



CITY OF WAUKESHA

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Committee: HR Committee	Date: 10/20/2021
Common Council Item Number: ID# 21-2766	Date: 10/20/2021
Submitted By: Marquise Vasquez	City Administrator Approval: 08/10/2021
Finance Department Review: NA	City Attorney's Office Review: Click here to enter text.
Subject: Request to review and approve amendments to HR Policy B8 Human Resources Information Disclosure	

Details:
Policy updates to be discussed during meeting. Red-lined changes to policy shown on the following pages.

Options & Alternatives:
[Click here to enter text.](#)

Financial Remarks:
[Click here to enter text.](#)

Executive Recommendation:
[Click here to enter text.](#)





City of Waukesha HR Policy

B8 HR Information Disclosure

Purpose

~~Because the records of our employees are dispersed throughout the City (as are the departments) controlling the information given out on each is difficult. However, disclosing information about present or former City employees, without their consent, provides the City with exposure to libel and slander actions if erroneous information is given out.~~

The City of Waukesha respects the confidentiality and privacy rights of all current and former employees. State law requires that certain information maintained by government be considered open to public record. The purpose of this policy is to outline the balance of public accountability with the privacy rights of City employees.

Summary

~~Although it is impossible to predict every type of request for information that we will receive, it is possible to set~~ **The City has set** definite guidelines to protect the confidentiality of ~~Human Resources~~ **personnel** records and to provide for the release of public information. The following guidelines ~~have been developed to aid in accomplishing this goal:~~ **outline the process for maintaining, securing, and requesting Human Resource records.**

Responsibilities

- HR Department:** Develop and maintain personnel records for City employees. Employee files shall include information necessary for effective personnel administration and compliance with Federal and State laws.
- Managers:** Promptly notify Human Resources of all changes in personnel information affecting records or payroll including leaves of absence, rate changes, disciplinary actions, and all other relevant information.
- Employees:** Communicate any changes affecting their personal status including but not limited to a change in name, address, or telephone number, to their direct supervisor or Human Resources. Employees can utilize Payroll Self Service located on the City's intranet to make changes to their address, direct deposit or tax withholding information.

Guidelines

A. Maintenance of Records

Human Resources shall be responsible for the maintenance of all personnel files for City employees. Personnel files will include the following information: Employment applications, new hire and termination dates, signed policies and procedures, promotions, performance evaluations, disciplinary actions, and all other relevant documentation.

Employment records are **not** protected health information subject to Health Insurance Portability and Accountabilities Act safeguards. These include but are not limited to pre-employment or fitness for duty physicals, drug and alcohol tests, doctor’s excuses, work related injury or illness reports and medical and lab reports, family medical leave certification information, and American with Disabilities certification. Even though these records are not subject to the HIPAA, the City of Waukesha will protect medical records it receives about employees in a confidential manner. Only those with a “need to know” will have limited access and to only as much information as is minimally necessary for the legitimate use of the records. Those with a “need to know” would be certain members of management, the City’s designated physician, and state or local agencies pursuant to the law.

All medical records will be kept in separate files apart from general employment information.

B. Records Security

Records will be stored in a secured, central location maintained by the City of Waukesha Human Resources department. Access to Human Resources personnel and payroll records ~~should~~ will be limited to those who utilize official records in order to perform their assigned duties. Other people who are authorized access should obtain the records from those assigned responsibility for their maintenance.

Information which is a matter of public record should be clearly specified and explained to individuals assigned to the records function. All other information must be kept confidential to prevent the invasion of privacy.

C. Requests for Records

1. Verification of Employment - Telephone and mail inquiries requesting verification of employment should be answered according to the following criteria:
 - a. Information which is a matter of public record may be furnished such as job title, salary and dates of employment.
 - b. Questions regarding the physical or mental health of employees should not be answered.
 - c. Questions regarding the character or personal habits of the employees should not be answered.
 - d. ~~Whether the employee is or is not re-employable may be answered under written request sent to the Human Resources Manager.~~
 - e. Other information contained in the Human Resources records should be considered confidential.
2. In Person Requests – Inquiries made by personal visit should be handled according to the above criteria and, in addition, if related to a court order, verified by requesting a copy of the order. Compliance may then be handled by releasing only the specified information.
3. Records Security ~~Access to Human Resources and payroll records should be limited to those who utilize official records in order to perform their assigned duties. Other people who are authorized access should obtain the records from those assigned responsibility for their maintenance.~~

Information which is a matter of public record should be clearly specified and explained to individuals assigned to the records function. All other information must be kept confidential to prevent the invasion of privacy.

