

Multnomah Education Service District

Code: **GBL**
Adopted: 12/16/80; 3/18/81
Revised/Readopted: 9/20/94; 11/15/05, 2/19/08;
1/18/11; 4/16/13; 11/17/20;
4/19/22
Orig. Code(s): 4300, 4310, 3310-1, 3311-1;
3312.2-1; 3313-1

Personnel Records

An individual personnel file for every employee of MESD shall be located in an area designated by the Superintendent. Personnel files shall be maintained by the Director of Human Resource Services.

All records containing employee medical condition information such as Workers' Compensation reports, Family Medical Leave Act/Oregon Family Leave Act (FMLA/OFLA) records and release/permission to return to work forms shall be kept confidential, in a separate file from personnel records. Such records shall be released only in accordance with the requirements of the Americans with Disabilities Act or other applicable law.

The personnel file for each employee shall include materials appropriate to that individual's work performance for MESD, including employment application, resume, evaluation, letters of commendation, disciplinary action taken, payroll information, employment contracts and other information as indicated by the State Archivist's guidelines for records management for education service districts.

Materials received prior to a person's employment, except for application and resume, shall not become a part of the personnel file.

Placement of materials into the personnel file shall be subject to regulations established by the Superintendent and Cabinet.

Removal of materials from personnel files shall be in accordance with existing federal and state laws and adopted by Board policy.

All charges resulting in disciplinary action shall be considered a permanent part of an employee'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. However, material which has been placed in the personnel file by the appropriate procedure shall be expunged from the personnel file by order of law or provision of a negotiated agreement.

Except as provided required by law, MESD employees¹ personnel records shall be viewed by the following individuals only:

1. Superintendent;
2. Chief operating officer;
3. Director of human resource services or designated employees;

¹ Includes former employees.

4. Current or prospective supervisors of the employee;
5. Other individuals designated by the superintendent having a demonstrated need;
6. The individual employee, or other individuals designated in writing by the employee;
7. The comptroller or auditor, when such inspection is pertinent to carrying out their respective duties, or as otherwise specifically authorized by law or provisions of a negotiated agreement. Information so obtained shall be kept confidential;
8. A Board member when specifically authorized by the Board;
9. Attorneys for MESD or MESD's designated representative on matters of MESD business.

Disclosure of Information

Authorized MESD officials (Superintendent, Human Resource Services Director of Superintendent Designee) may disclose information about a former employee's job performance to a prospective employer. These MESD officials are immune from civil liability for such disclosures under the following conditions:

1. The disclosure of information regarding the former employee's job performance is upon request of the prospective employer or the former employee. This disclosure is presumed to be in good faith. Presumption of good faith is rebutted by showing the information disclosed was:
 - a. Knowingly false;
 - b. Deliberately misleading;
 - c. Rendered with malicious purpose; or
 - d. Violated civil rights.
2. Upon receiving a request from a prospective employer issued under Oregon Revised Statute (ORS) 339.374(1)(b), the ESD, 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 pursuant to ORS 339.388 (8)(c) are confidential and are not public records as defined in ORS 192.331. The MESD may use the record as a basis for providing the information required to be disclosed about an employee under ORS 339.378(1);
3. Upon request from a law enforcement agency, the Oregon Department of Human Services, 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.
4. Upon request from a prospective employer or a former employee, authorized ESD 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.

5. No later than 20 days after receiving a request under ORS 339.374, an education provider that has or has had an employment relationship with an applicant shall disclose the information requested and any disciplinary records that must be disclosed as provided by ORS 339.388(7).

Personnel files shall be viewed by authorized individuals only during the regular working hours of MESD except as authorized by the superintendent. No files shall be removed from their central location for personal inspection.

The superintendent and Cabinet shall be responsible for establishing administrative regulations regarding the control, use, safety and maintenance of all personnel records. Employees shall be given a copy of evaluations, complaints and written disciplinary actions to be placed in their personnel file.

END OF POLICY

Legal Reference(s):

[ORS 30.178](#)

[ORS 339.370](#) - [339.374](#)

[ORS 339.378](#)

[ORS 339.388](#)

[ORS 342.143](#)

[ORS 342.850](#)

[ORS 652.750](#)

[ORS Chapter 659](#)

[ORS Chapter 659A](#)

[OAR 581-024-0245](#)

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

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12112 (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).

Cross Reference(s):

GAB - Position Descriptions

GB - Personnel Files

GCDA/GDDA - Posting of All Employee Vacancies

GCN - Evaluation of Staff

GCPD - Discipline and Dismissal of Employees

KBA - Public Records