

## PERSONNEL RECORDS

### Illinois Personnel Records Act

DePaul University shall follow, as its policy, the Illinois Personnel Records Act, as follows:

**“2002. Open Records.** Every employer shall, upon an employee’s request (which the employer may require to be in writing on a form supplied by the employer), permit the employee to inspect any personnel documents which are, have been or are intended to be used in determining that employee’s qualifications for employment, promotion, transfer, additional compensation, discharge or other disciplinary action, except as provided in Section 2010. The inspection right encompasses personnel documents in the possession of a person, corporation, partnership, or other association having a contractual agreement with the employer to keep or supply a personnel record. An employee may request all or any part of his or her records, except as provided in Section 2010. The employer shall grant at least two inspection requests by an employee in a calendar year when requests are made at reasonable intervals, unless otherwise provided in a collective bargaining agreement. The employer shall provide the employee with the inspection opportunity within seven working days after the employee makes the request or if the employer can reasonably show that such deadline cannot be met, the employer shall have an additional seven days to comply. The inspection shall take place at a location reasonably near the employee’s place of employment and during normal working hours. The employer may allow the inspection to take place other than working hours or at a place other than where the records are maintained if that time or place would be more convenient for the employee. Nothing in this Act shall be construed as a requirement that an employee be permitted to remove any part of such personnel records or any part of such records from the place on the employer’s premises where it is made available for inspection. Each employer shall retain the right to protect his/her records

from loss, damage, or alteration to insure the integrity of the records. If an employee demonstrates that he or she is unable to review his or her personnel record at the employing unit, the employer shall, upon the employee’s written request, mail a copy of the requested record to the employee.

**2003. Copies.** After the review time of January 15, 1984, an employee may obtain a copy of the information or part of the information contained in the employee’s personnel record. An employer may charge a fee for providing a copy of such information. The fee shall be limited to the actual cost of duplicating the information.

**2004. Use of Information.** Personnel record information which was not included in the personnel record but should have been as required by this Act shall not be used by an employer in a judicial or quasijudicial proceeding. However, personnel record information which, in the opinion of the judge in a judicial proceeding or the hearing officer in a quasijudicial proceeding, was not intentionally excluded from the personnel record may be used by the employer in the proceeding if the employee agrees or has been given a reasonable time to review the information. Material which should have been included in the personnel record shall be used at the request of the employee.

**2005. Personnel Record Inspection By Representative.** An employee who is involved in a current grievance against the employer may designate, in writing, a representative of the employee’s union or collective bargaining unit or other representative to inspect the employee’s personnel record which may have a bearing on the resolution of the grievance, except as provided in Section 2010.

The employer shall allow such a designated representative to inspect that employee’s personal record in the same manner as provided under Section 2002.

**2006. Personnel Record Correction.** If the employee disagrees with any information contained in the personnel record, a removal or correction of that information may be mutually agreed upon by the employer and the employee. If an agreement cannot be reached, the employee may submit a written statement explaining the employee's position. The employer shall attach the employee's statement to the disputed portion of the personnel record. The employee's statement shall be included wherever that disputed portion of the personnel record is released to a third party as long as the disputed record is a part of the file. The inclusion of any written statement attached in the record without further comment or action by the employer, shall not imply or create any presumption of employer agreement with its contents. If either the employer or the employee knowingly places in the personnel record information which is false, the employer or employee, whichever is appropriate, shall have remedy through legal action to have the information expunged.

**2007. Disclosure of Disciplinary Actions — Written Notice.**

1. An employer or former employer shall not divulge a disciplinary report, letter or reprimand, or other disciplinary action to a third party, to a party who is not a part of the employer's organization, or to a party who is not a part of a labor organization representing the employee, without written notice as provided in this Section.

2. The written notice to the employee shall be by first class mail to the employee's last known address and shall be mailed on or before the day the information is divulged.

3. This section shall not apply if:

- a. the employee has specifically waived written notice as part of a written, signed employment application with another employer.
- b. The disclosure is ordered to a party in a legal action or arbitration; or

c. Information is requested by a government agency as a result of a claim or complaint by an employee, or as a result of a criminal investigation by such agency.

**2008. Review of Record Prior to Release of Information.** An employer shall review a personnel record before releasing information to a third party and, except when the release is ordered to a party in a legal action or arbitration, delete disciplinary reports, letters of reprimand, or other records of disciplinary action which are more than four years old.

**2009. Record of Nonemployment Activities.** An employer shall not gather or keep a record of an employee's association, political activities, publication, communication or nonemployment activities unless the employee submits the information in writing or authorizes the employer in writing to keep or gather the information. This prohibition shall not apply to the activities that occur on the employer's premises or during the employee's working hours with that employer which interfere with the performance of the employee's duties or the duties of other employees or activities, regardless of when and where occurring, which constitute criminal conduct or may reasonably be expected to harm the employer's property, operations or business, or could by the employee's action cause the employer financial liability. A record which is kept by the employer as permitted under this Section shall be part of the personnel record.

**2010. Exceptions.** The right of the employee or the employee's designated representative to inspect his or her personnel records does not apply to:

1. Letters of reference for that employee or external peer review documents for academic employees of institutions of higher education.
2. Any portion of a test document, except that the employee may see a cumulative total test score for either a section of or the entire test

document.

3. Materials relating to the employer's staff planning, such as matters relating to the business' development, expansion, closing or operational goals, where the materials relate to or affect more than one employee, provided, however, that this exception does not apply if such materials are, have been or are intended to be used by the employer in determining an individual employee's qualifications for employment, promotion, transfer, or additional compensation, or in determining an individual employee's discharge or discipline.

4. Information of a personal nature about a person other than the employee if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.

5. An employer who does not maintain any personnel records.

6. Records relevant to any other pending claim between the employer and employee which may be discovered in a judicial proceeding.

7. Investigatory or security records maintained by an employer to investigate criminal conduct by an employee or other activity by the employee which could reasonably be expected to harm the employers property, operations, or business or could by the employer's activity cause the employer financial liability, unless and until the employer takes adverse personnel action based on information in such records.

**2011. Construction of Act.** This Act shall not be construed to diminish a right of access to records already otherwise provided by law.

**2012. Administration and Enforcement.**

1. the Director of Labor or his/her authorized representative shall administer and enforce the provisions of this Act.”