MASSACHUSETTS DEPARTMENT OF CORRECTION
50 Maple Street, Suite 3
Milford, MA 01757

PERSONNEL RECORDS
103 DOC 204

Effective Date: June 22, 2026
Review Date: August 20, 2026

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204.01 Purpose

The purpose of this policy is to establish Department of Correction (Department) policy concerning personnel records.

204.02 Cancellation

103 DOC 204 cancels all previous Department policy statements, bulletins, directives, orders, notices, rules, or regulations regarding personnel records, which are inconsistent with this policy.

204.03 Severability Clause

If any part of 103 DOC 204, is for any reason, held to be in excess of the authority of the Commissioner, such decision shall not affect any other part of this policy.

204.04 Definitions

Archive: To copy files to a long-term storage medium.

Criminal Offender Record Information (CORI): Records and data in any communicable form compiled by a criminal justice agency which concern an identifiable individual and relate to the nature or disposition of a criminal charge, an arrest, a pre-trail proceeding, other judicial proceeding, sentencing, incarceration, rehabilitation, or release.

Employee: A full-time or regular part-time bargaining unit, managerial, or confidential employee of the Department, excluding all persons paid through other subsidiary accounts.

Executive Director of Human Resources: Reports directly to the Deputy Commissioner of Human Resources and is responsible for the administration of the human resources unit.

Employee Rulebook (also known as the "Blue Book"): A booklet issued to each Department employee, which contains basic rules, policies, and principles, which have been approved by the Commissioner.

Fair Information Practices Act (FIPA): M.G.L., Chapter 66A, which governs personal data contained in manual or computerized personal data systems.

Personnel History Card: A standardized form for recording certain personal data and a summary of an individual's employment history.

Personnel Records: The records an employer maintains on an employee, such as a job application, evaluation forms, and letters of commendation and discipline.

Policy: A definite course of action adopted or pursued by the Department that guides and determines present and future decisions, statement(s) of guiding principles directing activities toward the attainment of objectives, and overall goals of the Department.

Records Conservation Board: The state agency having authority over the retention and destruction of official documents.

Six-Part Personnel File: A file or folder that contains personnel records.

204.05 General Policy on Personnel Records

A. It is the Department's policy to maintain a personnel record consisting of a six-part personnel file and separate confidential medical file, and a personnel history card (Attachment #1) on each of its employees.

B. The Department's Division of Human Resources (DHR) shall maintain the personnel records and personnel history cards of each employee. DHR is located at 50 Maple Street, Milford, MA 01757.

C. Copies of all disciplinary actions (i.e.: written reprimands, suspensions, demotions, and terminations) shall be forwarded to the Director of Employee Relations.

204.06 Organization and Contents of Employee Personnel Record

A. The six-part personnel file shall be a standard six-part folder containing relevant material related to an employee such as job application/resume, evaluation form and letters of commendation and discipline. The six-part folder shall be organized as follows, in order, to make all data easily accessible for maximum utility:

1. Section I:
    a. Job Application and Resume.
    b. Background Check.
    c. Probation Record.
    d. FBI Fingerprint Card.
    e. Employee Personnel Data.

2. Section II:
    a. Attendance Calendars.
    b. Approvals of Medical Leaves of Absence.
    c. Approvals of Family Leaves of Absence.
    d. Approvals of Requests for Maternity/Adoptive Leaves of Absence.
    e. Copies of Attachments A through F from 103 DOC 209, *Sick Leave* issued in accordance with said policy.

3. Section III:
    a. Performance Evaluations.

b. Letters of Commendation.
c. Letters of Reprimand/Discipline.

NOTE: Whenever any significant evaluative material is inserted in an employee's six-part personnel file, the employee shall be promptly notified and given a copy of said material.

4. Section IV:
This section shall contain employee certifications/sign off forms verifying receipt of various rules, regulations, policies, and codes of conduct such as the following:
a. Rules and Regulations Governing All Employees of the Massachusetts Department of Correction.
b. American Correctional Association Code of Ethics.
c. Department Hostage Policy.
d. Drug-Free Workplace Policy.
e. Guide to the Conflict of Interest Law.
f. Guide to Political Activity for State, County and Municipal Employees.
g. 103 DOC 153, *CORI Regulations*.
h. 103 CMR 157, *Regulations Governing Access Dissemination of Evaluative Information.*
i. 103 CMR 505, *Use of Force*.
j. 103 DOC 237, *Prevention and Elimination of Workplace Violence.*
k. 103 DOC 238, *Policy for the Prohibition of Sexual Assault, Domestic Violence, Harassment, and Stalking.*
l. 103 DOC 239, *The Prevention and Elimination of Discrimination and Retaliation in the Workplace.*
m. What You Should Know About the Massachusetts Right to Know Law.
n. Code of Conduct, Commonwealth Employment Standards or Article of Professional Standards, where applicable.

