

ARTICLE 23

PERSONNEL FILES

23.1 Inspection of Files

- 23.1.1 Every unit member shall have the right to inspect and obtain copies of materials in the personnel file upon request, provided that the inspection is made at a time when such unit member is not actually required to render service to the District.
- 23.1.2 Upon written authorization by the unit member, a representative of the Association shall be permitted to examine and/or obtain copies of materials in such unit member's personnel file.

23.2 Placement of Materials in the Personnel File

- 23.2.1 Any person who places written or digital material or drafts written or digital material for placement in a unit member's personnel file shall sign the material and signify the date on which material was drafted. All District-generated materials placed in a personnel file shall include indicate the date that the material was sent to the employee. Bargaining unit members who submit materials to the District that are necessary to include in their personnel file shall be offered, and upon request, be provided a copy of date stamped materials.
- 23.2.2 If the information to be placed in the personnel file is of a derogatory nature, it shall not be entered in the personnel file unless and until the unit member is given the opportunity to review the material and attach thereto their own comments. That review shall take place during the school day and the unit member shall be released from duty without loss of compensation for that purpose.

23.3 Appropriate Locations

- 23.3.1 Human Resources Office
 - 23.3.1.1 The District shall maintain the official file in the Human Resources Department at the Dent Center.
- 23.3.2 Principal's File
 - 23.3.2.1 It shall be appropriate for the principal or other direct supervisor to maintain a single working file in a secure location at the work site. This file may include, but not be limited to the following material:
 - 23.3.2.1.1 Copies of observations and evaluations;
 - 23.3.2.1.2 Notes relative to verbal concerns, letters of warning and signed formal complaints which have been conveyed or communicated to the employee. These documents shall be retained for up to two (2) years unless another incident

occurs within a progressive discipline context, in which case this time frame shall commence with the latest incident;

23.3.2.1.3 Any material of a positive nature; and

23.3.2.1.4 Correspondence personally addressed to the specific employee.

23.3.2.2 There shall be no copies of materials in this file which have been sealed in the file in the Personnel Services office.

23.3.2.3 Only material covered in §23.3.2.1.1 through §23.3.2.1.4 shall be available for the employee to review upon proper request. Only such material may be retained in the site file at the time of the supervisor/principal moving from the site.

23.4 Negative or Derogatory Material Greater than Four (4) Years Old

23.4.1 Upon written request by a unit member, negative or derogatory material in the unit member's personnel file which is more than four (4) years old shall be sealed and placed in a separate file in the Human Resources office which shall be opened only with the written permission of the unit member or upon receipt by the District of a valid subpoena, court order, or Public Records Act request compelling disclosure of such material. Disclosure of such material upon receipt by the District of a valid subpoena, court order, or Public Records Act request shall only be released by the District's Associate General Counsel.

23.4.2 Except as provided in Education Code sections 44944 or 44944.1, the District shall not initiate or cause to be initiated any action to the unit member based on such material.

23.4.3 The contents of the envelope may be opened and utilized by the District as permitted by law in preparation of its defense to any allegation made by the unit member regarding the events which form the basis for the derogatory statements contained therein. The District may utilize the contents of the envelope to rebut the unit member's allegation. Material utilized as described in this subsection shall be immediately returned to the separate file.

23.4.4 In the event the District receives a valid subpoena, court order, or Public Records Act request requiring disclosure of such material, the District shall immediately notify the unit member and the Association. The district shall immediately transmit a copy of the subpoena, court order, or Public Records Act request to the affected employee at the employee's last address of record. Disclosure of such material upon receipt by the District of a valid subpoena, court order, or Public Records Act request shall only be released by the District's Associate General Counsel, and only after the affected employee has been provided the copy. Unless legal timelines cannot be followed otherwise, the District shall not disclose any of these materials until after the

employee has received their copy of the subpoena, court order, or Public Records Act request.

23.5 Complaints

- 23.5.1 Any formal complaint or criticism (other than of a criminal act indicating a need for investigation) concerning a unit member shall be brought to the attention of the unit member involved in a timely manner provided the administrator decides that action is warranted. A copy of the complaint, in writing, shall be provided to the unit member.
- 23.5.2 If requested by the unit member and deemed appropriate by the administrator, a conference shall be scheduled among the unit member, the administrator, and the person making the complaint or criticism. The unit member shall at their option have representation at any conference.
- 23.5.3 If the principal denies a unit member's request for a conference with the person making a complaint, the principal shall provide the unit member with a denial in writing and the reason(s) for it upon written request of the unit member. That response shall be made within two (2) work days of the request.
- 23.5.4 No written report or entry in a unit member's personnel file will be made based on a complaint or criticism if the unit member has requested a conference, the principal/program administrator agrees, but the person making the complaint refuses.
 - 23.5.4.1 §23.5.4 shall not apply in harassment complaint cases where the person making the complaint alleges sexual harassment or any other form of prohibited harassment.