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## State of Oregon LEGISLATIVE BRANCH PERSONNEL RULES

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### Legislative Branch Personnel Rule 22: Official Personnel Records

**APPLICABILITY:** This rule applies to all Legislative Branch personnel records, where not in conflict with an applicable bargaining agreement or law.

(1) **General.** All necessary official personnel records will be maintained in the state human resources information system (system). All personnel records, regardless of where they are maintained, must be secured to maintain confidentiality for both current and former employees.

(2) **Change of employment status report.** All actions, including but not limited to appointment, transfer, promotion, demotion and change of pay rate, must be entered into the system. Before taking such action, the appointing authority may discuss any potential action with Employee Services.

(3) **Adverse information.**

(a) Adverse information about an employee may not be made as part of the employee's official personnel record unless the employee has access to a copy of the information.

(b) Except for notices of removal, dismissal or job abandonment, or as otherwise provided in LBPR 9, an employee must sign a form acknowledging the employee has seen the materials describing the adverse information to be placed in the employee's official personnel record. The form must contain the following disclaimer: "Employee's signature confirms only that the supervisor has given a copy of material describing adverse information to the employee. The signature does not indicate agreement or disagreement with its content."

(c) If, after reviewing the material describing the adverse information, the employee refuses to sign the form described in paragraph (b) of this subsection, a notation by the appointing authority or the employee's supervisor must be included with the form. The form and the material describing the adverse information may then be made as part of the employee's official personnel record.

(d) If the employee is not available to sign the form, the supervisor shall note this on the form, along with a notation indicating the date on which the form was mailed to the employee and the address to which it was mailed. Once this action has been taken, the material describing the adverse information may then be made as part of the employee's official personnel record.

(e) If the employee believes the adverse information included with the form is incorrect, incomplete or misrepresentative of the facts, the employee is entitled to prepare a written explanation of the actions described in the adverse information. This explanation shall be made a part of the employee's official personnel record until the material describing the adverse information is removed in accordance with the Legislative Branch's records retention and destruction policy.

**(4) Access.**

(a) An employee has the right to review the employee's own official personnel record. The entire contents of the record shall be made available to the employee except for references from previous employers. An employee may give signed authorization to another individual to review the employee's records. For other personnel records, see ORS 652.750.

(b) Unless otherwise required by law, in addition to the employee and the employee's designee, only the following people may have access to an employee's official personnel record:

(A) An appointing authority or supervisor with authority over the employee within the Legislative Branch;

(B) Legally authorized law enforcement and regulatory agencies;

(C) Employee Services staff;

(D) The appointing authority responsible for a position for which an employee has applied and is a finalist;

(E) Persons with administrator privileges to the human resources information system; and

(F) Any person or agency legally representing the Legislative Branch on matters involving the employee.

(c) When a legislative employee accepts employment with a state agency in the Executive or Judicial Branch of government, and upon receipt of a request from that agency, the Legislative Branch will complete the necessary steps to release the system record to the receiving agency. The transfer shall occur once the employee is terminated in the system.

**(5) Public information.**

(a) Disclosure of information in an employee's official personnel record is governed by the Public Records Law, ORS 192.311 to 192.478. Records within an employee's personnel record that are exempt from disclosure may nevertheless be disclosed if disclosure is authorized by the employee.

(b) State agencies may obtain the name, home address, Social Security number or employing agency of any or all employees when information contained in an employee's official personnel record is to be used to enforce claims of the state or to defend claims against the state.

**(6) Retention periods.** Unless state or federal law or other Legislative Branch Personnel Rule retention length differs for specific documents, the employee's official personnel file shall be retained for five (5) years after the employee leaves the Legislature, unless the employee transfers to another branch of government or if the personnel file is subject to a retention freeze.

**(7) Retention period freeze.** The document retention schedule shall be suspended and no records shall be removed upon receipt of a charge of discrimination under the Federal Equal Employment Opportunity Act or state law, receipt of a public records request during periods for which the Legislative Assembly is subject to the public records law or if the records relate to pending litigation.

**(8) Review and removal.** Official personnel records shall be reviewed for compliance with the retention schedule. All material exceeding designated retention periods shall be removed. Letters of commendation removed from an employee's official personnel record shall be provided to the current employee upon request.

**(9) Medical information.**

(a) Employee Services maintains confidential medical files separate from the personnel record for employment related matters such as protected leave and information related to any requested accommodations.

(b) Supervisors, lead workers and managers may be informed about the employee's medical condition only to the extent needed to assess whether workplace modification or other employee accommodation is required or effective.

(c) Employee Services staff and the legal representatives of the Legislative Branch may be informed about an employee's medical condition as necessary to provide advice about or to administer applicable laws, rules and policies.

(d) Medical information includes, but is not limited to:

(A) Completed workers' compensation claim forms and related documentation;

(B) Letters from an employee's health care provider regarding the employee's medical condition, physical restrictions or need for workplace modification;

(C) Letters regarding the medical condition of an employee's spouse or other family member;

(D) Emergency forms that list the employee's medical conditions, health care providers or prescribed medications; and

(E) Employee requests for leave that identify the employee's illness or injury.

(e) Insurance enrollment information. All official employee-specific insurance information shall be maintained by Employee Services. Appointing authorities are prohibited from maintaining insurance company medical history statements.

**(10) Corrective Action.**

(a) All corrective actions including, work plans, written reprimands or warnings, written sanctions, which may be monetary or nonmonetary, or involuntary demotions, used to address behavioral or performance issues may be removed from an employee's personnel record if no further action is taken five (5) years from the effective date. This includes the employee's written response to the corrective action, if any.

(b) See LBPR 9 for further information on corrective actions and discharge.

Approved DRAFT