

Subject: OFFICIAL PERSONNEL FOLDER (OPF) – INFORMATION PRACTICES ACT

REFERENCES	SECTIONS
Human Resources Memo http://www.dgs.ca.gov/ohr/Home/HRPolicyMemos.aspx	HR 95-34, 99-022, 00-035, 01-003, 07-031
Law & Regulation http://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml http://leginfo.legislature.ca.gov/faces/codes.xhtml http://leginfo.legislature.ca.gov/faces/codes_displayexpandbranch.xhtml http://leginfo.legislature.ca.gov/faces/codes_displayexpandbranch.xhtml	GC 6254(c), 6250-6254, 18573, 11015.5, 11019.9, 14740-14768, 6200-6201, 19589 Penal Code Section 832.7, 502 (Computer Data Access and Fraud Act) Civil Code Section 1798 et seq. (Information Practices Act), 56 et seq. Health and Safety Code 123100-123149.5
Memo of Understanding (MOU) http://www.calhr.ca.gov/state-hr-professionals/Pages/bargaining-contracts.aspx	See applicable BU
Responsible Control Agency and Program	Each State Agency, Department, Board and/or Commission
State Administrative Manual (SAM) http://sam.dgs.ca.gov/Home.aspx	1600 et seq., 4841-4847, 5300-5999

Subject: OFFICIAL PERSONNEL FOLDER (OPF) – INFORMATION PRACTICES ACT

References (continued)

REFERENCES	SECTIONS
Other:	
Personnel Transactions Operating Procedures (PTOP) Information Practices Act of 1977 DGS Web site Public Records Act Statewide Information Management Manual (SIMM) SAM Management Memo Office of Privacy Protection (OPP) California Office of Information Security Privacy Protections in State Constitutions State Controller’s Personnel Letters Attorney General	Section O1.5 http://www.privacy.ca.gov/code/ipa.htm http://inside.dgs.ca.gov/dgsnet/disclaimer.aspx http://inside.dgs.ca.gov/dgsnet/privacy.aspx http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml http://www.cio.ca.gov/Government/IT_Policy/SIMM.html MM 06-12, 08-09, 08-11 http://www.dgs.ca.gov/osp/Resources/SAMMM.aspx http://www.privacy.ca.gov/ http://www.cio.ca.gov/OIS/ http://www.ncsl.org/programs/lis/privacy/stateconstpriv03.htm 08-013 http://www.sco.ca.gov/ppsd_personnel_letters_2008.html Public Records http://oag.ca.gov/consumers/general/pr

Official Personnel Folder (OPF) – Information Practices Act

Introduction It is the objective of the DGS to assure confidentiality of employee information. In this section the following topics will be covered:

Topic	See Page
Definition/explanation	1
Policy	2
Procedure	2
OPF Contents and Retention	6
Public Information	6
Request for Addresses	7
Request for Amendment and/or Removal of Documents from OPFs	7
Supervisor’s Employee Working File (see POM section with same title)	8
Attachments	13
• Authorization to Release Information	
• Request to Amend/Remove Document(s) From Official Personnel Folder	
• Personal/Confidential Information Disclosure Log	
• Official Personnel Folder Purging Chart	

**Definition/
Explanation**

The term “personal information” means any information that is maintained by an agency that identifies or describes an individual, including, but not limited to, his/her name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history.

Personnel files contain employment records maintained by an employer for the purpose of administering benefits, providing training, and maintaining the employment history of employees for continued employment and/or promotional opportunities.

Government Code Section 6254(c), Civil Code Section 1798, and Penal Code Section 832.7 an 502 protect the confidentiality of personnel records and strictly limit their disclosure. Locked files and appropriate physical safeguards shall be established by the Personnel Officer to ensure the security and confidentiality of personnel records.

Continued on next page
88.1

Official Personnel Folder (OPF) – Information Practices Act, Continued

Policy

It is the policy of the DGS that records of the Office of Human Resources (OHR) are open to public inspection at all times during normal working hours. Every person has the right to inspect any record except those that are exempted from public disclosure by statute or other authority.

Copies of records will be provided to any person with authorized access by the OHR. The fee for this service may not exceed the direct cost of duplication. This includes the cost of operating the copy machine and the cost of the machine operator. Any reasonable portions of a record shall be provided after deletion of the portions that are exempted by law.

Records will not be removed from custody of the Personnel Officer or employee having responsibility for them. The OHR reserves the right to be physically present during the inspection of any records.

Persons found guilty of stealing, willfully destroying, mutilating, defacing, altering or falsifying, removing or secreting, the whole or any part of such a record, map, book, paper or proceeding, or who permits any other person to do so, are punishable by imprisonment in state prison, or in a county jail not exceeding one year, or by a fine not exceeding \$1000, or by both fine and imprisonment (GC Section 6220-6201).

