Article 16.

The Privacy of Employee Personnel Records.

§ 126A-16-1. Policies.

The Commission shall establish policies on personnel records of positions subject to this Article. (2026-40, s. 1.)

§ 126A-16-2. Personnel files not subject to inspection under G.S. 132-6.

(a) Except as provided in G.S. 126A-16-3, 126A-16-4, and 126A-16-5, personnel files of employees shall not be subject to inspection and examination under G.S. 132-6.

(b) The following definitions apply in this Article:

(1) Reserved for future codification purposes.

(2) Employee. – A current employee, former employee, or applicant for employment at an agency.

(3) Personnel file. – Any employment-related or personal information gathered by an employing agency or by OSHR. Employment-related information contained in a personnel file includes information related to an individual's application, selection, promotion, demotion, transfer, leave, salary, contract for employment, benefits, suspension, performance evaluation, disciplinary actions, and termination. Personal information contained in a personnel file includes an individual's home address, social security number, medical history, personal financial data, marital status, dependents, and beneficiaries.

(4) Record. – The personnel information that each employing agency is required to maintain in accordance with G.S. 126A-16-3.

(c) Personnel files of former employees who have been separated from agency employment for 10 or more years may be open to inspection and examination, except for papers and documents relating to demotions and to disciplinary actions resulting in the dismissal of the former employee. Retirement files maintained by the Retirement Systems Division of the Department of State Treasurer shall be made public pursuant to G.S. 128-33.1 and G.S. 135-13.1. (2026-40, ss. 1, 5.9(a).)

§ 126A-16-3. Certain records to be kept by agencies open to inspection.

(a) Each employing agency shall maintain a record with the following information for each of its employees:

(1) Name.

(2) Date of original employment or appointment to agency service.

(3) The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the agency has such record in its possession.

(4) Current position.

(5) Title.

(6) Current salary.

(7) Date and amount of each increase or decrease in salary with that agency.

(8) Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with that agency.

(9) Date and general description of the reasons for each promotion with that agency.

(10) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the agency. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the agency head setting forth the specific acts or omissions that are the basis of the dismissal.

(11) The office or station to which the employee is currently assigned.

(b) For the purposes of this section, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

(c) Subject only to Commission policies on safekeeping of the records, every person having custody of records shall permit them to be inspected, examined, and copied by any person during regular business hours. Except as provided in G.S. 126A-16-4, any person who is denied access to a record shall have the right to compel compliance with the provisions of this section by application to a court of competent jurisdiction for a writ of mandamus or other appropriate relief. (2026-40, s. 1.)

§ 126A-16-4. Certain restrictions on access to records.

(a) Notwithstanding G.S. 126A-16-3, persons in the custody of or under the supervision of the Division of Institutions of the Department of Adult Correction and persons in the custody of local confinement facilities are not entitled to access the records made public under G.S. 126A-16-3 and are prohibited from obtaining those records, absent a court order authorizing access, custody, or possession of the records.

(b) An attorney investigating allegations of unlawful misconduct or abuse by a Department of Adult Correction, Division of Institutions, employee shall be provided, upon request, the following information about the employee: (i) his or her name, (ii) his or her current or former position within the Division, and (iii) his or her dates of employment. The attorney shall not give the offender copies of records or official documents absent a court order authorizing access, custody, or possession. (2026-40, s. 1.)

§ 126A-16-5. Confidential information in personnel files.

(a) All other information contained in a personnel file is confidential and shall not be open for inspection and examination, except to the following persons:

(1) The employee or his or her properly authorized agent, who may examine his or her own personnel file in its entirety except for (i) letter of references solicited prior to employment or (ii) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to a patient. An employee's medical record may be disclosed to a licensed physician designated in writing by the employee.

(2) The supervisor and indirect supervisors of the employee.

(3) A potential agency supervisor during the interview process, only with regard to performance management documents or to prevent application fraud.

(4) Members of the General Assembly who may inspect and examine personnel records under the authority of G.S. 120-19.

(5) A party by authority of a proper court order may inspect and examine a particular confidential portion of an employee's personnel file. In this subdivision, "court order" includes a lawfully issued subpoena or discovery request so long as the parties have moved for the court to issue a protective order regarding the confidential personnel file information. A party may

lawfully delay producing requested confidential personnel file documents until the court has ruled on that party's motion for protective order regarding those documents.

(6) An official of an agency of the federal government, State government, or any political subdivision thereof. The official may inspect any personnel records when the inspection is deemed by the agency head as necessary and essential to the proper function of the agency or to protect the safety of another person. This information shall not be divulged for purposes of assisting in a criminal prosecution or for purposes of assisting in a tax investigation.

(7) Staff performing human resources functions at the employing agency or OSHR.

(8) Persons accessing a personnel file under G.S. 17C-10.2 or G.S. 17E-7.1.

(9) A grievant's, during a grievance hearing held by the employing agency, personnel file information may be provided to the grievant to the extent necessary to adjudicate the grievance. If the agency provides confidential personnel file information of a person other than the grievant, the grievant shall keep that information confidential.

(10) An employing agency subject to this Article conducting a quasi-judicial hearing or a party to that quasi-judicial hearing may have access to relevant material in personnel files and may introduce copies of that material or information based on that material as evidence in the hearing, either (i) upon consent of the employee, former employee, or applicant for employment or (ii) upon subpoena properly issued by the agency either upon request of a party or on its own motion. Nothing in this Chapter shall impose liability on any agent or officer of the State for compliance with this provision.

(b) Notwithstanding any other provision of this Article, an agency head may, in his or her discretion, disclose to a person any promotion, demotion, suspension, reinstatement, transfer, separation, dismissal, employment, or nonemployment of any employee and the reasons for the action. An agency head may also permit any person to inspect or examine the personnel file, or any portion of the file, of an employee when he or she determines that disclosure is essential to maintaining the integrity of the agency or the level or quality of services it provides. Before releasing any information or making any file available under this subsection, the agency head shall prepare a memorandum stating the circumstances requiring disclosure and identifying the information to be disclosed. The memorandum shall be retained in agency files and shall be a public record. (2026-40, s. 1.)

§ 126A-16-6. Remedies of employee objecting to material in file.

(a) An employee who objects to material in the employee's personnel file because he or she considers it inaccurate or misleading may do any of the following:

(1) Place in his or her file a written statement relating to the material considered inaccurate or misleading.

(2) Seek the removal of such material from the file in accordance with a grievance procedure under G.S. 126A-8-6(b).

(b) If the agency determines that material in the employee's personnel file is inaccurate or misleading, the agency shall remove or amend the inaccurate material to ensure that the file is accurate.

(c) Nothing in this section shall be construed to permit an employee to appeal the contents of a performance appraisal or written disciplinary action. (2026-40, s. 1.)

§ 126A-16-7. Penalty for permitting access to confidential file by unauthorized person.

Any public official or employee who knowingly and willfully permits any person not specifically authorized by G.S. 126A-16-5 to have access, custody, or possession of any portion of a personnel file designated as confidential by this Article shall be guilty of a Class 3 misdemeanor and upon conviction shall only be fined in the discretion of the court but not in excess of five hundred dollars ($500.00). (2026-40, s. 1.)

§ 126A-16-8. Penalty for accessing confidential file without authority.

Any person not specifically authorized by G.S. 126A-16-5 to have access to a personnel file designated as confidential by this Article who knowingly and willfully examines in its official filing place or removes or copies any portion of a confidential personnel file shall be guilty of a Class 3 misdemeanor and upon conviction shall only be fined in the discretion of the court but not in excess of five hundred dollars ($500.00). (2026-40, s. 1.)