll Change Notice must be signed by the City Manager. This procedure will, therefore, insure that everyone concerned is given sufficient and accurate information.
 2. Any letter of reprimand, suspension, commendation, etc., should be copied to the Civil Service and Personnel Office for inclusion in the official Personnel file.

3. Employee records relating to Workers' Compensation which contain medical diagnoses and/or treatments shall be considered as medical records if the diagnosis and treatment arise out of the process of medical treatment. If, however, the record is produced outside of such treatment, such as with a second opinion, then it may very well not be a medical record exempt from disclosure.

Instead of broadly categorizing a record, we must instead look to the facts surrounding how the record is produced, in order to label it a medical record or not. If the record is one that is generated and maintained in the process of medical treatment, then it is a "medical record" within the Public Records law. If the record falls outside this process, then it would not be exempt from disclosure.

Such documents may be released to authorized persons, firms or governmental agencies involved in the administration of employee disability claims.

4. Information of a personal nature which the City has need and maintains on an employee in order to administer benefit programs, to comply with federal or state requirements or to carry out business of the municipality shall not be released without written consent of the employee. Such information shall include the following:
 - a. Address of employee residence.
 - b. Employee home phone number.
 - c. Personal data as to age, race, gender and health status of employee.
 - d. Data relating to spouse and/or dependents of employee.

Note: The information contained in Item 4 may be subject to public disclosure of "Public Records." See Mr. Koehler's letter dated January 6, 1989.

5. Employee records maintained within the work unit by the appointing authority, or his agent, are to be forwarded, upon permanent separation of the employee, to the office of the Department of Civil Service for retention.
6. Any person requesting information in regard to someone's employment history must obtain this information from the Civil Service and Personnel Office. The personnel folder, with the exception of the above-listed information and medical information, will be open to the public. The Civil Service and Personnel Office shall try to obtain the name of the

requesting individual and if any documents are copied, shall send a memo to the Manager's and to the appointing official's offices indicating "who", "what", and "when" items were obtained from personnel files.

7. Records of employee competence or proficiency in job-related skills which must be maintained for employee or work unit certification purposes may be retained within the control of the appointing authority or his/her agent.
 8. Rates of pay, classification and employment standing of City employees is public information and will be provided upon request made to the Personnel Office.
 9. Employment reference requests which relate to current or former employees of the municipality will be referred to the Personnel Office. All such requests must be on official stationery of the requesting party or firm and will contain a written authorization signed by the employee or former employee. The request shall also release the City and its representatives from liability for furnishing such information.
 10. Information maintained by the City regarding employee age, race, gender or similar data as to employee dependents is occasionally required for completion of workforce demographic reports to include, among others, Federal/State EEO Compliance and medical, surgical and life insurance premium determination reports. In such instances, the release of such data is required as a business necessity.
- II. The provisions contained in current union contracts which specify how and when disciplinary records will be removed from the "official records" shall continue in effect until changed through negotiations with the individual bargaining units.
 - III. If in doubt about any request and/or documents, please consult the Law Department.
 - IV. The following policies shall pertain to the removal of disciplinary records of all other City employees.
 1. Records of verbal and/or written warnings given to any employee shall be purged from his or her personnel file two years after the date said warning or warnings were given provided the employee incurs no additional discipline of the same nature during that two-year period.

2. Any record of suspension received by an employee shall not be purged from his or her personnel file, but will be kept until employee's termination.
3. Records of any verbal or written warning presently in an employee's personnel file at the time of the execution of this Directive shall be purged providing the records meet the criteria for purging as set forth above.

For purposes of this Directive, "employee records" shall be those as officially maintained in the office of the Department of Civil Service and Personnel.