See “Public Record Inspection Guidelines” (GS 17) posted in the OHR Reception area for further information.

Procedure

Authorized Access

In accordance with GC Section 18573 and Civil Code Section 1798, employees may access and review any records maintained in their OPF including adverse actions. In addition, an OPF **may be reviewed and accessed by an individual designated by the employee (possession of a signed release) and presentation of proper identification.**

Continued on next page

Official Personnel Folder (OPF) – Information Practices Act, Continued

Procedure
(continued)

Written authorization to review an OPF must contain an original signature unless it states that a copy is as valid as the original. File contents may be reviewed only in the presence of authorized Office of Human Resources staff. Individuals, **with the exception of Equal Employment Opportunity (EEO) investigators**, will be required to sign the “Personal/Confidential Information Disclosure Log” specifying the purpose of the OPF review. An OPF may not be removed from the Office of Human Resources.

Review of Official Personnel Folders

Note: Anyone who wishes to view an OPF must make arrangements with the Personnel Specialist prior to its review.

Employee:

An employee may inspect personal information about her/himself if the request is for a specific record and it is feasible to retrieve the record by individual name or other method of identification assigned to the individual.

Continued on next page

Official Personnel Folder (OPF) – Information Practices Act, Continued

Procedure
(continued)

Official records of administrative hearings and records used for statistical purposes only are not covered by the Information Practices Act. Individuals are not authorized by law to inspect certain kinds of information, including, but limited to:

- Information maintained for criminal law enforcement.
- Information maintained for the purpose of investigating specific violations of state law, until after the investigation and remedial action, if any, are completed.
- Information that would compromise the objectivity or fairness of a test or examination.
- Medical, psychiatric, or psychological information, if the person responsible for holding the record determines that disclosure would be medically or psychologically detrimental to the individual.
- Any information required by statute to be withheld from the individual to whom it pertains.
- Personal information about other individuals.
- The names of sources of personal information, when confidentiality is authorized or required.

Refer to the individual bargaining unit agreements pertaining to travel expenses and time required to review OPFs. In lieu of personal attendance, an employee may request that copies of the OPF be mailed to his/her work location marked “**Personal and Confidential.**”

Personnel Specialist/Classification and Pay (C&P) Analyst/OHR Support Staff:

Employees responsible for the collection, maintenance, use and dissemination of information about individuals, which relates to their personal life, including their employment and medical history, financial transactions, marital status and dependents, for example, shall comply with the provisions of the Information Practices Act.

Employees shall not require individuals to disclose personal information, which is not necessary and relevant to the lawful State function for which the employee is responsible.

Continued on next page
88.4

Official Personnel Folder (OPF) – Information Practices Act, Continued

Procedure
(continued)

Employees shall make every reasonable effort to see that inquiries and requests by individuals for their personal records are responded to quickly and without requiring the individual to unnecessarily repeat his/her inquiry to others.

Employees shall assist individuals who seek information pertaining to themselves in making their inquiry sufficiently specific and descriptive so as to facilitate locating the records requested.

Employees shall respond to inquiries from individuals, and requests from them to review, obtain copies of, amend, correct or dispute their personal records in a courteous and businesslike manner, and in accordance with Sections 1798.30 through 1798.42 of the Civil Code.

Employees shall not disclose personal information relating to individuals to unauthorized persons or entities. The improper disclosure of personal information may be cause for disciplinary action.

Employees responsible for maintenance of records containing personal information shall take all necessary precautions to assure that proper administrative, technical and physical safeguards are established and followed in order to protect the confidentiality of records containing personal information, and to ensure that such records are not disclosed to unauthorized individuals or entities.

Hiring Supervisor:

When a DGS hiring supervisor/manger conducts interviews for the purpose of filling a vacancy, s/he shall have the prospective employee complete both "Authorization to Release Information" forms (see attached).

Continued on next page

Official Personnel Folder (OPF) – Information Practices Act, Continued

Procedure
(continued)

Prospective Employer:

Any employer outside the DGS must present some form of authorization with an original signature to release information document prior to viewing the DGS employees OPF.

**OPF
contents and
retention**

OPF material shall be maintained no longer than the period of time required by law and in accordance with the approved departmental retention period established for the record. See the attached “Official Personnel Folder Purging Chart” for items that may be in the employee’s OPF.

