

§503. Personnel records

1. Confidential records. The following records are confidential and not open to public inspection. They are not "public records" as defined in Title 1, section 402, subsection 3. These records include:

A. Except as provided in this paragraph, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the county for use in the examination or evaluation of applicants for positions as county employees.

(1) Notwithstanding any confidentiality provision other than this paragraph, applications, resumes and letters and notes of reference, other than those letters and notes of reference expressly submitted in confidence, pertaining to the applicant hired are public records after the applicant is hired.

(2) Telephone numbers are not public records if they are designated as "unlisted" or "unpublished" in an application, resume or letter or note of reference.

(3) This paragraph does not preclude union representatives from access to personnel records which may be necessary for the bargaining agent to carry out its collective bargaining responsibilities. Any records available to union representatives which are otherwise covered by this subsection shall remain confidential and are not open to public inspection; [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 402, §2 (RPR).]

B. County records containing the following:

(1) Medical information of any kind, including information pertaining to the diagnosis or treatment of mental or emotional disorders;

(2) Performance evaluations and personal references submitted in confidence;

(3) Information pertaining to the creditworthiness of a named employee;

(4) Information pertaining to the personal history, general character or conduct of members of an employee's immediate family;

(5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. The decision must state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written report, with regard to that employee, is public.

For purposes of this subparagraph, "final written decision" means:

(a) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or

(b) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written

decision of the neutral arbitrator is not issued and released before the expiration of the 120 days; and

(6) Personal information, including that which pertains to the employee's:

- (a) Age;
- (b) Ancestry, ethnicity, genetic information, national origin, race or skin color;
- (c) Marital status;
- (d) Mental or physical disabilities;
- (e) Personal contact information, as described in Title 1, section 402, subsection 3, paragraph O;
- (f) Personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance;
- (g) Religion;
- (h) Sex, gender identity or sexual orientation as defined in Title 5, section 4553, subsection 9-C; or
- (i) Social security number.

Such personal information may be disclosed publicly in aggregate form, unless there is a reasonable possibility that the information would be able to be used, directly or indirectly, to identify any specific employee; and [PL 2023, c. 159, §2 (AMD).]

C. Other information to which access by the general public is prohibited by law. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2023, c. 159, §2 (AMD).]

1-A. Investigations of deadly force or physical force by law enforcement officer. The name of a law enforcement officer is not confidential under subsection 1, paragraph B, subparagraph (5) in cases involving:

A. The use of deadly force by a law enforcement officer; or [PL 1991, c. 729, §6 (NEW).]

B. The use of physical force by a law enforcement officer resulting in death or serious bodily injury. [PL 1991, c. 729, §6 (NEW).]

In cases specified in paragraphs A and B, regardless of whether disciplinary action is taken, the findings of any investigation into the officer's conduct are no longer confidential when the investigation is completed and a decision on whether to bring criminal charges has been made, except that if criminal charges are brought, the findings of the investigation remain confidential until the conclusion of the criminal case.

[PL 1991, c. 729, §6 (NEW).]

1-B. Investigation of allegation of sexual misconduct or sexual harassment by county jail employee. Notwithstanding subsection 1, paragraph B, subparagraph (5), in the case of an allegation of sexual misconduct or sexual harassment within a county jail or detention facility, a determination that the allegation was substantiated, unsubstantiated or unfounded may be disclosed to the alleged victim. Unless the allegation is determined to be unfounded, the following information may also be shared with the alleged victim:

A. Whether the individual alleged to have engaged in the sexual misconduct or sexual harassment is still assigned to the same work location where the sexual misconduct or sexual harassment allegedly occurred; [PL 2023, c. 615, §4 (NEW).]

B. Whether the individual under paragraph A is still employed at the county jail or detention facility; [PL 2023, c. 615, §4 (NEW).]

C. Whether the individual under paragraph A has been criminally charged or convicted of a crime arising out of the allegation of sexual misconduct or sexual harassment; and [PL 2023, c. 615, §4 (NEW).]

D. Whether the prosecuting agency declined to seek an indictment or the grand jury declined to indict the individual under paragraph A based on the allegation of sexual misconduct or sexual harassment. [PL 2023, c. 646, Pt. B, §2 (AMD).]

[PL 2023, c. 646, Pt. B, §2 (AMD).]

2. Employee right to review. On written request from an employee or former employee, a county official with custody of the records shall provide that employee, former employee or the employee's authorized representative with an opportunity to review the employee's personnel file, if the county official has a personnel file for that employee. These reviews shall take place during normal office hours at the location where the personnel files are maintained.

A. For the purposes of this subsection, a personnel file includes, but is not limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits of which the county official has possession. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The records described in subsection 1, paragraph B, may also be examined by the employee to whom they relate, as provided in this subsection. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Constitutional obligations of a prosecutor. Notwithstanding this section or any other provision of law, this section does not preclude the disclosure of confidential personnel records and the information contained in those records to the Attorney General, a deputy attorney general, an assistant attorney general, a district attorney, a deputy district attorney, an assistant district attorney or the equivalent departments or offices in a federal jurisdiction that are related to the determination of and compliance with the constitutional obligations of the State or the United States to provide discovery to a defendant in a criminal matter. A person or entity participating in good faith disclosure under this subsection or participating in a related proceeding is immune from criminal and civil liability for the act of disclosure or for participating in the proceeding.

[PL 2013, c. 201, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 402, §2 (AMD). PL 1991, c. 229, §2 (AMD). PL 1991, c. 729, §6 (AMD). PL 1997, c. 770, §2 (AMD). PL 2013, c. 201, §2 (AMD). PL 2019, c. 451, §2 (AMD). PL 2023, c. 159, §2 (AMD). PL 2023, c. 615, §4 (AMD). PL 2023, c. 646, Pt. B, §2 (AMD).

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