5. Section V:
a. Training Certificates, listing type of training and number of training hours.
b. Request and Receipt of Special State Police Commission.
c. Request and Receipt of Department of Correction Firearms License.

6. Section VI:
a. Personnel Action Forms.
b. Payroll Action Forms.
c. Retirement Forms.
d. Group Insurance Forms.
e. Industrial Accident Forms.
f. Miscellaneous Correspondence.

NOTE: The preceding list, 204.03 (A)(1-6), is not intended to be definitive, but rather, it is intended to provide examples of the kinds of personnel information contained in employee personnel records. Individual records may not necessarily contain every item listed (e.g., commendations or reprimands for employees that have never had occasion to receive such letters).

B. The confidential medical file shall be a one-part folder, red in color, containing information obtained as part of a required medical examination and/or injury regarding the medical condition or history of an employee.

C. Whenever any material, including an evaluation, is inserted into the personnel record of an employee, it shall be dated and stamped before its insertion.

204.07 Inactive Personnel Records

A. Upon an employee's separation from the Department, DHR shall hold their personnel record for a period of ninety (90) days unless there is a need to retain it for a longer period due to an unresolved personnel action(s).

B. At the expiration of this period said record shall be stored off site in a secure storage facility. However, DHR shall continue to maintain the employee's personnel history card.

C. All requests for inactive personnel records shall be made through the Director of Personnel or designee and shall only be provided to those parties specified in 204.07(B). A requested file shall be provided to the party making said request as soon as possible.

D. The Executive Director of Human Resources, Director of Personnel and personnel supervisor or liaison (Personnel Officer I), are the only individuals authorized to contact the storage site representative relative to the retrieval of a personnel record.

E. Material to be filed in an inactive personnel record shall be sent to the Division of Human Resources for filing.

F. The Executive Director of Human Resources shall approve all requests for reports, inventories, or requests to store inactive personnel records at the storage site. The Director of Personnel shall approve such requests in the Executive Director's absence.

204.08 Governing Statutes and Regulations

A. The following are governing statutes and regulations pertaining to personnel records:
   1. M.G.L. Chapter 4 § 7 (26);
   2. M.G.L., Chapter 66;
   3. M.G.L., Chapter 66A, Fair Information Practices Act (FIPA);
   4. Executive Office for Administration and Finance, 801 CMR 3.00, Privacy and Confidentiality;
   5. Secretary of State, 950 CMR 32.00, Public Records Access.

B. DHR employees designated to maintain personnel records shall familiarize themselves with these statutes and regulations and DHR shall maintain copies of each for employee use.

204.09 Privacy

It is the Department's policy that personal data contained in personnel records are confidential materials. Employees have a right to privacy regarding said data and access to said data is limited to instances where there is a clearly demonstrated need for this information, or where the employee has given their written consent.

204.10 Access to Personnel Records

A. A Department employee (or former employee) shall have the right, upon written request, to review, challenge, and have copied any and all information in their personnel record within five (5) business days of receipt of said request. In addition, an employee (or former employee) shall be provided with a copy of their personnel record within five (5) business days of receipt of a written request.

B. The following persons shall have access to an employee's (or former employee's) personnel records:
   1. An attorney representing an employee, or any other person authorized by the employee such as a potential employer.

   2. All DHR employees in the performance of their official duties.

   3. Authorized Department employees for the purpose of compiling statistical information such as retention and turnover rates.

   4. Supervisory employees who are considering the employee for promotion, transfer, reassignment, demotion, dismissal, or other personnel action.

   5. Internal auditors and investigators from the Office of Investigations. Additionally, with prior approval from the Superintendent, the Inner

Perimeter Security team personnel, where the employee is assigned, shall have access to personnel records in the performance of their official duties.

6. A Department attorney or their designee in the performance of their official duties.

7. Other persons acting in compliance with federal, state, or local laws, such as auditors, equal employment opportunity investigators, and courts via compulsory legal process pursuant to 103 DOC 204.11.

NOTE: Persons in 204.07 (B)(3 - 4) above shall only have access to the six-part folder portion of an employee's (or former employee's) personnel record. They shall not have access to the confidential medical file portion of an employee's (or former employee's) personnel record.

C. A consent form such as Attachment #2 or a similar form, signed by the employee, is required before any of an employee's personnel records shall be released for review to persons in 204.07(B)(1) above. See 204.12 regarding the fees for copying personnel records.

D. Only designated DHR staff members shall have direct access to employees' personnel records. All other persons shall request access through said staff members.