**Public
information**

The following information is subject to review, upon request, as the items are considered public under the Public Records Act:

- Name
 - Department
 - Reporting unit
 - Reporting location and telephone number
 - Classification and specifications for the position
 - Assignment (duty statement)
 - Salary range (gross salary rate)
 - Tenure
 - Time base
 - Date appointed or separated
 - Rehire information
 - Training received
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Continued on next page

Official Personnel Folder (OPF) – Information Practices Act, Continued

Request for addresses

When an inquiry is made about the address of a former employee, the following actions should be taken:

- Letters written to the DGS may be forwarded to the last known address of the former employee. The person who inquired shall be notified of the action taken, but not provided the address where the letter was forwarded.
 - When a former employee's telephone number is available, s/he may be contacted by telephone and advised that the party is attempting to contact him/her.
 - The courtesy of trying to locate a former employee should be limited to matters involving DGS business.
 - The last known address or telephone number can be disclosed to a district attorney for a criminal case or the Attorney General's Office for a civil case involving the DGS. This should only be done with positive identification of the requestor. Such verification can be accomplished by a written request from, or a telephone call to, the agency to verify the authenticity of the telephone call.
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Request for amendment and/or removal

Employees may request that certain documents be amended and/or removed from their individual OPF, which could affect his/her status or rights, if s/he believes the information is not accurate, relevant, timely, or complete and/or in accordance with the approved departmental retention period established for the records. Employees requesting documents be amended and/or removed from their OPF must complete the form "Request to Amend/Remove Document(s) from Official Personnel Folder," and submit the form to their assigned Personnel Specialist for review.

The Personnel Specialist responsible for maintaining the record will notify him/her, within 30 days after receipt of the request, that corrections or removal have been made as requested or that all or part of the request has been rejected. Reasons for refusing to amend or remove the record will be given.

Continued on next page
88.7

Official Personnel Folder (OPF) – Information Practices Act, Continued

Request for amendment and/or removal (continued)

If the employee disagrees with the refusal to amend or remove any part of his/her record, s/he is entitled to request an agency review. The employee must submit his/her request for a review in writing to the Personnel Officer. The request must include the following information:

- Copy of the original request for amendment or removal of his/her record.
- Copy of the notification of denial of his/her request, with the Department official's reasons for refusing to amend or remove his/her record.
- His/her reasons for disagreeing with the refusal, and any additional information.

If the agency review concludes that all or part of his/her request for amendment or removal should not be granted, the notification will include a statement of reasons for the refusal. S/he is entitled to file a statement of disagreement if s/he does not agree with the agency review decision. His/her statement should be of reasonable length (usually not more than one or two pages), specifying the amendment or removal requested and giving reasons why each amendment or removal should be made. His/her statement of disagreement is sent to the Personnel Officer.

His/her statement of disagreement, together with the DGS' statement of reasons for refusing to amend or remove the record, will be made a part of his/her record and copies will be made available to persons or agencies to whom the disputed information is disclosed.

Supervisor's employee working file policy

It is the policy of the DGS for **only** supervisors to establish and maintain a working file for their employee(s). The supervisor's employee working file **shall** include only information directly related to an employee's work performance on the job.

All division supervisor employee working files **must** be purged of inappropriate material and moved to a location consistent with the security safeguards set forth by this established policy.

Refer to POM section of the same title for additional information and guidance.

Continued on next page
88.8

Official Personnel Folder (OPF) – Information Practices Act, Continued

Compliance and penalty

Failure to comply with the above policy and directive may result in further investigation and/or actions taken based on the laws and regulations. Appropriate disciplinary action may be taken against parties found in violation of applicable laws and regulations, including, but not limited to the following:

- Termination of employment
- Misdemeanor charge and fine of not more than \$5,000
- Imprisonment of not more than one year

OHR will conduct random and continuous audits of supervisor and manager employee working files in all DGS offices to ensure compliance and identify any needed modifications.

Supervisors' employee working file security safeguards

Working files must be in the custody of the employee's supervisor ONLY! Refer to POM section of the same title for additional information and guidance.

Working files must be in a locked area with appropriate physical safeguards established to ensure the security and confidentiality of the information that is enclosed. Such files should be in an area where they are not subject to perusal by persons who have no legitimate business need to view them.

Warning: Do **not** keep files:

- on desk tops
 - in cardboard boxes
 - in an unsecured area
 - on unlocked computer equipment
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Discarding documents

If a supervisor has inappropriate documents in his/her employee working file, the documents should be:

- sent to confidential destruct
- sent to OHR for filing or confidential destruct

If you have any questions regarding specific document(s) contact your Classification and Pay (C&P) Analyst.

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Official Personnel Folder (OPF) – Information Practices Act, Continued

Rights of employee to supervisor's working file

Upon request, an employee has the right to inspect information about themselves in records maintained by the DGS or its agents.

