

ARTICLE 11

PERSONNEL FILES

- 11.1 A member's **one** official personnel file shall be maintained by the District, **be** located in the Human Resources Department, and contain the official employment record of the member.
- 11.2 Members shall have the right to examine **and/or obtain copies of** all materials (except those obtained prior to employment, those prepared by identifiable examination committee members and those obtained in connection with a promotional examination) contained within the official personnel file. **A member shall not be released from his/her primary assigned work hours to review his/her personnel file. When the member's work hours outside of the primary assignment do not correspond with normal business hours of the Human Resources Department, the member may contact the Associate Vice-Chancellor of Human Resources or designee to arrange a mutually agreeable time when the member may review the file.** ~~When the business hours of the Human Resources Department will not permit the member to inspect their personnel file during non-working hours, the member may contact the Director of Human Resources, who shall arrange for a time when the member may review the file.~~
- 11.3 ~~Upon written request, members from Mission College may request that a confidential employee from Human Resources Department coming from West Valley deliver the requestor's personnel file to Mission College. The member may then **shall** review ~~the~~ **their** personnel file in the presence of a confidential employee.~~
- 11.4 **Upon written request, members from Mission College may request that a confidential employee from the Human Resources Department coming from West Valley deliver the requester's personnel file to Mission College.**
- 11.4~~5~~ Information from the official personnel file shall not be released without member consent unless compelled by law, judicial order or subpoena or by authorized District or public agency officials having legitimate business that justifies such inspection. **Such release of information shall be at** ~~the~~ the sole discretion of the Associate Vice-Chancellor ~~Director~~ of Human Resources.
- 11.5~~6~~ Members may, in writing, authorize **an ACE** representative **or other designee** to have access to, ~~and~~ review, **and/or obtain copies of documents contained in** their official personnel file. In so authorizing, the member agrees to indemnify and hold harmless the District from any and all claims, demands, suits or any other actions arising from such access or review.

- 11.67 The District shall retain as confidential all pre-employment materials or other data as exempted by law, e.g., materials obtained or prepared prior to employment, or materials obtained while the member was an applicant or candidate for another District position. Such materials include, but are not limited to, recommendation letters and pre-employment interview materials.
- 11.78 Anonymous materials shall not be placed in the personnel file.
- 11.89 Information of a derogatory nature shall not be entered ~~or filed~~ **into a member's personnel records** unless and until the member is given notice and an opportunity to review **and comment on that information**. The member shall have the right to enter, and have attached to any ~~such~~ derogatory statement, **his or her the member's written own** comments. **A member shall not be released from his/her primary assigned work hours to review his/her personnel file. When the member's work hours outside of the primary assignment do not correspond with normal business hours of the Human Resources Department, the member may contact the Associate Vice-Chancellor of Human Resources or designee to arrange a mutually agreeable time when the member may review the file.**
- 11.910 Where a member believes any record or portion is inaccurate, not relevant, timely or complete, the member may request correction of the material. Requests for correction of materials shall be in writing and include a justification. The written request shall, at the option of the member, be included in the official personnel file. Materials involving performance appraisal, discipline and official procedures shall not be deleted but may, where justified, be corrected.
- 11.101 Disciplinary action shall not be imposed on the basis of District personnel records not contained in the official personnel file, consistent with the principles of the California Supreme Court decision of Miller vs. Chico. Nothing contained herein shall be used to exclude otherwise relevant evidence from being received in any judicial or administrative adjudication.
- 11.112 The District shall retain after resignation, retirement or dismissal only those records required by law.
- 11.123 ~~No materials within the District employment record, other than performance appraisal, shall be used by either party in any adverse action proceeding brought by the District against the member if dated (4) years or more from the inception of the adverse proceeding.~~ **No decision relating to the dismissal or suspension of any member shall be made based on charges or evidence of any nature relating to matters occurring more than four (4) years prior to filing of the disciplinary notice. (Education Code 87675)**

11.1~~3~~4 This article does not apply to non-personnel records such as payroll records, attendance records, Board minutes, student records, interoffice or member-to-member communications not part of the official personnel file.

Reference: Education Code 87031