

**Policy 1316**  
**Release of Information From Employee Records**

**Date of Current Revision: February 2008**

**Primary Responsibility: Director of Human Resources**

**Secondary Responsibility: Director of Public Affairs**

---

**1. PURPOSE**

It is James Madison University's objective to ensure compliance with the Virginia Government Data Collection and Dissemination Practices Act (Va. Code Title 2.2, Chapter 38, sections 2.2-3800 et. Seq.) and the Virginia Freedom of Information Act (Va. Code Title 2.2, Chapter 37, sections 2.2-3700 et seq.). This policy establishes guidelines for access to and release of personal information on employees, which is maintained by the university.

**2. AUTHORITY**

In creating and maintaining this policy, the University is operating under the mandate and authority of the Code of Virginia.

**3. DEFINITIONS**

**3.1 Personal Information That May Be Disclosed Without Employee's Consent:**

Certain personal information must be disclosed to third parties upon request and may be disclosed without the knowledge and consent of the subject employee. This information includes:

1. Employee's position title
2. Employee's job classification title
3. Dates of employment
4. Records of allowances or reimbursements for expenses paid to employee, and
5. Official salary or rate of pay for employee, if such pay exceeds \$10,000 per year.

**3.2 Personal Information That May Be Disclosed With Employee's Consent:**

Other personal information may not be disclosed to third parties without the written consent of the subject employee. This information includes, but may not be limited to:

1. Performance evaluations
2. Mental and medical records
3. Credit or payroll deduction information
4. Applications for employment
5. Records of suspension or removal including disciplinary actions
6. Records concerning grievances or complaints
7. Scholastic records
8. Records of arrests, convictions, or investigation
9. Material relating to Workers' Compensation claims
10. Material relating to Unemployment Compensation claims
11. Retirement records
12. Confidential letters of reference or recommendation
13. Leave records
14. Results of pre-employment tests

15. Recommendations or letters of reference
16. Personal information such as race, sex, age, home address, home telephone number, marital status, dependents' names, insurance coverage, or social security number

### **3.3 Individuals/Agencies That May Have Access To Employee Records Without The Consent of The Employee:**

The following individuals/agencies may have access to employee records without the consent of the subject employee. This list is not all-inclusive.

1. The employee's supervisor and, with justification, higher level managers in the employee's supervisory chain.
2. The employee's agency head or designee and agency human resource employees and legal counsel, as necessary.
3. Specific private entities that provide services to state agencies through contractual agreements (such as health benefits, life insurance, Workers' Compensation, etc.) in order to provide such service.

## **4. APPLICABILITY**

This policy applies to all employees of the university.

## **5. POLICY**

The university strives both to comply with applicable federal and state law and guard the privacy of its employees when determining the release of employee-related information.

## **6. PROCEDURES**

### **6.1 REQUESTS FOR INFORMATION - GENERAL**

All requests for personnel information by third parties should be directed to the Director of Human Resources.

- Requests for information that do not make specific reference to the Virginia Freedom of Information Act should be treated under the requirements of the Act.
- Requests under the Virginia Freedom of Information Act must be answered by the custodian of the record within five workdays of their receipt. The response must:
  - Provide the requested information; or
  - If the records are exempt from disclosure under the Virginia Personnel Act, explain why they cannot be provided (in this case, the specific Code section which exempts the records must be referenced); or
  - If some portions of the records are exempt and others are not, provide the portions of the information which are not exempt and delete those portions which are, referencing the appropriate section of the Virginia Code which addresses the exemption.

Employment references may be provided by past or present supervisors, co-workers, or by the Director of Human Resources.

- The university is under no obligation to provide employment references on current or past employees to prospective employers including other state agencies.
- Whether or not to provide reference information is up to the applicable supervisor, department head, manager or AVP. If employment references are provided, the information given should be accurate, fair, verifiable and should be limited to employment-related information only. See Policy 1320, Providing and Obtaining Employment Reference Information.

## **6.2 REQUESTS FOR INFORMATION - COURT ORDERS**

The university must comply with subpoenas ordering employee records to be turned over to the court. The university may inform subject employees of such subpoenas, but is not required to.

## **6.3 REVIEWING PERSONNEL FILES**

- Employees have access to information retained in all personnel files of which they are the subjects, in accordance with law. Individuals seeking access to their own personnel files should arrange an appointment with Human Resources. Employees are not required to obtain their supervisors' approval prior to reviewing their official personnel file. However, they must provide adequate notice to supervisors when they wish to obtain releases from work to review their files. Employees will not be charged for reasonable time away from work to review their files.
- Employees may review supervisors' files of which they are the subjects. Employees should make arrangements with their supervisors to review these files. The supervisor or a designee normally should be present during the review unless circumstances would preclude the supervisor's attendance.

## **6.4 COPYING RECORDS**

The university may charge fees for providing information to requestors. These charges may not exceed the actual cost of providing the information. Charges may include the actual copying costs plus the cost for labor involved in locating and copying the information.

## **7. RESPONSIBILITY**

The Human Resources Director is responsible for the management, maintenance and protection of employee files.

Supervisors are responsible for managing and maintaining their own personnel-related files, to include notes, performance documentation, and other employee information that is not required to be included in the employee's official Human Resources personnel file.

## **8. SANCTIONS**

Sanctions will be commensurate with the severity and/or frequency of the offense and may include termination of employment.

Personnel who do not comply with this policy are subject to criminal penalties provided for by the attendant laws.

## **9. EXCLUSIONS**

Persons are only responsible for the management and dissemination of information over which they are custodian. In addition, the university is not required to create records it does not already hold or manipulate or report data in response to a request in a way that it doesn't already manipulate or report such data.

## **10. INTERPRETATION**

The authority to interpret this policy rests with the President, and is generally delegated to the Director of Human Resources.

Previous version: April, 2006  
Approved by the President: November, 2002

---

**Index of terms**

Freedom of Information Act  
Employee Records  
Personnel Records