

Chapter 8: Employee Records & Record Management

Administrative/HR Manual for Virginia Local Departments of Social Services (LDSS)

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EMPLOYEE RECORDS & RECORDS MANAGEMENT

POLICY STATEMENT

The State Board of Social Services establishes an employee records management policy for Local Departments of Social Services (LDSS). This policy provides guidance on the appropriate creation, organization, and secure maintenance of employee records and other types of records resulting from employment actions. This Virginia Public Records Act, [§ 42.1-76, et seq.](#), and The Virginia Freedom of Information Act, [§ 2.2-3700, et seq.](#), of the Code of Virginia, serve as its basis.

SCOPE

This policy applies to all current employees, interns, and volunteers of Non-Deviating (ND) LDSS or Partially Deviating (PD) LDSS.

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SECTION I: RECORDS & TYPES OF FILES

CONFIDENTIALITY & SECURITY OF RECORDS

All employee records contain personal information and are confidential. Employee records and other record types resulting from employment actions must be maintained in secure locations with access limited to the local director and those LDSS officers and employees determined to have a “need-to-know” by the local director, local board, or the VDSS Division of Human Resources. For an advisory board, *only* the member acting as the administrative entity (e.g., local director, county administrator, city manager) may receive access to employee records. Employee Records/files **must not leave the premises of the LDSS.**

RECORDING EMPLOYEE PERSONAL INFORMATION

When recording employee personal information, the LDSS must ensure that only relevant and accurate information is collected and retained. This includes information required by law or necessary for the effective and efficient operation of the personnel system and the administration of employee benefits programs.

LDSS will collect the following general information from each employee: full name, date of birth, address, phone number, emergency contact information, and social security number. Social security numbers must be collected only as authorized under [§ 2.2-3808](#) of the Code of Virginia¹ and will only be used to:

1. Comply with federal, state, and local reporting requirements.
2. Administer employee health benefit programs.
3. Effect personnel transactions related to employment status changes.
4. Comply with the [Virginia Freedom of Information Act](#).
5. Establish and maintain the employee records necessary to accomplish agency business.



Helpful Hints:

Security Considerations

All files must be stored in a secure, locked location not visible or accessible to unauthorized individuals. Appropriate steps should be taken to protect files from physical harm, such as fire and water damage.

For paper files, consider using fire-proof file cabinets and avoid storing them directly below or above heating, water, or drainage pipes. Contact the [VDSS Information Security & Risk Management Team](#) for guidance on securing and protecting digital and electronic files.

¹ Federal Authorization under 26 U.S.C. § 6011, and Treasury Regulation § 31.6011(b)-2(b).

GENERAL EMPLOYEE FILE

GENERAL EMPLOYEE FILE CONTENTS

LDSS will maintain a general employee file for all employees. The contents of this file should be standardized across agencies, but each LDSS may organize it according to their specific needs. At a minimum, the general employee file should include the following records:

1. Applications for employment.
2. Letters offering or accepting employment.
3. Report(s) of appointment or change of status.
4. Performance evaluations: Interim evaluations should only be kept in the general employee file if they support an annual evaluation, are part of a Written Notice, or pertain to the end of a probationary or conditional status period.
5. Consent and acknowledgement forms.
6. Written notices issued under the Standards of Conduct.
7. Authorizations for salary actions.
8. Position description and performance standards or plans.
9. Other forms used to initiate personnel transactions.

ADDITIONAL EMPLOYEE RECORDS

Certain employee records may be kept in the general employee file or in separate files, as determined by the local director, local board, or VDSS. These records include:

1. State and federal withholding forms.
2. Employee benefit records: Health insurance enrollment forms, retirement forms, life insurance beneficiary designation forms, etc.
3. Leave records and time sheets.
4. Training certificates and other training or educational records.
5. Educational assistance records.

RESTRICTED ACCESS EMPLOYEE FILES

While all employee records are confidential, certain record types of highly sensitive nature require stricter access controls. The records discussed in this section must not be placed in the general employee file; they must be securely maintained separately. LDSSs may determine the filing system for the record types



Helpful Hints: Organization Considerations

Choose a filing method: The filing method refers to how records are stored, whether paper or digital/electronic. It's acceptable to use both formats but strive for consistency within each record or file type.

