
 Department of Corrections and Community Supervision DIRECTIVE	TITLE Release of Employee Personnel and Payroll Information		NO. 2012
			DATE 10/07/2019
SUPERSEDES DIR #2012 Dtd. 11/02/2018	DISTRIBUTION A	PAGES PAGE 1 OF 4	DATE LAST REVISED
REFERENCES (Include but are not limited to) Correction Law; Freedom of Information Law; Personal Privacy Protection Law; Social Services Law; Civil Rights Law; ACA Expected Practices 4-4068, 4-APPFS-3E-13, 4-JCF-6D-12; Directive #2010	APPROVING AUTHORITY 		

I. DESCRIPTION: This directive provides guidelines for release of specified employee personnel and payroll information pursuant to Sections 29 (2) and 112 of the Correction Law, the Freedom of Information Law, and the Personal Privacy Protection Law (Articles 6 and 6-A of the Public Officers Law). Refer to Directive #2010, "FOIL/Access to Departmental Records," for general guidance on access to Departmental records, instructions to Custodians/Access/Privacy Compliance Officers, and appeal procedures.

II. RELEASE OF EMPLOYEE INFORMATION

A. Public Information

1. *Verification of Employment:* Verification that a named person is an employee of the Department, and information on length of service and location of employment may be disclosed pursuant to a telephone, mail, or in-person inquiry from anyone.
2. *Title and Salary Information:* Title and salary information on a named employee shall be released only in response to a written request, except that such information may be supplied upon oral request to other State departments and agencies and to local, State, or Federal law enforcement agencies if positive identification is established. If identification is in question, the requester's name and return number should be obtained and verified through the State telephone directory or personnel unit of the agency involved. If positive identification cannot be established, a written request shall be required. Title and salary information on a named employee may also be released to the media by the Office of Public Information upon oral request.

B. Employee Requests: An employee or former employee shall have the opportunity to inspect, copy, or obtain a copy of his or her own personal history folder at his or her present or former work location. A fee for each copy supplied may be charged.

Employees are entitled to one copy of any report concerning work performance per the contracts. In the event that the employee was not provided a copy of the report at the time of its preparation, one photocopy shall be provided without charge.

Except as permitted by the Freedom of Information Law and the Personal Privacy Protection Law, an employee or former employee shall not be entitled to inspect or copy law enforcement investigation reports, Office of Special Investigations reports, or documents relative to pending investigations without prior clearance from the office that prepared the report and any other office that may have been involved, such as the Office of Special Investigations, Labor Relations, or Counsel.

Decisions regarding release and deletion should be made by the Assistant Records Access Officer and Deputy Compliance Officer, the Superintendent, or the Deputy Superintendent for Administration. An employee or former employee shall not be permitted to inspect and copy confidential reports and letters received relative to an appointment investigation or those medical records constituting clinical records.

C. Other Requests

1. Routine State business: Information related to retirement, transfer, promotion, separation, or benefits which are required for routine State business may be disclosed to other State departments or agencies upon oral request. Positive identification is necessary before response to an oral request; otherwise a written request shall be required.
2. Medical records: Medical records and information shall only be made available to a physician, psychologist, hospital, health clinic, certified social worker, attorney, or insurance company upon written request accompanied by an authorization signed by the employee. A medical record shall not be disclosed to any other party except the employee to whom it pertains without approval from Counsel. Medical information may be supplied to a health provider without authorization in the event of a genuine medical emergency.
3. Creditor inquiries: Written requests from billing or collection agencies for home addresses of employees are to be answered by providing the work location of the employee only (if other than the location being questioned). One copy of the letter to the creditor will be sent to the employee and one will be placed in his or her personnel or payroll file as determined by which entity receives the request and provides the information.
Distribution will be noted on all copies. Home addresses cannot be provided without consent of the employee.
4. Office of Temporary and Disability Assistance inquiries: Office of Temporary and Disability Assistance officials or representatives of the State Department of Mental Hygiene shall be provided with information including last known home address, social security number, wages, etc. of any named employee who is an applicant or recipient of public assistance or is legally responsible for the support of such applicant or recipient of public assistance (Social Services Law, Section 143).
5. Law enforcement inquiries: State, local, and Federal law enforcement agencies may be permitted to inspect, copy, and receive certain employee information, subject to the provisions of the Personal Privacy Protection Law, upon written or in-person requests to the Director of Personnel. Medical information and records, including drug and alcohol abuse information, shall not be disclosed except pursuant to a Court Order signed by a judge specifying the production of medical and/or psychiatric records or pursuant to a proper written authorization of the employee or someone authorized to act on his or her behalf.

