

	<b>P - §02</b>	<b>Policy Name:</b> Employee Record Maintenance	<b>Current Version Approved:</b>
	<b>Prepared By:</b> Human Resources		<b>Adopted:</b> August 4, 1993
	<b>Amended:</b>		

## A. PURPOSE

The purpose of the policy is to set forth compliance-driven guidelines for retention and maintenance of employment records.

## B. DEFINITIONS

Employee Records – all records pertaining to employment, including benefits, eligibility, training history, performance reviews, disciplinary actions, job experience and history and compensation history that constitute the personnel file.

Health Insurance Portability and Accountability Act (HIPAA) – Federal law requiring standards for protecting patient health and medical information.

Personal Identity Information (PII) – Information that directly identifies an individual such as passport number, social security number, driver’s license number, financial account numbers or other tax identification. Additionally, physical and email addresses may be considered PII if used in conjunction with other demographics to locate a person.

Protected Health Information – individually identifiable health information including medical conditions, health status, medical history, physical examination or laboratory test results, genetic information, and evidence of disability.

Virginia Freedom of Information Act (FOIA) - a series of laws designed to guarantee that the public has access to public records of government bodies at all levels in Virginia.

## C. ROLES AND RESPONSIBILITIES

### **Employees:**

- a. Employees may review the contents of their personnel files.

### **Supervisors:**

- b. Timely delivery of all employee records to Human Resources.

**Human Resources:**

- c. Maintains personnel files in accordance with requirements set forth by the Library of Virginia, protects their confidentiality, and maintains a log of all those who access a personnel file.

**D. POLICY**

**1. Access to Employee Personnel Files**

- a. Employee personnel files are maintained by HR. Employees may request copies of the records in their personnel files.
- b. Requests for access to an employee's personnel file must be in writing to HR. Upon receipt, HR will provide access or a copy of all requested records within five (5) business days.
- c. Parties issuing subpoenas for employee records will be charged reasonable costs.
- d. The County will withhold an employee's personnel information from all FOIA requests as permissible in Virginia Code.

**2. Maintenance of Employee Records**

The following information is segregated within an employee's personnel file, and not subject to supervisor review without prior approval from HR: investigation notes, grievances, and discipline. Employee records that are not subject to supervisor review: FMLA, I9, retirement, workers compensation claims, Compliance Reports, Protected Health Information (PHI), and benefits elections.

Records relating to disciplinary investigations, where the violation being investigated is determined not to have occurred, are transferred to the segregated portion of an employee's personnel file, but may be retained there if such information alleges civil or criminal offenses.

**3. Protected Health Information (PHI)**

The County facilitates benefits enrollment and modifications, including qualifying life events, establishes payroll deductions, and assists with claims resolution and benefit plan coordination. These activities may require the disclosure of PHI. Generally, disclosures may be made to:

- a. Healthcare providers for treatment, payment, or claims reconciliation
- b. Third parties authorized by the employee
- c. Government agencies for reporting or enforcement purposes
- d. Workers' compensation administrators and their authorized partners
- e. Information external to the health plan is not considered PHI if the information is being furnished for claims processing purposes involving workers' compensation or short to

long-term disability and medical information received to verify the Americans with Disabilities Act (ADA) or Family and Medical Leave Act (FMLA) status

#### **4. Destruction of Employee and Applicant Records**

a. Before destroying employee or applicant records:

- i. HR ensures that no outstanding investigation, litigation hold, audit, or Freedom of Information Act requests is in progress.
- ii. A Library of Virginia RM-3 Form, verifying compliance with record retention and disposition schedules is completed and submitted to the Commonwealth.

b. Employment application materials of non-selected candidates are retained for one year. Application materials for those who accepted a verbal or written offer, but never started work, are treated as employee personnel files.

c. Employment records must be securely destroyed. This includes:

- Destroying or erasing electronic files so that information cannot be read or reconstructed.
- Shredding, burning, or otherwise destroying paper documents so that information cannot be read or reconstructed.

#### **5. Litigation Holds**

When the County Attorney's Office anticipates that the County may be involved in litigation, it will issue a litigation hold. All records relating to that matter must be preserved. Failing to do so may subject the County, as well as individual employees, to Court sanction.

The IT department will suspend the automatic deletion of emails for all individuals covered by the litigation hold. Any questions about a litigation should be directed to the County Attorney's Office.