Choose a file format: The file format pertains to how records are structured and organized within the file. Regardless of the format – paper or digital – maintain a consistent organizational approach.

Digital and Electronic Files: Consistently named files are easier to locate and identify compared to randomly named files. It's recommended that LDSS establish an agency-wide file-naming procedure.

Retain Final Versions: It is preferable to retain only final versions of records in files rather than draft versions to prevent files from becoming overly large and cumbersome.

[The Library of Virginia](#) offers valuable resources for developing a comprehensive records management program.

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listed below. It is recommended that restricted access records are maintained in files that organize them into similar categories. For example, disciplinary action, recruitment, medical records, etc.

The information in these records must be strictly safeguarded, accessible only to designated LDSS agency employees who have a “need to know,” as determined by the local director, local board, or VDSS Division of Human Resources.

CERTAIN BACKGROUND RECORDS

After a hiring or disciplinary decision, reports on criminal history, central registry history, child support history, credit history, and driving records must be securely destroyed (shredded or burned)². The Suitability Determination Form is used to record the decision outcome, and it is the only record to be maintained.

MEDICAL OR MENTAL HEALTH RECORDS

1. These include medical or mental health information, requests for medical leave, health insurance documents, or worker's compensation records.
2. The Americans with Disabilities Act (ADA) mandates confidentiality of employee medical information obtained from medical inquiries or examinations, including data from voluntary health or wellness programs.
3. The Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule requires confidentiality of employee medical information derived directly from the group health plan.

LDSS should contact their locality benefits administrator for guidance on workers' compensation and group health plan documents.

WORKERS' COMPENSATION RECORDS

LDSS may manage workers' compensation files in a paper or digital format. Typical records include First Report of Injury, Incident Report, Panel Selection Form, and related correspondence. Questions regarding workers' compensations should be directed to the locality or to the [Virginia Workers' Compensation Commission](#). For more information, refer to [Code of Virginia – Title 65.2. Workers' Compensation](#).

EMPLOYEE INVESTIGATION RECORDS

These encompass investigation records, discrimination or retaliation complaints, and litigation documents. (e.g., the contested action and supporting documents, judge's final decision, etc.).

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² [§ 19.2-389](#); [28 U.S.C. 534](#); [28 CFR 20](#)

EXIT INTERVIEWS

Exit interview records should be kept separate from the general employee file to maintain the anonymity of employees' responses. The LDSS should also take appropriate steps to remove any identifying factors from information that is shared with appropriate personnel.

FORM I-9

Used for verifying identity and employment authorization, Form I-9s may be stored in a paper or digital format.

UNEMPLOYMENT COMPENSATION DOCUMENTATION

Given the volume generated during the unemployment insurance filing, maintaining these files separately ensures information protection and facilitates quick reference when needed.

SUPERVISOR FILE

A supervisor's file may only include work records of employees within their unit that are pertinent for performance management or scheduling purposes. Medical records, including doctor's notes, are confidential and should be forwarded to the local director or the designee responsible for maintaining personnel files for proper handling.

Employees have the right to access any records in the supervisor's file that pertain to them upon request, unless such information is legally protected from disclosure. LDSS may consult the [VDSS Local HR Support Team](#) for guidance on employee requests to view his/her supervisor file.

RECRUITMENT FILE

While the general employee file houses hiring records specific to individual employees, a separate recruitment file must also be maintained to store all records pertaining to job postings.

CREATION & CONTENTS

LDSS must create a recruitment file for each position filled. This file must confidentially retain the following records for at least three (3) years from the position's fill date. Some of these records will be automatically maintained by LDSS electronic human resource management system.

The contents of the recruitment file include:

1. Position description.
2. Recruitment-related records.
3. Copies of advertisements.
4. Employment applications.
5. Race and gender data of all applicants.
6. Screening and selection criteria applied.



Helpful Hints: Form I-9 Inspections

The Department of Homeland Security, the Immigrant and Employee Rights Section (IER) at the Department of Justice, and the Department of Labor may request to inspect employer I-9 files. Storing Form I-9s on their own and not mixed with other records/file types allows for inspection requests to be facilitated more easily.

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7. Interview questions and scoring sheets.
8. References.
9. Any documentation supporting selection or addressing non-selection.