Warning: Civil action against an agency or its agent can be taken if:

- The request to inspect his/her file is refused.
 - Information contained in the file is irrelevant/unrelated to the employee's work performance or inaccurate and incomplete, and as such, causes adverse effects to the individual.
 - Failure to comply with the guidelines set forth by the Information Practices Act, and as such, causes adverse effects to the employee.
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Electronic employee records

A supervisor can only retain electronic employee records as defined under "Appropriate job-related information for retention."

Appropriate employee job-related information for retention

Refer to the appropriate bargaining unit contract for rank and file employees. The contract provides specific material acceptable for a working file.

Note: *Bargaining units that do not identify materials which may be kept in a working file or those employees excluded from bargaining refer to the list of acceptable items below:*

- Employee's job application (with address and social security numbers removed)
 - Report of performance
 - Signed essential functions duty statement
 - Physical description of the position form
 - Training requested/received documentation
 - Emergency information/physician designation form (a **telephone number to be used to "call back" or to cancel pre-authorized overtime prior to the employee reporting to work, may be retained, or in the event of illness or injury to contact the designated person**)
 - Individual Development Plan
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Official Personnel Folder (OPF) – Information Practices Act, Continued

Appropriate employee job-related information for retention (continued)

- Leave balances and related information, i.e., alternate work schedule calendar, vacation/annual leave requests (**any medical information shall be sent to OHR medical file; retention in working files is unauthorized EXCEPT for leave of absence request, temporary limited duty, or Family Medical Leave Act requests for time keeping purposes only – at the end of the leave or temporary limited duty; forward to OHR for placement in the employee’s medical file**)
 - Work performance and conduct documentation, such as formal and informal counseling memorandums, **as long as the employee has full knowledge of these documents**
 - Subject to Proper Placement (STPP) form; a copy of this form or reasonable accommodation approval(s), if applicable to the employee, may be retained in the working file
-

Inappropriate employee job-related information

Inappropriate employee job-related information in a supervisor employee working file is defined as “information of a personal nature unrelated to the employee’s job or work performance,” which includes information such as:

- A physical description of the employee
 - Employee’s home address (a telephone number to be used in case of emergency, to “call back” or to cancel pre-authorized overtime prior reporting to work, in the event of illness or injury to contact the designated person may be retained)
 - Financial information (i.e., garnishments; child support; SDI; disability payments; credit reports; bankruptcy; workers’ compensation settlement; etc.)
 - Medical history information (i.e., FMLA or TLD, except as noted above); medical reports [STD 910, STD 610 & 2066]; workers’ compensation information
 - State Controller’s (SCO) employment history information (i.e., SCO print out, copy of PAR, etc.)
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Official Personnel Folder (OPF) – Information Practices Act, Continued

Inappropriate employee job-related information (continued)

Below are examples of inappropriate material that **must** be purged from the supervisor or manager employee working file:

- Health Insurance forms
- Dental Insurance forms
- Direct Deposit forms
- Flex-Elect forms
- Health questionnaire/medical (STD 610, STD 910, SPB 2066)
- Employment verifications
- State Controller's Office employment history information
- Workers' compensation documents – (send to the Return-to-Work Coordinator in the Office of Risk and Insurance Management (ORIM))
- A copy of any doctor notes can be retained by the supervisor or manager during the period of illness or injury (i.e., any and all doctors notes should be sent either to RTWC or OHR Medical files)

NOTE: Be aware that the above list identifies a small number of documents inappropriate for a supervisor or manager working file and should not be considered all inclusive

Relevance and necessity of information in supervisors' working file

Before including information in a working file a supervisor should ask the following simple questions. They will assist you in determining if the information should be retained in the working file:

- How will I use the information?
 - Will it impair my supervisory responsibilities if I did not have it?
 - How would the employee feel if they were to review the information contained in the file?
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Upon employee separation

Upon employee separation (retirement, transfer to another agency, adverse action), the employee's supervisor **shall** destroy (shred) all documents in the "working" file. If the employee should reinstate to a position under the same supervisor as previously employed, the supervisor **shall** establish a new file, which will not include any prior information.

Questions

If you have questions regarding the retention of a specific document, contact your Classification and Pay (C&P) Analyst for guidance.

Continued on next page
88.12

Official Personnel Folder (OPF) – Information Practices Act, Continued

Attachments [Request to Remove Document\(s\) from Official Personnel Folder \(DGS OHR 16\)](#)
[Personal/Confidential Information Disclosure Log](#)
[Official Personnel Folder Purging Chart](#)
[Authorization to Release Information \(DGS OHR 18\)](#)
