



SAN DIEGO COMMUNITY COLLEGE DISTRICT

Guideline
0002.2

April 11, 1989

RELEASE OF INFORMATION FROM EMPLOYEE RECORDS

Many factors are involved in the balance between the release of information related to employees and an employee's right to privacy. It is the intent of this guideline to discuss the major of these issues and provide a base from which a functional area manager may provide internal direction/instructions.

FUNCTION

1. Definition

- a. Employee Personnel record means all information related to an identified employee which is created or received in the conduct of District business, without regard for how it is recorded or where it is located.
- b. Access means a personal inspection, review or a copy of a record and includes communication written or oral of any information taken from the records.
- c. Personnel file is a term frequently used to describe collectively the information maintained by the District related to an employee. (The term, however, must be used with an understanding that recorded information concerning an identified employee is afforded the same protection without regard for its location.)

2. Laws

- a. In order to determine which records must be disclosed, which ones may be disclosed, and which ones may not be disclosed, there are several sources to be checked. Among these are: the Freedom of Information Act of 1967 (5 USC 552), the Privacy Act of 1974 (5 USC 552a), the Family Educational Rights and Privacy Act of 1974 (20 USC 1232g), the California Public Records Act (Government Code Section 6250 et. seq.), the California Information Practices Act of 1977 (Civil Code Section 1798 et. seq.), and various sections of the California Education Code.
- b. Some of these "Freedom of Information Acts" provide access by all to public records. They state that laws concerning information held by a public agency should be liberally construed in favor of disclosure, and strictly construed when examining exceptions, in order to provide more information to the public. The others "Privacy Acts" are designed to

provide privacy protection for individuals. The laws state that information held by public agencies regarding named individuals should be liberally construed in favor of nondisclosure, and strictly construed when examining exceptions, in order to provide more privacy to individuals.

- c. These various statutes may be reconciled. All of these basically "say" the same thing, but vary on how they apply their provisions. The 'Privacy' laws prohibit disclosure unless you show certain types of need for this information, while the "Access' laws permit disclosure unless you show a certain need for privacy. The exceptions in one cover the requirements of the other. To reconcile all of these, you should generally regard any information kept on employees that is personally identifiable as being protected under the privacy laws, and information not personally identifiable as being disclosed under the free access laws.
- d. District employees are public employees and as such some information about them is public information. For example:

Any contract between an individual and the District is public information;

The name of any employee, the position and duties of the position, in which they are employed; and

The employment location and telephone number. (not home address nor home phone.)

- e. There is no legal requirement to provide information related to employees via a telephone request. The information above may be provided however, at the discretion of the functional area manager.
- f. A request by the public to inspect employee records should be refused. A written request pursuant to California Government Code Sections 6250 et. seq. should be required. This recommendation would then give the District sufficient time to separate the records which contain protected information from the information contained in the same record which is releasable as public information.

3. OTHER REFERENCES

- 4. Court orders and subpoenas should be directed for service on the President of the Board of Trustees, the Chancellor, or the Assistant Chancellor - Human Resources and Administrative Services. (Procedure 2003.1, LEGAL SERVICES)
- 5. Inspection by the named employee is generally a right found in contract, Education Code, and the California Labor Code. As a general rule an employee has a right of access to records which personally identify the employee.
- 6. Inspection by other staff is limited to persons in the employees chain of command and to the limited scope of those records, knowledge of which is needed for District operations.

SUPERSEDES:
New Guideline