RECORD DISPOSITION

Records must be retained and disposed of in accordance with the guidelines established by [the Library of Virginia](#). Agencies unsure of procedures or guidelines should contact the [Records Management Section](#) of the Library of Virginia. LDSS should direct inquiries about recruitment files to the [VDSS Local HR Support Team](#) for assistance.

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SECTION II: ACCESS TO EMPLOYEE RECORDS

All requests for employee information by third parties should be directed to the local director or designated staff.

EMPLOYEE ACCESS TO EMPLOYEE RECORDS

Per Code of Virginia [§ 2.2-3705.1](#), employees must be given access to their own records upon request, unless the records are legally prohibited from disclosure.

THIRD PARTY ACCESS TO EMPLOYEE RECORDS

Under Code of Virginia [§ 2.2-3705.1](#), the following information about employees of public bodies must be disclosed to third parties upon request and may be disclosed without the employee's knowledge or consent:

1. Contracts between a public body and its officers and employees, excluding confidential settlement agreements under [§ 2.2-3705.1](#).
2. Employee's position title.
3. Employee's job classification title.
4. Official salary or rate of pay if such pay exceeds \$10,000 per year.
5. Records of allowances or reimbursements for expenses paid to any officer, official, or employee of a public body.

Other personal information/employee records may not be disclosed to third parties without the written consent of the employee.

OFFICIAL REQUESTS FROM A COURT OF LAW OR RECEIPT OF SUBPOENA

The locality attorney or LDSS counsel should be informed immediately of any subpoenas or court requests for information. While the LDSS may choose to inform employees of such subpoenas and requests, it is not legally required to do so. Unless advised otherwise by counsel, the LDSS must comply with a subpoena.

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SECTION III: RECORD RETENTION & DISPOSITION

GENERAL INFORMATION

The LDSS must retain and dispose of employee records in accordance with the GS-03, Personnel Records retention and disposition schedule provided by the [Library of Virginia](#) for counties and municipalities. For more information on how to find this schedule, refer to "[Helpful Hints – Record Self-Audits and Record Disposition.](#)"

Employee records must be disposed of in a way that prevents accidental disclosure of personal information. The Library of Virginia's retention schedule specifies the method of disposition for each type of record as either confidential or non-confidential.

1. Confidential disposition of paper records is accomplished through shredding, pulping, or burning. For digital or electronic records, confidential destruction involves electronic shredding, overwriting the hard drive's free space, or magnetic-media degaussing.
2. Non-confidential disposition involves placing paper documents in a trash or recycling bin or deleting electronic data. Only records that do not contain identifying information qualify for non-confidential disposition.

DISPOSITION OF RECORDS CONTAINING SOCIAL SECURITY NUMBERS

If records containing Social Security numbers (SSNs) have reached the end of their retention period, their destruction must comply with [§ 17VAC15-120, et seq.](#), of the Virginia Administrative Code. For questions or additional information, contact the [Records Management Section](#) of the Library of Virginia.

PAPER RECORDS

1. Paper records must be shredded, pulped, or incinerated. If destroyed within an office or agency, records must be shredded by a mechanical cross-cut shredder that reduces paper to a size no wider than 3/8 inches. The custodian of the records must prepare a certificate of destruction listing the records destroyed, who destroyed them, and the date of destruction.
2. If shredding is done off-site by another agency, department, or contractor, locked bins are required to protect the records prior to shredding. Contractors providing shredding services must be bonded. The agency contracting for the shredding is responsible for protecting the SSNs until destruction. A representative of the contracting agency must witness the destruction.

DIGITAL & ELECTRONIC RECORDS

Agencies must establish procedures to destroy SSNs in digital and electronic public records that have reached the end of their retention period. Agencies may retain or destroy the physical media.

1. Files stored on a computer must be deleted and overwritten using software that replaces the files with meaningless data to prevent reconstruction.
2. Back-up tapes must be overwritten to obliterate the original data.
3. If an agency retains floppy disks, tapes, or other magnetic storage devices containing SSNs, the media must be:
 - a. Overwritten using software that replaces the files with meaningless data.
 - b. Exposed to a powerful magnetic field to disrupt the information. Data must be reviewed to ensure SSNs are not retrievable.
4. CD-ROMs must be incinerated or physically broken into several pieces to render them unusable.
5. When disposing of computers containing SSNs, hard drives must be overwritten and inspected to ensure no SSNs remain. If data remains, the hard drive must be removed and disposed of separately by drilling to prevent reuse.



