

## **OFFICIAL PERSONNEL FILE**

**1087**

(No. 141 July 2010)

Official Personnel Files (OPFs) are designed to contain certain personal information, including employment records for the purpose of administering benefits, and maintaining the employment history of employees related to employment and/or promotional opportunities, compensation, termination, or disciplinary action. The California Department of Forestry and Fire Protection (CAL FIRE) has set forth the following policy to protect personal information from inappropriate or unauthorized access, use and/or disclosure. To maintain the integrity of the Department's system of records, the protection of privacy overrides the option to disclose; decisions are interpreted in favor of the employee's privacy.

## **REFERENCE(S)**

**1087.1**

(No. 141 July 2010)

[Information Practices Act of 1977, Civil Code Sections 1798-1798.57](#)

[State Administrative Manual \(SAM\) 1600 et seq., 1602](#)

[Government Code Sections 6200-6201, 6254\(c\)](#)

[Penal Code Section 832.7](#)

[Memorandum of Understanding \(MOU\) \(See applicable Bargaining Unit\)](#)

[Firefighters Procedural Bill of Rights Act \(FBOR\), Government Code Section 3250](#)

[Public Safety Officers Procedural Bill of Rights Act, \(PBOR\), Government Code Section 3300](#)

## **POLICY**

**1087.2**

(No. 141 July 2010)

This policy shall apply to all employees of CAL FIRE. Special provisions within applicable MOUs pertaining to the collection, maintenance, and dissemination of personal information contained in personnel/working files shall be controlling until further legislative action. In addition, the FBOR and PBOR extend additional protections to eligible employees regarding personnel matters, including personnel files.

The term "personal information" means any information maintained by an agency that identifies or describes an individual, including, but not limited to, name, social security number, home address, home telephone number, education, financial matters, or employment history.

The term “disclosure” means to release, transfer, disseminate, or otherwise communicate all or any part of an employee record to any person or entity. Disclosures made to persons or entities outside of CAL FIRE typically require authorization or release by the employee, with the exception of disclosures to law enforcement pursuant to other legal processes. Disclosures made to internal administrative investigators do not require authorization from the employee. CAL FIRE may not disclose any personal information about its employees unless under the following conditions:

- To an agency, person(s), or entities outside CAL FIRE where the information is necessary and relevant to perform its constitutional or statutory duties and the use is compatible with a purpose for which the information was collected and the use is accounted for in accordance with [Civil Code Section 1798.25](#).
- Disclosure of an employee’s personal information to other employees of CAL FIRE is limited to those situations where disclosure is relevant and necessary in the ordinary course of the performance of their official duties and is related to the purpose for which the information was acquired. ([Civil Code Section 1798.24 \(d\) and 1798.24 \(e\)](#)).

Managerial/supervisory are defined for the purposes of this policy as CAL FIRE employees, who are identified as such by their Collective Bargaining Identifier Designation (CBID). These employees have access to view the contents of the OPF of those employees directly under their supervision and are limited to those disclosures permitted by the government statutes and civil codes set forth in this policy.

**NOTE:** The only exceptions shall apply to Battalion Chiefs (Nonsupervisory) and Forester I (Nonsupervisory) who will be permitted to view those files of employees directly under their supervision. The same rules shall apply as stated.

[Government Code Section 6254\(c\), Civil Code Section 1798, and Penal Code Section 832.7](#) protect the confidentiality of personnel records and strictly limit their disclosure. Locked files and appropriate physical safeguards shall be established and preserved by CAL FIRE to guarantee the security and confidentiality of all personnel records.

OPFs of the CAL FIRE Headquarters’ Units are maintained at the Human Resources Office (HRO), located at 1300 U Street, Sacramento, California. OPFs for the Northern and Southern Regions and the CAL FIRE respective units throughout the state are kept and maintained by personnel staff on-site.

It is the policy of CAL FIRE that personnel records are open to inspection by authorized persons during regular business hours. A decision to grant access must be prompt. Each employee has the right to inspect his/her own records. Persons with authorization may inspect the records of others, except those records exempted from disclosure by statute or other authority.

