



# POLICY & PROCEDURE

## ELKHART LAKE POLICE DEPARTMENT

SUBJECT: **PERSONNEL RECORDS**

SCOPE: All Sworn Personnel

DISTRIBUTION: Policy & Procedure Manual

REFERENCE: WI State Statutes: 19.35(1)(am), 19.62(7),  
51.01, 103.13, 165.86(2)(bg), 302.01,  
938.02, 980.065

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RESCINDS

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WILEAG 4<sup>TH</sup> EDITION

STANDARDS: 2.2.1, 2.4.5

INDEX AS: Grievance Procedures  
Medical Records  
Personnel Records

PURPOSE: The purpose of this Policy & Procedure is to establish and maintain procedures regarding the personnel records for the employees of the Elkhart Lake Police Department.

This Policy & Procedure consists of the following numbered sections:

I. POLICY

II. PROCEDURE

I. POLICY

- A. It is the policy of the Elkhart Lake Police Department that all employees shall have access to their personnel records, which are described and controlled by State Statute.

II. PROCEDURE

- A. Access to Personnel Records by the Employee.

1. Personnel records are kept by the Village Administrator. References to the Department in this Policy as records custodian shall also be construed to mean the Office of Village Administrator.

The Elkhart Lake Police Department shall, upon the request of a Department employee, permit the employee to inspect any personnel documents which are used or which have been used in determining that employee's qualifications for employment, promotion, transfer, additional compensation, termination or other disciplinary action, and medical records, except as provided in Section C and D.

The Department may require the employee to make the request in writing. An employee, under WI Statute 103.13, may request the inspection of all or any part of his or her records, except as provided in Section D.

2. Under the provisions of WI Statute 103.13, the Department, at a minimum, shall grant at least two (2) requests by an employee in a calendar year, unless otherwise provided in this Section. The Department shall provide the employee with the opportunity to inspect the employee's personnel records within 7 working days after the employee makes the request for inspection. The inspection shall take place at a location reasonably near the employee's place of employment and during normal working hours.

In any case, the Department may allow the inspection to take place at a time other than working hours or at a place within Department facilities other than where the records are maintained if that time or place would be more convenient for the employee.

#### B. Personnel Records Inspection by an Employee's Representative.

1. Under WI Statute 103.13, an employee who is involved in a current grievance against the Department may designate, in writing, a representative of the employee's union, collective bargaining unit or other designated representative to inspect the employee's personnel records which may have a bearing on the resolution of the grievance, except as provided in Section D. The Department shall allow such a designated representative to inspect that employee's personnel records in the same manner as provided under Section A.

#### C. Medical Records Inspection.

1. Under WI Statute 103.13, the right of the employee or the employee's designated representative under Section B to inspect personnel records under this policy includes the right to inspect any personnel medical records concerning the employee in the Department's files.

If the Department believes that disclosure of an employee's medical records would have a detrimental effect on the employee, the Department may release the medical records to the employee's physician designated by the employee, in which case the physician may release the medical records to the employee or to the employee's immediate family.

D. Statutory Exceptions to an Employee's Right to Inspect His or Her Personnel Records.

1. Under the provisions of WI Statute 103.13(6), the right of the employee or the employee's designated representative to inspect his or her personnel records does not apply to:
  - a) Records relating to the investigation of possible criminal offense committed by that employee.
  - b) Letters of reference for that employee.
  - c) Any portion of a test document, except that the employee may see a cumulative total test score for either a section of the test document or for the entire test document.
  - d) Materials used by the Department for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments or other comments or ratings used for the Department's planning purposes.
  - e) Information of a personal nature about a person other than the employee if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.
  - f) Records relevant to any other pending claim between the Department and the employee which may be discovered in a judicial proceeding.
2. Under the provisions of Wis. Statute 19.35(1)(am), the right of the employee or the employee's designated representative to inspect his or her personnel records does not apply to:
  - a) Any record containing personally identifiable information that is collected or maintained in connection with a complaint, investigation or other circumstances that may lead to an enforcement action, administrative proceeding, arbitration proceeding or court proceeding, or any such record that is collected or maintained in connection with such an action or proceeding.
  - b) A record containing personally identifiable information that, if disclosed, would do any of the following:

- (1) Endanger an individual's life or safety.
  - (2) Identify a confidential informant.
  - (3) Endanger the security, including the security of the population or staff, of any state prison under WI Statute 302.01; jail, as defined in WI Statute 165.86(2)(bg); secured correctional facility, as defined in WI Statute 938.02(15m); secured child caring institution, as defined in WI Statute 938.02(15g); secured group home, as defined in WI Statute 938.02(15p); mental health institute, as defined in WI Statute 51.01(12); center for the developmentally disabled, as defined in WI Statute 51.01(3); or facility, specified under WI Statute 980.065 for the institutional care of sexually violent persons.
  - (4) Compromise the rehabilitation of a person in the custody of the Department of Corrections or detained in a jail or facility identified above.
- c) Any record that is part of a records series, as defined in WI Statutes 19.62(7), that is not indexed, arranged or automated in a way that the record can be retrieved by the authority maintaining the records series by use of an individual's name, address or other identifier.

Note: This policy is consistent with *Hempel v. City of Baraboo*, 284 Wis. 2d 162, 699 N.W. 2d 551 (2005 WI 120).

#### E. Corrections to Personnel Records.

1. Under Sec. 103.13(4), Wis. Stats., if the employee disagrees with any information contained in the personnel records, a removal or correction of that information may be mutually agreed upon by the Department and the employee. If an agreement cannot be reached, the employee may submit a written statement explaining the employee's position. The employee's statement shall be included whenever that disputed portion of the personnel record is released to a third party as long as the disputed record is part of that file.

#### F. Access by Others to an Employee's Personnel File.

1. The Chief of Police, appropriate members of the Common Council, or designated authorities actually engaged in disciplinary action procedures or performance evaluations are permitted to have access to personnel records of employees in the Department.
2. With the exception of Subsections (a) and (c), the Department shall reveal no information to others without the employee's signature on a release. This applies to requests for information from anyone or any organization, including other government agencies.

3. Employment information will not be released without the authorization of the individual concerned, except for the following:
  - a) "Directory" information which consists of verification of employment or past employment, dates of employment, position held or location of employment.
  - b) When required as part of an established statutory reporting procedure.
  - c) To protect the legal interests of the Department when the actions of an individual appear to violate the conditions of employment or threaten physical injury to members of the general public, to other employees or to Department property.
  - d) When requested as part of an appropriate governmental inquiry into the Department's employment practices.

Michael Meeusen  
Chief of Police

This Policy & Procedure cancels and supersedes any and all written directives relative to the subject matter contained herein.

Initial 06/01/2015