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**Subject: Release of Human Resources Records and Select Employee Information**

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## **1. Purpose**

The following policy describes the provisions for the release of official records and names, physical work addresses and work email addresses of Virginia Tech employees by the Human Resources Department or any other office of the university under the Virginia Privacy Protection Act of 1976 and The Virginia Freedom of Information Act.

## **2. Policy**

With appropriate authorization, as outlined herein official records of the Human Resources Department are available for inspection. A response will be made within the time frame prescribed by the Virginia Freedom of Information Act and [University Policy 12205, Responding to Virginia Freedom of Information Act Requests](#)

Virginia Tech does NOT routinely provide mailing lists or mailing labels to organizations outside the university. Recognizing that certain requests are for the benefit of employees and may be associated with an academic and/or approved university activity, certain exceptions may be made.

### **2.1 Request for Records**

The [Virginia Freedom of Information Act of 1976](#) (FOIA) ensures residents of the Commonwealth ready access to all public records (see [University Policy 12205, Responding to Virginia Freedom of Information Act Requests](#)). The Privacy Protection Act protects the records of individuals from inappropriate use, ensures the individual the right to be informed when research findings based on personal information are disseminated to organizations not having regular access to those records, and allows individuals who are the subject of the records access to their own personnel records. Therefore, the requestor will be required to show proof of identity for requests of the records relating to a specific person.

#### **2.1.1 Release of Records to Third Parties**

Third parties may receive copies of, or access to, certain Human Resources Department records as defined in Section 4.0 either through a subpoena or a release from the subject-employee. Also, specific third parties that provide services to state agencies through contractual agreements (such as health benefits, life insurance, Workers' Compensation, etc.) may have authorized access to employee records without the consent of the subject employee in order to provide such services.

### **2.1.2 Release of Current Employee Records to Supervisors and/or Departments**

Supervisors acting on behalf of the university may review the employee's relevant performance and conduct records in order to more effectively manage performance or make disciplinary determinations.

## **2.2 Release of Records for a Current/Former Employee to Prospective Supervisors, Department Heads or State Agency During the Hiring Process**

Supervisors acting on behalf of the university may review the relevant performance and conduct records for a current or former employee who is a top candidate for a vacancy in order to assist in making the final employment selection decision. Employees must sign the [Consent for Prospective Supervisor to Review Personnel File](#) to authorize the prospective supervisor or other state agency official to review their personnel file. Individuals authorized to review a file must complete the review in the Department of Human Resources.

### **2.2.1 Release of Records and Confidential Records to the Subject-Individual**

Pursuant to Section 2.2-3704 of the Freedom of Information Act, state employees may not be denied access to the contents of their own personnel files except in the case of letters of recommendation, as well as certain medical and mental records that the employee's physician has requested remain confidential.

### **2.2.2 Release of Names, Physical Work and Email Addresses of Employees**

University offices may receive requests for employee names, physical work addresses and work email addresses. This information is not generally exempt from disclosure under Virginia's FOIA. Questions regarding disclosure should be directed to University Relations or to the Office of University Legal Counsel.

## **3. Procedures**

To request a copy of personnel records, contact the Human Resources Department and submit a completed [P99 form – Request for Personnel Services Records](#). Requestors will designate the requested records with reasonable specificity and show proof of identity. Access shall occur during the normal working hours.

Human Resources will provide records in accordance with [University Policy 12205, Responding to Virginia Freedom of Information Act Requests](#).

If the records are requested through a subpoena, the records, along with the subpoena, will be forwarded to university legal counsel and will be released by legal counsel when appropriate.

## **4. Definitions**

### **1. Personnel and employee records requiring third party disclosure**

Except as otherwise specifically provided by law, Personnel Records (official records) consist of any record held by Virginia Tech that relates to an identifiable employee concerning the nature of the employment, job capacity or performance, or is otherwise related to the scope of employment.

Employee records are not considered subject to third party (private citizens) disclosure requirements of the Freedom of Information Act except where disclosure of such records is mandated by that Act. The following types of employee personnel records are available for release under the Freedom of Information Act:

- Information concerning the employee's position (employee's position title and dates of employment)
- Job Classification (pay grade)

- Annual salary, official salary or rate of pay (above \$10,000 per year); and
- Names, physical work addresses and work email addresses of employees

## 2. Confidential Records - Personal Information

The following employee records do not require third party disclosure, but are available to the individual who is the subject of the records:

- Performance ratings and any documentation, including correspondence, about performance.
- Mental and medical records (except those which the employee's physician has requested remain confidential).
- Credit information.
- Application for employment.
- Records concerning grievances or appeals.
- Disciplinary actions.
- Scholastic records.
- Records of arrest, conviction or investigations.
- Material relating to Workers' Compensation.
- Material relating to Unemployment Compensation.
- Retirement Records.

Under the Virginia Freedom of Information Act, letters of reference are excluded from disclosure to the employee.

## 5. References

Code of Virginia, Sec.2.2-3700, et seq., The Virginia Freedom of Information Act  
<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC>

Code of Virginia, Sec. 2.2-3800 et seq., the Privacy Protection Act of 1976  
<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC>

Human Resources Forms Library  
<http://www.apps.hr.vt.edu/hr/forms/>

University Policy 12205, *Responding to Virginia Freedom of Information Act Requests*  
<http://www.policies.vt.edu/12205.pdf>

## **6. Approval and Revisions**

Approved June 18, 1993, by Associate Vice President for Personnel and Administrative Services, Ann Spencer.

October 10, 2001: Technical corrections to update policy links and name change for the Commonwealth of Virginia's Department of Human Resource Management (formerly Department of Personnel and Training).

- Revision 1

Changed Personnel Services to Human Resources.

Expanded Section 2.1.1 to address the processing of subpoenas and reference third party disclosure for the purpose of private entities providing services to state agencies through contractual agreements.

Updated the links to DHRM's policies.

Updated the references to The Virginia Freedom of Information Act.

Approved October 26, 2010 by Vice President for Administrative Services, Sherwood G. Wilson.

- Revision: 2

Deleted reference to university policy 2010, *Release of Names and Addresses of Students*, which was eliminated due to overlap with other university policies and state laws.

Inserted second paragraph in sections 2 and 2.1.5 to cover information previously contained in university Policy 2010, *Release of Names and Addresses of Students*.

Inserted references to the Virginia Freedom of Information Act of 1976, the Virginia Freedom of Information Act and University Policy 12205, *Responding to Virginia Freedom of Information Act Requests*.

Updated Definitions section to:

- include names, physical work addresses and work email addresses of employees as information that may be subject to disclosure
- add "any documentation, including correspondence, about performance" as information protected from disclosure

Approved August 9, 2012 by Vice President for Administrative Services, Sherwood G. Wilson.

- Revision 3

Technical corrections to correct format and links to policy and remove duplicate information

Expanded Section 2.1.3 to address process for Prospective Supervisors and/or Department Heads or Other State Agencies requesting access to a prospective employee's records.

Revised the title of Section 2.2 (to avoid confusion with 2.1.2) to read: "Release of Records for a Current/Former Employee to Prospective Supervisors, Department Heads, or State Agency During the Hiring Process."

Section 3, Procedures – updated section to include required form.

Approved December 11, 2015 by Vice President for Administration, Sherwood G. Wilson.