6. Job performance inquiries
 - a. Confidential performance evaluation records:

In accordance with Section 50-a of the Civil Rights Law:

“All personnel records used to evaluate performance toward continued employment or promotion... of individuals employed as correction officers... shall be considered confidential and not subject to inspection or review without the express written consent of such... correction officer except as may be mandated by lawful court order. (However) The provisions of this section shall not apply to any district attorney or his assistants (or their equivalents)... a grand jury, or any agency of government which requires the records described... in furtherance of their official functions.”

In addition, certain performance evaluation records of civilian Department employees may be protected by the Personal Privacy Protection Law or may otherwise be exempt under the Freedom of Information Law. The Office of Counsel should be consulted if there are any questions.
 - b. Employer inquiries: Information about an employee’s job performance or reasons for a change in supervisor, unit, or duty station may only be disclosed to private and public employers upon written authorization from the employee or former employee. Information about a former employee’s reason for leaving employment may be provided to State agencies without authorization from the employee but shall not be provided to parties other than State agencies without such written authorization. If a request is received without such an authorization attached, the requester should be informed that the information cannot be provided without an authorization. In accordance with the Personal Privacy Protection Law, all such requests and responses shall be made in writing.
7. Other inquiries/orders: No other information shall be released unless the request is accompanied by [Form #2012A](#), “Authorization for Release of Payroll or Personnel Records,” signed by the employee authorizing the disclosure desired. Any exception should be cleared with the Office of Counsel. Before complying with any Court Order or subpoena, the Office of Counsel shall determine its validity.
8. Release of documents/personal history folders to the Office of the Attorney General (OAG): Requests from OAG for documentary information contained within an employee’s personnel file must be accompanied by [Form #2012B](#), “Authorization for Release of Employee Personnel File to the Office of the Attorney General,” signed by the employee. Whenever documents are provided in response to such a request, the original signed release shall be returned to the OAG and copies given to the employee and placed in the employee’s personnel file.
9. Release of personnel and medical information to the State Insurance Fund (SIF): Records of an employee who has filed a workers’ compensation claim may be released upon request of the SIF. Refer to the NYS Department of Civil Service “Attendance and Leave Manual,” Section 21.8.

D. **Fees To Be Charged:** A fee will be charged for all photocopies provided to any person. For all photocopies not exceeding 9 X 15 inches, a charge not to exceed \$.25 per sheet will be assessed. Fees for all other size copies or transcripts shall be established by the Deputy Commissioner for Administrative Services in conformity with the regulations of the Committee on Open Government. Fees are payable in advance by check or money order made out to the Department of Corrections and Community Supervision. The use of cash should be discouraged but is acceptable if necessary. A receipt is to be issued for all funds received. Monies are to be deposited in line with standard miscellaneous receipt procedures and turned in not less than quarterly on a standard AC 909-S, "Report of Moneys Received," which can be found at <http://www.osc.state.ny.us/agencies/forms/index.htm>.

III. **AMENDMENT OF EMPLOYEE RECORDS:** Within 30 business days of a written request from an employee for correction or amendment of a record or personal information that is reasonably described and pertains to that employee, the Custodian/Access Officer shall: (1) Make amendment in whole or in part and inform the employee that such correction or amendment will be provided to any prior recipient of incorrect information, or (2) Inform the employee in writing of refusal to amend the record, including reasons therefore, and advise that the matter may be appealed to the Counsel, Department of Corrections and Community Supervision, 1220 Washington Avenue, Harriman State Campus, Albany, N.Y. 12226-2050.