Helpful Hints:

Record Self-Audits & Record Disposition

Conduct Annual Self-Audits: Conduct an annual self-audit of your employee paper and electronic files to keep them organized and prepare for any official audits.

Follow the Records Retention

Schedule: The Library of Virginia provides a records retention and disposition schedule for all employee records for counties and municipalities. This schedule is titled "GS-03, Personnel Records."

- ◆ To find the schedule, enter the title in the "Search" field on the [Library of Virginia's homepage](#).
- ◆ For questions about the schedule or how to categorize a record, contact their [Records Management Section](#).

Annual Record Purge: Plan to purge records that are past their retention date on an annual basis.

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GLOSSARY

SECTION I: RECORDS & TYPES OF FILES

1. Confidentiality: The principle and practice of keeping sensitive information private unless the owner or custodian of the information gives explicit consent for it to be shared with another party.
2. Confidential Record: Records restricted from disclosure by code, court order, or legally adopted rules and regulations.
3. Designated Employee or Designee: LDSS employees permitted to access restricted portions of employee files. Designated employees must be determined by local director, local board, or the VDSS Division of Human Resources.
4. Digital Record: Static documents from computerized physical records that can be viewed or shared (e.g., photographs, PDFs, scanned forms).
5. Electronic Record: Dynamic records that can be interacted with by users (e.g., emails, instant messages, Word documents, spreadsheets, etc.).
6. File: A collection of records that have common properties.
7. Filing Format: How records are arranged within a file.
8. Filing Method: How files are to be stored in the LDSS; examples are paper files and digital or electronic files. An LDSS may use one or both methods of filing.
9. General Employee File: A confidential file that must be created for each LDSS employee and appropriately maintained and stored by the LDSS. At a minimum, this file must contain the records listed in the [General Employee File subsection](#) of this policy.
10. Need to Know: Limiting access to sensitive or confidential information to only those who need it to perform their job duties.
11. Record: A paper, letter, document, report, or other material which has been prepared or obtained in the transaction of LDSS business by an employee or officer of the LDSS; and whose subject is a current or former employee of or applicant for employment with the LDSS. This definition includes both paper and digital or electronic forms.
12. Recruitment File: A file created to store all records specific to a job posting.
13. Restricted Access Employee File: Employee files where certain highly sensitive employee records are maintained. These files must be maintained securely and separately, and the information contained in these records must be strictly safeguarded. Only designated employees of the LDSS agency may access them.
14. Supervisor File: A file maintained by an employee's direct supervisor which may contain only work records on the employee which are useful for performance management or scheduling purposes.

SECTION II: ACCESS TO EMPLOYEE RECORDS

1. Subpoena: A formal written order requiring a person to appear before a court.

2. Third Party: Individuals who are not LDSS employees, such as employees of other businesses, relatives, acquaintances, clients, or strangers.

SECTION III: RECORD RETENTION & DISPOSITION

1. Confidential Disposition: The process of disposing of records containing identifying information by shredding, pulping, or burning. For electronic records, confidential disposition is accomplished through electronic shredding, overwriting the hard drive's free space, or demagnetization.
2. Non-Confidential Disposition: To dispose of records by placing paper documents in a trash or recycling bin, or by simply deleting electronic data. The only records that qualify for non-confidential disposition are those records that **do not** contain identifying information.
3. Overwrite: Replacing previously stored data on a drive or disk with a predetermined pattern of meaningless information that renders the data unrecoverable.
4. Pulping: A technique of macerating paper documents by soaking them in water and grinding them into pulp.
5. Retention Period: The required timeframe and disposition action indicated in a Library of Virginia-approved records retention and disposition schedule.
6. Shredding: To destroy paper records by mechanical cutting. Examples of shredding types are strip-cut (less secure), crosscut (more secure), and micro-cut (most secure). Security is based on the ability to reassemble the paper. Strip-cut shredders cut the paper into long strips; cross-cut shredders have two sets of blades facing opposite directions, cutting the paper into confetti; micro-cut shredder blades create a finer confetti texture.

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