



Access to Employee Records

Human Resources Policy

Effective Date: October 2009

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1 PURPOSE

To outline procedures for an employee to access employee records.

2 APPLICATION

This policy applies to current employees of Queensland Health.

3 GUIDELINES

Guidelines may be developed to facilitate implementation of this policy. The guidelines must be consistent with this policy.

4 DELEGATION

The 'delegate' is as listed in the Queensland Health Human Resource Delegations Manual as amended from time to time.

5 REFERENCES

- *Public Service Act 2008*
- *Public Service Regulation 2008*
- *Crime and Misconduct Act 2001*
- *Right to Information Act 2009*
- *Health Services Act 1991*
- *Whistleblowers Protection Act 1994*
- Queensland Public Health Sector Certified Agreement (No. 7) 2008 (EB7)
- Health Practitioners (Queensland Health) Certified Agreement (No.1) 2007

6 SUPERSEDES

- IRM 3.3-2 Access to Employee Record

7 POLICY

A current employee of Queensland Health is to be provided with access to any employee record which relates to their interests as an employee under an administrative access scheme in accordance with this policy. This policy incorporates the rights afforded to public service employees by sections 12 to 14 of the *Public Service Regulation 2008*, and provides equivalent entitlements to employees of health service districts.

7.1 Employees eligible to access an employee record

Under this policy, an employee record can be accessed by:

- A public service employee, which includes:
 - a public service officer
 - a general employee
 - a temporary employee.

(refer to section 9 of the *Public Service Act 2008*)

- A health service employee, which includes:
 - a tenured health service employee
 - a contracted health service employee
 - a temporary health service employee
 - a casual health service employee.

(refer to sections 24-25 of the *Health Services Act 1991*)

7.2 Meaning of employee record

Each of the following documents, to the extent it contains information about a public service employee or health service employee, is an employee record about the employee:

- a report, correspondence item or other document about the employee's work performance, work conduct or work history
- a medical report about the employee
- a written allegation of misconduct by the employee.

Exceptions

None of the following documents are an employee record about a public service employee or health service employee:

- a medical report about the employee indicating disclosure of information in it to the employee might be prejudicial to the employee's mental or physical health or well being
- an employee assistance provider document about the employee
- a *Whistleblowers Protection Act 1994* document about the employee
- a document about the employee concerning suspected official misconduct within the meaning of the *Crime and Misconduct Act 2001*, section 15 to 17, or its investigation
- a document about the employee concerning a suspected criminal offence or its investigation
- a document to which legal professional privilege applies.

Refer to the definitions section for more information.

7.3 Possession of employee record

An employee record is in an entity's possession if the entity has the record in its possession or under its control.

An employee record is also in an entity's possession if the record is in the possession of, or under the control of, an employee of the entity in the employee's official capacity.

In conjunction with the above paragraph:

- If the entity is the Premier, a person is an employee of the entity if the person is an employee of the department administered by the Premier.

- If the entity is the chief executive of a department, a person is an employee of the entity if the person is an employee of the department, including health service district employees.

7.4 Detrimental employee record

7.4.1 Detrimental employee record with employing authority

If a detrimental employee record about a public service employee or health service employee is in the possession of the employee's employing authority, the employing authority is to ensure that within 14 days after the record comes into the employing authority's possession:

- the employee is given the opportunity to read the record and to acknowledge having read the record by initialling it
- the employee is given a copy of the record
- if the employee has refused to take the opportunity to read the record or to acknowledge having read the record by initialling it, the refusal is noted on the record
- the employee is given the opportunity to respond in writing at any time to the record's contents
- any written response by the employee is attached to the record.

If the employing authority reasonably considers that giving the employee access to the record, under the access procedure above, would be likely to prejudice an existing relevant investigation or inquiry, that access procedure does not apply until whichever of the following periods ends first:

- the period ending when the employing authority no longer reasonably considers that giving the employee access to the record, under the access procedures outlined above, would be likely to prejudice a relevant investigation or inquiry or
- the period of six months after the record comes into the employing authority's possession.

7.4.2 Detrimental employee record with another chief executive

If a detrimental employee record about a public service employee or health service employee is in the possession of a chief executive of a department, and the chief executive is not the employee's employing authority, the chief executive is to promptly give possession of the record to the employee's employing authority.

The requirement does not apply to a referee's report or other document received for a selection process to fill an employment vacancy in the department.

7.5 Access to employee record

If an employee record about a public service employee or health service employee is in the possession of:

- the employee's employing authority
or

- a chief executive of a department who is not the employee's employing authority

the employee may, on request:

- inspect the record
or
- take extracts from, or obtain a copy of details in, the record.

The inspection, extract or copy is to be given at a time and place convenient to the employing authority or chief executive, no later than 21 days after the request.

If the employing authority or chief executive reasonably considers inspection, taken extracts or obtaining a copy of details by the employee would be likely to prejudice an existing relevant investigation or inquiry, the access procedure set out above is not to apply until whichever of the following periods ends first:

- the period ending when the employing authority or chief executive no longer reasonably considers inspection, taking extracts or obtaining a copy of details would be likely to prejudice a relevant investigation or inquiry
or
- the period of six months after the employee requests the inspection, extracts or copy.

In obtaining the inspection, extract or copy, the employee is not to remove anything from the record.

7.5.1 Procedure for seeking access

Applications for access to an employee record are to be made in writing (to enable arrangements to be made) without limiting employee rights to access records under this policy.

For employees of Corporate Office, Queensland Health such applications are to be directed to the Manager, Corporate Human Resources.

For employees of health service districts, such applications are to be directed, in the first instance, to the local human resources (HR) unit within the particular health service district.

When necessary, the local HR unit may refer the application to an appropriate unit where relevant documentation may be held.

Access under this administrative arrangement is not to affect an employee's right to seek access to documents under the *Right to Information Act 2009*.

8 DEFINITIONS

Detrimental employee record	An employee record about a public service employee or health service employee that could reasonably be considered to be detrimental to the employee's interests.
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Employee Assistance Provider (EAP)	A person with a qualification to provide professional counselling services.
Employee Assistance Provider (EAP) document	A document about a public service employee or health service employee created by an employee assistance provider for the primary purpose of providing a professional counselling service to the employee.
Misconduct	<ul style="list-style-type: none"> • Disgraceful or improper conduct in an official capacity or • Disgraceful or improper conduct in a private capacity that reflects seriously and adversely on the public service or a health service district.
Official misconduct	Section 15 of the <i>Crime and Misconduct Act 2001</i> states that "official misconduct" is "conduct that could, if proved, be: (a) a criminal offence; or (b) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment."
Relevant investigation or inquiry	For a public service employee or health service employee, it means an investigation or inquiry into: <ul style="list-style-type: none"> • an allegation of conduct that, if proved, may make the employee liable to disciplinary action or • a grievance involving the employee made under a ruling or industrial determination.
Whistleblowers Protection Act 1994 document	A document that: <ul style="list-style-type: none"> • is a public interest disclosure, or record of a public interest disclosure, made under the <i>Whistleblowers Protection Act 1994</i> or • was brought into existence for that Act's administration.

9 HISTORY

October 2009	IRM 3.3-2 reformatted as part of the HR policy consolidation project in accordance with EB7.
June 2003	IRM 3.3-2 Access to Employee Record amended.
September 2002	IRM 3.3-2 Access to Employee Record (sections 15-16 <i>Public Service Regulation 1996</i>)