E. In instances where access is granted to an individual to review an employee's personnel record, an entry shall be made in the Personnel Record Review database. The DHR staff member granting access to said record shall complete the data entry.

F. A DHR representative, shall make available to the employee, their personnel files upon receipt of a written correspondence, telephone, or electronic mail request.

1. Availability of personnel files, outside of the DHR office, shall be on either Tuesday or Thursday, at a mutually agreed upon time, between the hours of 8:00 a.m. - 10:00 a.m. or 2:00 p.m. – 4:00 p.m.

2. Availability of personnel files at the DHR office is Monday through Friday from 9:00 a.m. until 5:00 p.m.

204.11 Access to Public Records

Pursuant to M.G.L., Chapter 66, Section 10, the Department shall grant access upon request, without the consent of the data subject, to any personal data, which is a public record as defined in M.G.L., Chapter 4, Section 7, Clause 26. Any such request shall be referred directly to the Department's Legal Division for response.

NOTE: Chapter 39 of the Acts of 1996 amends M.G.L., Chapter 66, Section 10 by prohibiting, among other things, the disclosure of the home address and telephone number of correctional personnel as well as the name, home address and telephone number of a family member of any such personnel. Therefore, any public records such as civil service certifications and eligible lists, which contain home addresses of employees, shall have those addresses deleted before said records are released to the public. Specific questions concerning the application of this law should be directed to the Department's Legal Division.

204.12 Security of Personnel Records

A. The Director of Personnel shall ensure that all Department personnel records are centrally located and the personnel records under their jurisdiction are protected from physical damage and unauthorized use. These records shall be:

1. Monitored during working hours to ensure compliance with this policy.

2. Locked during non-working hours.

3. To the extent possible, protected against fire, water, and smoke damage.

204.13 Information Officer

A. The Department's Executive Director of Human Resources is the individual responsible for the overall maintenance of the Department's personnel records. The responsibilities of this information officer are as follows:

1. To ensure that the requirements of the FIPA and this policy are met.

2. To receive and respond to complaints and objections and answer any questions on the aforementioned requirements.

204.14 Response to Compulsory Legal Process

A. The Department shall maintain the following procedures to ensure that when there is a demand by compulsory legal process to make personnel records available, the data subject shall be notified of such demand in a reasonable time in order that they may seek to have the process quashed:

1. The keeper of the personnel records (i.e., Executive Director of Human Resources or designee) is the individual generally designated to accept service of a subpoena for personnel records.

2. A subpoena which demands the attendance of a specifically named individual may not be accepted by anyone other than the named individual unless such acceptance occurs at least three (3) business days prior to and not including the day on which the attendance of the named individual is demanded.

3. The keeper of the personnel records shall notify the data subject whose personnel records have been subpoenaed no later than the next business day following the day on which the subpoena is served.

4. The keeper of the personnel records shall attempt in all cases to negotiate with the person causing the subpoena to be served in order to avoid the appearance or, if necessary, narrowing the scope of the subpoena to those matters truly required.

5. The keeper of the personnel records shall cause photocopies to be made of those personnel records that are subpoenaed. These photocopies shall be bound, redacted, and certified as a true, complete, and accurate copy of all personnel records maintained by the DHR and produced as directed in the subpoena in lieu of the original personnel records. If any portion of the photocopies are redacted the keeper of the personnel records shall certify the records as "true, complete, and accurate copies as redacted in accordance with state confidentiality laws."

6. The keeper of the personnel records may designate another individual to carry out any one (1) or all of the aforementioned procedures.

204.15 Costs for Copying Personnel Records

A. Fees for copying personnel records shall be charged only when an individual requests a copy of a record to which they have been granted access, and only if the fee exceeds ten dollars ($10.00). The Department shall charge:

1. A fee of $0.20 per page for photocopying of records;

2. A fee of $0.25 per page for copies of public records maintained on microfilm or microfiche;

3. A fee of $0.50 per page for copies of computer printouts; and,

4. The actual cost incurred for copies of records not susceptible to ordinary means of reproduction.

5. A prorated fee based on the hourly rate of the lowest paid employee capable of performing the search time and segregation time may be assessed. "Search time for non-computerized records" means the time expended to locate, pull from the files, copy, and re-shelve or re-file a public record. "Search time for computerized records" means the actual time expended on the computer locating the requested documents. "Segregation time" means the time used to delete or expunge data which is exempt under state confidentiality laws.

204.16 Objections By Employees

A. Any employee who objects to the collection, maintenance, dissemination, use, accuracy, completeness, or type of personnel information regarding them that is held in their personnel record may submit an objection to the Executive Director of Human Resources. Within thirty (30) days of the receipt of the objection, the information officer shall:

1. Investigate the validity of the objection.

2. If, after the investigation, the objection is found to be meritorious, they shall correct the contents of the information or the methods for holding or the use of such data. If the objection is found to lack merit, they shall provide the data subject the opportunity to submit a statement reflecting their view. This statement shall become a permanent part of the disputed record and disseminated with the data in question.

