

§ 115C-321. Confidential information in personnel files; access to information.

(a) All information contained in a personnel file, except as otherwise provided in this Chapter, is confidential and shall not be open for inspection and examination except to any of the following persons:

- (1) The employee, applicant for employment, former employee, or his properly authorized agent, who may examine his own personnel file at all reasonable times in its entirety except for letters of reference solicited prior to employment.
- (2) The superintendent and other supervisory personnel.
- (3) Members of the local board of education and the board's attorney.
- (4) A party by authority of a subpoena or proper court order may inspect and examine a particular confidential portion of an employee's personnel file.
- (5) **(Repealed effective June 30, 2023)** An innovative school operator and the Superintendent of the North Carolina Innovative School District if the school where the individual is employed has been selected as an innovative school as provided in Article 7A of this Chapter.
- (6) Any state or federal administrative agency that has a quasi-judicial function or any court of law, when disclosure is necessary in the discretion of the superintendent or superintendent's designee to adequately defend against a claim filed by a current or former employee against the local board of education or a school official or employee for any alleged act or omission arising during the course and scope of his or her official duties or employment. Such disclosure shall be limited to those confidential portions of the personnel file of the employee who filed the claim and only to the extent necessary for the defense of the board of education.

(a1) Notwithstanding any other provision of this Chapter, information contained in a personnel file that is relevant to possible criminal misconduct may be made available to law enforcement and the district attorney to assist in the investigation of:

- (1) A report made to law enforcement pursuant to G.S. 115C-288(g), or
- (2) Any report to law enforcement regarding an arson, attempted arson, destruction of, theft from, theft of, embezzlement from, embezzlement of any personal or real property owned by the local board of education.

(a2) The employee shall be given five working days prior written notice of any disclosure under subsection (a1) of this section to permit the employee to apply to the district court for an in camera review prior to the date of disclosure to determine if the information is relevant to the possible criminal misconduct. Failure of the employee to apply for a review shall constitute a waiver by the employee of any relief under this subsection.

(a3) Statements or admissions made by the employee and produced under subsection (a1) of this section shall not be admissible in any subsequent criminal proceeding against the employee.

(b) Notwithstanding any other provision of this Chapter, any superintendent may, in his discretion, or shall at the direction of the Board of Education, inform any person or corporation of any promotion, demotion, suspension, reinstatement, transfer, separation, dismissal, employment or nonemployment of any applicant, employee or former employee employed by or assigned to the local board of education or whose personnel file is maintained by the board and the reasons therefor and may allow the personnel file of the person or any portion to be inspected and examined by any person or corporation provided that the board has determined that the release of the information or the inspection and examination of the file or any portion is essential to maintaining the integrity of the board or to maintaining the level or quality of services provided by the board; provided, that prior to releasing the information or making the file or any portion

available as provided herein, the superintendent shall prepare a memorandum setting forth the circumstances which he and the board deem to require the disclosure and the information to be disclosed. The memorandum shall be retained in the files of the superintendent and shall be a public record.

(b1) Repealed by Session Laws 2016-108, s. 2(e), effective July 22, 2016.

(c) A public official or employee who knowingly, willfully, and with malice permits any person to have access to information contained in a personnel file, except as permitted by this section, is guilty of a Class 3 misdemeanor and upon conviction shall only be fined an amount not in excess of five hundred dollars (\$500.00).

(d) Any person, not specifically authorized by this section to have access to a personnel file, who shall knowingly and willfully examine in its official filing place, remove, or copy any portion of a personnel file shall be guilty of a Class 3 misdemeanor and upon conviction shall only be fined not in excess of five hundred dollars (\$500.00). (1987, c. 571, s. 1; 2005-321, s. 1; 2007-192, s. 1; 2008-194, s. 11(b); 2016-108, s. 2(e); 2016-110, s. 3; 2016-116, s. 1; 2017-57, s. 7.26E(c), (f); 2018-145, s. 27(b); 2021-180, s. 7.14(l).)