Records shall not be removed from the custody of the employee having responsibility for them. CAL FIRE reserves the right to have personnel present during the inspection of records in order to prevent the loss or destruction of documents.

Persons found guilty of stealing, willfully destroying, mutilating, defacing, altering or falsifying, removing or secreting, the whole or any part of such a record, book, paper or proceeding, or employees who permit any other person to do so, are punishable by imprisonment not exceeding one year, or by a fine not exceeding \$1,000, or by both fine and imprisonment. ([Government Code Sections 6200-6201](#))

Any person who willfully requests or obtains any record containing personal information from an agency under false pretenses shall be guilty of a misdemeanor and are punishable by imprisonment not exceeding one year, or by a fine not exceeding \$5,000, or by both fine and imprisonment. ([Civil Code Section 1798.56](#))

Except for disclosures which are otherwise required or permitted by law, the intentional disclosure of medical, psychiatric, or psychological information in violation of the disclosure provisions of this chapter is punishable as a misdemeanor if the wrongful disclosure results in economic loss or personal injury to the individual to whom the information pertains. ([Civil Code Section 1798.57](#))

## **PROCEDURES**

(No. 141 July 2010)

**1087.2.1**

### **Authorized Access**

In accordance with [Civil Code Section 1798](#), employees may access and review records maintained in their OPF. An OPF may be reviewed by individuals designated by the employee (with possession of a signed release) upon presentation of valid identification. In addition, person(s) with written consent from the employee may have copies of records that are not exempt from disclosure upon payment of the copying costs. All monies collected for copying costs shall be sent to the CAL FIRE Accounting Office.

All written authorizations to review an OPF must contain an original signature unless it states that a copy is as valid as the original. File contents may be reviewed only in the presence of authorized personnel staff. Individuals, with the exception of internal investigators, will be required to sign the "Personal/Confidential Information Disclosure Log" specifying the purpose of the review. An OPF may not be removed from HRO or the respective CAL FIRE regions and units where such files are maintained.

## **Employees Responsible For OPFs**

Employees responsible for the collection, maintenance, use, and dissemination of information about individuals which relates to their personal life, including for example, employment history, financial transactions, marital status and dependents, shall comply with the provisions of the [Information Practices Act](#) and [Civil Code Sections 1798-1798.78](#).

Employees shall not require individuals to disclose personal information which is not necessary and relevant to the lawful state function for which the employee is responsible.

Employees shall make every reasonable effort to see that inquiries and requests by individuals regarding personal records are responded to promptly and without requiring the individual to unnecessarily repeat their inquiry to others.

Employees shall respond to inquiries and requests from individuals to review, obtain copies, amend, correct, or dispute their records in a courteous and businesslike manner, and in accordance with [Sections 1798.30](#) through [1798.42](#) of the Civil Code.

Employees shall not disclose personal information relating to individuals to unauthorized persons or entities. The improper disclosure of personal information may be cause for disciplinary action.

Employees shall not seek out or use personal information relating to others for their own interest or advantage. The intentional violation of this policy may be cause for disciplinary action.

Employees responsible for the maintenance of records containing personal information shall take all necessary precautions to assure that proper administrative, technical, and physical safeguards are established and followed in order to protect the confidentiality of records and to ensure that such records are not disclosed to unauthorized individuals.

## **Hiring Supervisor**

After a CAL FIRE hiring supervisor/manager conducts interviews for the purpose of filling a vacancy and is considering a candidate for selection, they shall have the prospective employee complete the "[Authorization to Release Information \(PO 299\)](#)."

## **Prospective Employer**

Any employer/representative outside of CAL FIRE must present a valid release form with the employee's original signature before personnel documents can be released for inspection.

The following documents are not to be disclosed during an OPF review by any potential employers for hiring purposes.