3. Notify the data subject in writing of said decision and send a copy of such notification to the Commissioner.

B. Any employee who objects to the decision of the information officer may appeal in writing to the Commissioner within thirty (30) days of notification of the decision. The Commissioner shall within thirty (30) days of receipt of the appeal:

1. Review the objection and may hold an informal hearing to determine the merit of the appeal.

2. If the Commissioner determines that the objection is meritorious, they shall correct the contents of the information or the methods for holding or the use of such data. If the Commissioner determines that the objection lacks merit, they shall provide the data subject the opportunity to provide a statement reflecting their view. This statement shall become a permanent part of the disputed record and disseminated with the data in question.

3. Notify the data subject in writing of the decision.

C. Any bargaining unit 1, 2, 3, 4, 4A, 6, 7, 8, 9 or 10 employee may file a grievance challenging any written memorandum which reprimands the employee for prior conduct or omissions and which warns the employee that further transgressions may result in suspension, demotion or discharge. Said grievance shall be grievable to step II in the case of a bargaining unit 1, 2, 3, 4A, 6, 8, or 10 employee, or step III in the case of a bargaining unit 4 employee.

204.17 Destruction of Obsolete Personnel Records

Pursuant to M.G.L., Chapter 30, § 42 and with the approval of the Records Conservation Board, the Department shall develop and implement a plan for the destruction of obsolete

personnel records. As part of such implementation the Department shall periodically review all personnel files for the purpose of destroying obsolete personnel records. No personnel records shall be disposed of or destroyed without prior approval of the Executive Director of Human Resources.

204.18 In-Service Training

The Department shall inform all of its employees who have responsibilities for the design, development, operation, maintenance or use of personal data systems of the provisions of the FIPA, 801 CMR 3.00 and this policy. In order to ensure that such employees understand and comply with these regulations, the Director of Personnel shall develop any necessary in-service training programs.

204.19 Enforcement

Any Department employee who is found to have violated this policy shall be subject to reprimand, suspension, dismissal, or other disciplinary action by the Department, consistent with the rules and regulations of the Commonwealth governing its employees and may be denied future contact with personal data and removed from holding future responsibility in these areas.

204.20 Responsible Staff

Reviewing Authority: Deputy Commissioner of Human Resources

Responsible Staff:

- Executive Director of Human Resources
- Superintendents and Division Heads

204.21 Access to Policy

Department's Central Policy File
Each Institution's Policy File
Department's Personnel Policy Manual
Institution Library

204.22 Information Sources

Legal Authority:
M.G.L., c. 124, § 1 (c) and (q).
M.G.L. Chapter 4 § 7 (26);
M.G.L., Chapter 30, § 42
M.G.L., Chapter 66;
M.G.L., Chapter 66A, Fair Information Practices Act (FIPA);
Executive Office for Administration and Finance, 801 CMR 3.00, Privacy and Confidentiality;
Secretary of State, 950 CMR 32.00, Public Records Access

Other Related Policies:

- 103 DOC 153, *CORI Regulations*
- 103 CMR 157, *Regulations Governing Access Dissemination of Evaluative Information.*
- 103 DOC 209, *Sick Leave*
- 103 DOC 237, *Prevention and Elimination of Workplace Violence*
- 103 DOC 238, *Policy for the Prohibition of Sexual Assault, Domestic Violence, Harassment, and Stalking*
- 103 DOC 239, *The Prevention and Elimination of Discrimination and Retaliation in the Workplace*
- 103 CMR 505, *Use of Force*.

Applicability: All Staff

Attachments:

- Attachment #1 – History Card
- Attachment #2 – Consent Form

Attachment #1

HISTORY CARD

Date	Grade and Title Code	Title	Salary	Action	Step/Dept.	Status: Perm/Prov	Pos #

Remarks: i.e. Prior service: Adjusted Seniority/Vacation/Step date per OER

	Name	**SS#**	BU
	Address	DOB	
			Military Status
	Tel #		Sex/Race
	ID#	Entered State Service*	DOC Start Date:

Date	Grade and Title Code	Title	Bi-wkly Salary	Action	Step/Dept.	Status: Perm/Prov	Pos #

Attachment #2

CONSENT FORM

I, _____, hereby authorize_____ to
Name of Employee Designee

☐ review,

☐ review and copy,

the following contents of my personnel file.

_____

_____

_____

_____

_____

_____

_____

_____

Signed:_____
Signature of Employee

Date:_____