

STATE OF TEXAS MODEL POLICY:

PERSONNEL FILES

PURPOSE: To provide guidelines for the compilation and retention of “personnel files” as defined by this model policy.

1. DEFINITIONS AND REFERENCES

1.1 Personnel File: (1) Any letter, memorandum, or document relating to a commendation, congratulation, or honor bestowed on the license holder by a member of the public or by this agency for an action, duty, or activity that relates to the license holder’s official duties; (2) Any misconduct (as defined by section 1.3, Misconduct Allegations model policy) by the license holder if the letter, memorandum, or document is from the employing agency and resulted in disciplinary action; and (3) The periodic evaluation of the license holder by a supervisor. For reference, see Texas Local Government Code § 143.089(a); Texas Occupations Code § 1701.4535(a)(1).

1.2 Department File: Any information not included in the definition of Personnel File, section 1.1, and referenced in sections 3.1-3.2. For reference, see Texas Local Government Code § 143.089(g); Texas Occupations Code §§ 1701.4522 and .4535(c).

2. PERSONNEL FILE CONTENTS

2.1 This agency shall maintain a personnel file on each license holder employed by the agency.

2.2 If a negative letter, memorandum, document, or other notation of negative impact is included in a license holder’s personnel file:

- a) The agency head or the head’s designee shall, not later than the 30th day after the date of the inclusion, notify the affected license holder by certified mail, or by departmental or personal email, or in person;
- b) Notice is considered to be received electronically by the license holder, provided it is sent to the department or personal email address listed in the license holder’s personnel file and the license holder confirms receipt;
- c) If confirmation of receipt is not provided by the license holder within seven calendar days of being sent electronically, the agency head or the head’s designee must send the notification by certified mail; and

d) The license holder may, on or before the 30th day after the date of receipt of the notification, file a written response to the negative letter, memorandum, document, or other notation.

2.3 A license holder is entitled, on request, to a copy of any letter, memorandum, or document placed in the license holder's personnel file. This agency may charge the license holder a reasonable fee not to exceed the actual cost of any copies.

2.4 This agency may not release any information contained in a license holder's personnel file to any other agency or person requesting information relating to the license holder without the license holder's written permission, unless the release is required by law. The agency shall refer the person or agency requesting the information to the agency head or the head's designee.

2.5 As provided by Texas Occupations Code § 1701.451, a law enforcement agency hiring a license holder is entitled to view the contents of the license holder's personnel file.

2.6 This agency shall provide a license holder's personnel file to TCOLE not later than the 30th day after the date the license holder separates from the agency or on request by TCOLE as part of an ongoing investigation relating to the license holder.

3. DEPARTMENT FILE CONTENTS

3.1 Any letter, memorandum, or document relating to alleged misconduct by the license holder may not be placed in the license holder's personnel file if the agency determines that there is insufficient evidence to sustain the charge of misconduct.

3.2 Law enforcement agencies shall also maintain a file on a license holder employed by the agency for the agency's use including all information not referenced in section 1.1, Definitions and References of this policy. This file should be marked "Designated as Confidential for Statewide Employment Database under Texas Occupations Code § 1701.168."

3.3 This agency may not release any information referenced in sections 3.1 and 3.2 to any other agency or person requesting information relating to the license holder without the license holder's written permission, unless the release is required by law. The agency shall refer the person or agency requesting the information to the agency head or the head's designee.

3.4 As provided by Texas Occupations Code § 1701.451, a law enforcement agency hiring a license holder is entitled to view the contents of the license holder's department file.