- Personnel Action Request
- Benefit forms
- Flex-Elect forms
- Leave Records
- Legal Plans
- Beneficiary Designee (PERS-BSD. 241)
- [Designee Warrant \(STD. 243\)](#)
- [Employee Action Request \(STD. 686\)](#)
- [Direct Deposit Enrollment Authorization \(STD. 699\)](#)
- [Employee Transfer Data \(STD. 612\)](#)
- Employment Eligibility Verification (I-9 form)

## **OPF Contents and Retention**

In accordance with the [SAM](#) retention schedule guidelines, CAL FIRE maintains certain records until the required and statutory timeframe for such records mandates that they be removed for preservation or destruction. Certain OPF materials shall be maintained no longer than the period of time required by law and in accordance with the approved Departmental retention period established for the record. This pertains to both current and separated employees.

## **Request for Amendment and/or Removal**

It is the responsibility of CAL FIRE personnel staff to maintain accurate personnel records. Employees have the right to request that certain documents which could affect their status or rights, be amended and/or removed from their OPF if the employee believes the information is not accurate, relevant, timely, or complete and/or in accordance with the approved Departmental retention period established for the records. Employees requesting documents be amended and/or removed from their OPF should submit their request in writing to their Personnel Specialist and the request will be reviewed.

The Personnel Specialist responsible for reviewing the records will notify the employee in writing that the amendment or removal has been completed as requested or that all or part of the request has been rejected. Reasons for refusing to amend or remove the record will be provided in writing.

If the employee disagrees with the refusal to amend or remove any part of their record, the employee is entitled to request an agency review. A request for review must be in writing to the Chief of Human Resources. The request must include the following information:

- Copy of the original request for amendment or removal of the record.
- Copy of the notification of denial of the request, with CAL FIRE's official reasons for refusing to amend or remove the record.
- Reasons for disagreeing with the refusal.
- Any additional information, if necessary.

If the CAL FIRE review concludes that all or part of the employees request for amendment or removal should not be granted, the notification will include a statement of reasons for the refusal. The employee is entitled to file a statement of disagreement with the agency review decision, which will be sent to the Chief of Human Resources.

The statement of disagreement, together with CAL FIRE's statement of reasons for refusing to amend or remove the record, will be made a part of the employee record and copies will be made available to persons or agencies to whom the disputed information has been disclosed.

### **Supervisor's Working File**

CAL FIRE managers and supervisors may establish and maintain working files for their employees. The working file should include only information directly related to an employee's work performance. The contents of a working file are often identified in the employee's MOU. In the event the contents are not identified in an MOU, or if an employee is excluded from a bargaining unit, the following examples are appropriate for inclusion, but not limited to: performance evaluations, training documentation, attendance records, letters of expectation, etc.

### **Security Safeguards**

Working files must be in the custody of the employee's supervisor.

Working files must be in a locked area with appropriate physical safeguards established to ensure the security and confidentiality of the information that is enclosed. Such files must be in an area where they are not subject to perusal by persons who have no legitimate business need to view them.

Upon request, employees have the right to inspect their personal information maintained in the supervisor's working file.

Upon permanent separation the employee's supervisor shall destroy (shred) all documents in the working file after a one year time period. If the employee should reinstate to a position after one year's time under the same supervisor as previously employed, the supervisor shall establish a new file, which will not include any prior information.

If an employee separates due to accepting a temporary work assignment elsewhere, the working file shall be retained for one year after completion of the temporary work assignment if the employee does not exercise his/her return rights to CAL FIRE.

### **Compliance and Penalty**

Civil action against an agency or its agent can be taken if:

- The request to inspect files permitted by law is refused.
- Information contained in the file is irrelevant/unrelated to the employee's work performance or inaccurate and incomplete, and as such, causes adverse effects to the individual.
- Failure to comply with the guidelines set forth by the [Information Practices Act](#), and as such, causes adverse effects to the employee.

Failure to comply with this policy may result in investigation and/or actions taken based on the laws and regulations. Appropriate disciplinary action may be taken against parties found in violation of applicable laws, bargaining units and regulations, including, but not limited to the following:

- Loss of Employment
- Salary Reduction and/or Demotion
- Criminal and/or Civil Action

If you have questions regarding the retention, removal or amendment of a specific document, contact your Personnel Specialist for guidance.

[\(see next section\)](#)

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[\(see Forms or Forms Samples\)](#)