

---

## Personnel Records\*

---

An official personnel file will be established for each person employed by the district. Such files will be maintained in a central location.

All records containing employee medical condition information such as workers' compensation reports and release/permission to return to work forms will be kept confidential, in a separate file from personnel records. Such records will be released only in accordance with the requirements of the Americans with Disabilities Act or other applicable law.

The superintendent or designee will be responsible for establishing [procedures](#) ~~regulations~~ regarding the control, use, safety, and maintenance of all personnel records. ~~Upon request,~~ Employees will be given a copy of evaluations, complaints and written disciplinary actions ~~to be~~ placed in their personnel file. All charges resulting in disciplinary action shall be considered a permanent part of the teacher's personnel file and shall not be removed for any reason. Employees may submit a written response to any materials placed in their personnel file.

Except as provided below, or required by law, district employees'<sup>1</sup> personnel records will be available for use and inspection only by the following:

1. An employee or designee (designated by the employee in writing) may arrange with the human resources office to inspect the contents of ~~his/her~~ [their](#) personnel file; ~~by appointment~~
- ~~2. Others designated by the employee in writing;~~
3. The comptroller or auditor, when such inspection is pertinent to carrying out their respective duties, or as otherwise specifically authorized by the Board. Information so obtained will be kept confidential. No files will be removed from their central location for personal inspection;
4. A Board member when specifically authorized by a majority of the Board. Information will be kept confidential. No files will be removed from their central location for personal inspection;
5. The superintendent and members of the central administrative staff [designated by the superintendent or designee](#);
6. District administrators and supervisors who currently or prospectively supervise the employee;
7. Employees of the human resources office for the purpose of personnel business;
8. Attorneys for the district or the district's designated representative on matters of district business;
- [9. Upon receiving a request from a prospective employer issued under Oregon Revised Statute \(ORS\) 339.374\(1\)\(b\), the district, pursuant to ORS 339.378\(1\), shall disclose the requested information if it has or has had an employment relationship with a person who is the subject of the request, no later than 20 days after receiving such request. The Records created by the district pursuant to ORS 339.388\(8\)\(c\) are confidential and are not public records as defined in ORS 192.311. The district may use the record as a basis for providing the information required to be disclosed about an employee under ORS 339.378\(1\);](#)

---

<sup>1</sup> [Includes former employees.](#)

10. The disciplinary records<sup>2</sup> (related to that crime) of a district employee convicted of a crime listed in Oregon Revised Statute (ORS) 342.143 are not exempt from disclosure under ORS 192.501 or 192.502 and may be released to any person upon request. Prior to the release of disciplinary records the district shall remove any personally identifiable information from the record that would disclose the identity of a child, a crime victim or a district employee who is not the subject of the disciplinary record.
11. Upon request from a law enforcement agency, the Oregon Department of Human Services, ~~or the Teacher Standards and Practices Commission,~~ or the Oregon Department of Education, in conducting an investigation related to suspected abuse or suspected sexual conduct, to the extent allowable by state and federal law, including laws protecting a person from self-incrimination ~~a district shall provide the records of investigations of suspected child abuse by a district employee.~~
12. Upon request from a prospective employer or a former employee, authorized district officials may disclose information about a former employee's job performance to a prospective employer and such disclosure is presumed to be in good faith. Presumption of good faith is rebutted by showing the information disclosed was knowingly false or deliberately misleading, was rendered with malicious purpose or violated any civil right of the former employee protected under ORS 659 or ORS 659A.

The superintendent or designee may permit persons other than those specified above to use and to inspect ~~employee-personnel~~ records when, in ~~his/her~~ their opinion, the person requesting access has a legitimate official purpose. The superintendent or designee will determine in each case, the appropriateness and extent of such access.

Release of personnel records to parties other than those ~~authorized to inspect them or legally required to disclose~~ will be only upon receipt of a court order listed above, will be in line with the district's public records procedures. The district will attempt to notify the employee of the request and that the district believes it is legally required to disclose certain records.

### Disclosure of Information

According to Oregon Revised Statute (ORS) 30.178, an employer who discloses information about a former employee's job performance to a prospective employer upon request of the prospective employer is presumed to be acting in good faith and is immune from civil liability. In order for the employer to be acting in good faith the employer must meet the following conditions when making disclosures:

1. Disclosure of information is upon request of the prospective employer; or
2. Disclosure of information is upon request of the former employee;
3. The information is related to job performance;
4. The disclosure is the result of a request from a law enforcement agency, the Department of Human Services or the Teacher Standards and Practices Commission regarding the records of investigations of suspected child abuse by a district employee.

Not later than 20 days after receiving a request under ORS 339.374, an education provider that has or has had an employment relationship with the applicant shall disclose the information requested and any disciplinary records that must be disclosed as provided by ORS 339.388(7).

Presumption of good faith is rebutted by showing the information disclosed was:

1. Knowingly false;
2. Deliberately misleading;
3. Rendered with malicious purpose;
4. Violated civil rights.

---

<sup>2</sup>"Disciplinary records" is defined as records related to a personnel discipline action or materials or documents supporting that action.

END OF POLICY

---

**Legal Reference(s):**

[ORS 30.178](#)

[ORS 339.370 to -339-375](#)

[ORS 339.378](#)

[ORS 339.388](#)

[ORS 342.143](#)

[ORS 342.850](#)

[ORS 652.750](#)

[ORS Chapter 659](#)

[ORS Chapter 659A](#)

[OAR 581-022-2405](#)

OSEA v. Lake County Sch. District, 93 Or. App. 481 (1988).

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 [\(2018\)](#); 29 C.F.R. Part 1630 [\(2019\)](#); 28 C.F.R. Part 35 [\(2019\)](#).

Americans with Disabilities Act Amendments Act of 2008, 42 U.S.C. § 2000ff-1 (2018).

OR. ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL.

**Cross Reference(s):**

ACA - Americans with Disabilities Act

EH - Electronic Data Management