

Department Of Finance POLICY AND PROCEDURE

Employee Personnel Files	Adm-1-92
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BACKGROUND

Documents are periodically submitted to Human Resources for inclusion in an employee's personnel folder. These documents may not always be appropriate or authorized for inclusion. This policy and procedure is intended to:

1. Define the types of documents which can be placed in the personnel file.
2. Establish an agencywide procedure to ensure that documents, forms, and evaluatory or disciplinary materials placed in a personnel file are properly reviewed by senior staff and adhere to City and departmental requirements.
3. Protect the employee's rights regarding evaluatory statements placed in the file.
4. Ensure that file documentation meets legal requirements and can be used as evidence in disciplinary proceedings, when necessary.

POLICY

The Department of Finance, in accordance with City policy, is required to ensure that evaluatory material placed in personnel files has been reviewed and signed by the employee, or appropriately witnessed by a third party. An employee has the right to submit a written response to any such materials for inclusion in his/her personnel file. Once an employee leaves the agency, no documents may be added to the employee's personnel file, except for documents concerning unemployment insurance or signed releases submitted by prospective employers.

Types of Personnel File Materials

1. Materials which may be placed in a personnel file.
 - o Records of employment (e.g., Department of Personnel and Finance application forms) and records of commendations;
 - o Supervisory conference documentation, disciplinary or evaluatory memoranda, including time and leave violations;
 - o Properly completed Performance Evaluation forms;
 - o Responses to evaluatory and disciplinary memoranda, notices or charges;
 - o Records of participation in agency-sponsored or approved training and education programs.

Inquiries: Associate Director,
Human Resources
(212) 788-0205

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2. Materials which may not be placed in a personnel file:

- Information of a personal nature, particularly from one employee to another, which are not related to work performance;
- EAP referral memoranda, which are used specifically to refer the employee to the Department of Finance Employee Assistance Program;
(NOTE: The EAP referral memorandum is a confidential document and separate from a supervisory conference memorandum. It is permissible for the supervisory conference memorandum to include a reminder that help is available through either the EAP or union counseling service. For further details on constructing a conference memorandum, consult the Department of Finance Disciplinary Manual.)
- Supervisory conference records or evaluatory or disciplinary correspondence which has not been signed by the employee or by a third party indicating that the employee received a copy of the document but refused to sign acknowledgement of receipt;
- Disciplinary Unit memoranda requesting correction of employee's time records or lateness warnings;
- Human rights complaints filed by a current or former employee and other documents pertaining to employment-related litigation, e.g., EEO, labor relations complaints, unless authorized by consultation with Legal Affairs;
(NOTE: The above restriction does not include documentation pertaining to formal disciplinary action initiated by the agency, which should be included in the personnel file.)
- Any document (other than routine administrative documents and forms described below) which has not been submitted in accordance with this policy.

PROCEDURE

Referral of Documents

1. Employees, supervisors, and other agency personnel ("requesters") must forward all documents requiring referral (see below) to their division/bureau Deputy Commissioner, Assistant Commissioner, or designee for review and transmittal to the Human Resources Division. Please contact your Administrative Liaison to determine the designated reviewer in your division/bureau.
2. Requesters must complete the "Employee Data" and "Referred by" sections of the attached form and submit it, together with the documents to be included in the personnel file, to the designated bureau reviewer.
3. The designated reviewer will review the document for adherence to City and Departmental policy.
 - If the document does not meet the stated requirements, the reviewer will complete the applicable section of the referral form and return it, together with the attached documents, to the requester.

- If the document meets all requirements, the reviewer will complete the "reviewed by" section of the referral form and forward it, with attachments, to the File Room Coordinator, Human Resources Division, 150 Nassau Street, 6th floor, New York, NY 10038.
- The File Room Coordinator will review the referral form to ensure that a designated bureau reviewer has approved the document for inclusion in the personnel file.
- If the documents were not referred in accordance with this policy, e.g., inappropriate or missing signature, they will be referred to the Associate Director, Human Resources, for review and possibly return to the designated bureau reviewer for compliance.
- If the referral form is appropriately approved, the File Room Coordinator will complete the "Filed" section of the referral form and file it with the attached documents in the employee's personnel file.

Materials Subject to Review

1. Materials which must be referred according to this procedure include, but are not limited to:

- correspondence (memoranda, letters, forms, etc.) of an evaluatory or disciplinary nature;
- rebuttals and responses to evaluatory or disciplinary statements;
- commendation letters;
- records of agency-sponsored or -approved training or education programs;
- notices of disciplinary charges or penalties;
- any other document of a potentially inflammatory, negative or suspicious nature.

2. Materials routinely included in an employee's personnel file as part of his/her employment history with the department are not required to be reviewed and submitted according to this procedure.

Routine documents include, but are not limited to:

- administrative documents, forms, and approvals (e.g., performance evaluations and oversight agency approvals and disapprovals);
- employment processing application forms;
- performance evaluation forms;
- time and leave forms and documents;
- absence control and lateness warning forms;

Employee Access to Files

- An employee may review his/her file once a year, or when disciplinary action is taken. At that time an employee may respond to any evaluatory material not previously rebutted.
- Any current employee may contact the File Room Coordinator, (212) 788-0221, to schedule an appointment to review his/her personnel file.
- An employee must present an employee identification card and a written request to review the file at the time of the appointment.
- An employee may request that the File Room Coordinator make copies of documents in his personnel file. However, employees may not remove any documents from the file.

PERSONNEL FILES

Article X of the Citywide Agreement States:

- Any evaluating statement with respect to employee's work performance or conduct may not be used in disciplinary action against an employee unless a copy of the statement was given to the employee.
- At the time a disciplinary action is commenced, the Employer shall remove all materials which have not been seen by the employee.
- An employee is permitted to view their personnel folder once a year and whenever an adverse personnel action is initiated by Employer. The viewing will be in the presence of Employer's designee.
- Any evaluatory statements found in the file which were prepared after July 1, 1967 (or the date the agency came under the Citywide Agreement, whichever is later) may be answered by employee and added to the file.