Commented [KJS1]: Moved to section B

4. Employment records are ~~not~~ protected health information subject to Health Insurance Portability and Accountabilities Act safeguards. These include but are not limited to pre-employment or fitness for duty physicals, drug and alcohol tests, doctor's excuses, work related injury or illness reports and medical and lab reports, family medical leave certification information, and American with Disabilities certification. Even though these records are not subject to the HIPAA, the City of Waukesha will protect medical records it receives about employees in a confidential manner. Only those with a "need to know" will have limited access and to only as much information as is minimally necessary for the legitimate use of the records. Those with a "need to know" would be certain members of management, the City's designated physician, and state or local agencies pursuant to the law.

All medical records will be kept in separate files apart from general employment information.

Commented [KJS2]: Moved to 'Maintenance of Records' section

5. Personal Human Resources Records Inspection - The City will grant ~~two (2)~~ requests by an employee in a calendar year to inspect and offer rebuttal statements on their own Human Resources record if not exempted from access pursuant to Wisconsin ~~Chapter 339, Section 895.50(2)(C), Stats.*~~ Statute 230.13 and § 19.36 (10) and (11) and 103.13. Such opportunity shall be provided within seven (7) working days after receipt of the request for inspection. The inspection will take place in the Human Resources Office during office the hours of ~~9:00 A.M. and 4:00 P.M.~~ Under no conditions will the Human Resources record of any employee be removed from the Human Resources Office unless authorized by the Human Resources Director.
6. Outside Agency Requests - If an outside agency requests employee information that is not included in the criteria listed above, such as review of an employee's personnel file, a written authorization from the employee granting permission to disclose the information must be provided. Requests will be reviewed by the Human Resources Director or City Attorney. If the outside entity does not provide a signed authorization from the employee, the requested information will not be released. This does not include official open records requests.

Authorized personnel file inspections will take place in the Human Resources Office during normal business hours. A member of the Human Resources department will be present at all times during the inspection. Under no circumstances will any records be removed from the department.

7. Notification Requirements for Personnel Records - Employees should be aware that the City periodically receives requests for records under Wisconsin's Open Records law. Some of those requests ask for records containing information about City employees. Under most circumstances, the City must comply with the requests and provide the records. If the City must provide records that are:
 - a. Related to a closed investigation into a disciplinary matter or a violation of a law while on the job;
 - b. Obtained by the City through a subpoena or search warrant; or
 - c. From another employer and reference the City employee;

then the City must serve written notice on the employee that the records will be released to the requester. The notice must be given within 3 days of the decision to release the records. The employee then will have 10 days within which to file an objection in state circuit court to the release of the records. If an objection is filed, then the records will not be released, pending a final resolution by the court. If no objection is filed by the employee, then the records will be released to the requester. Please refer to Wis. Stat. §19.356 for more detailed information on this procedure.

8. Copies of Records - The City will allow employees to copy records by hand during business hours and under the supervision of a representative of the record custodian, and to purchase copies of individual records. Copies of records shall be made available upon the payment of a \$0.25 per page fee which shall be based upon the total number of pages or parts thereof to be purchased without regard to the number of records being copied.

All such copies will be provided upon payment of such fee and within a reasonable time that would not be incompatible with the economic and efficient operation of the office and transaction of public business therein.

Passed this ____ day of ____, 2021.
Approved this ____ day of ____, 2021.

Mayor

ATTEST:

City Clerk

~~*Section 19.21 Stats.~~
~~Section 767.27 (1), Stats.~~
~~Section 103.13, Stats.~~
~~Section 19.85, Stats~~