

LOUISIANA PUBLIC RECORDS ACT, L.R.S. 44:1 ET SEQ

1. L.R.S. 44:1. General definitions

- (A)(1) “Public body” is defined to include a “political subdivision, or any committee, subcommittee, advisory board, or task force thereof”.
- (A)(2) “Public records” include “all books, records, writings, accounts, letters and letter books, maps, drawings, photographs, cards, tapes, recordings, memoranda, and papers, and all copies, duplicates, photographs, including microfilm, or other reproductions thereof, or any other documentary materials, regardless of physical form or characteristics, including information contained in electronic data processing equipment, having been used, being in use, or prepared, possessed, or retained for use in the conduct, transaction, or performance of any business, transaction, work, duty, or function which was conducted, transacted, or performed by or under the authority of the constitution or laws of this state, or by or under the authority of any ordinance, regulation, mandate, or order of any public body or concerning the receipt or payment of any money received or paid by or under the authority of the constitution or the laws of this state”.
- (A)(3) “Custodian” is defined to mean “the public official or head of any public body having custody or control of a public record, or a representative specifically authorized by him to respond to requests to inspect any such public records.”

2. L.R.S. 44:11. Confidential nature of certain personnel records

- (A) The following items in the personnel records of a public employee shall be confidential:
 - (1) The home telephone number of the public employee where such employee has chosen to have a private or unlisted home telephone number because of the nature of his occupation with such body.
 - (2) The home telephone number of the public employee where such employee has requested that the number be confidential.
 - (3) The home address of the public employee where such employee has requested that the address be confidential.
- (B) The home address of any employee of a city or parish school board shall be made available to recognized educational groups.

3. L.R.S. 44:31. Right to examine records

- (A) Providing access to public records is a responsibility and duty of the appointive or elective office of a custodian and his employees.

(B)(1) Any person may inspect, copy, reproduce, or obtain a reproduction of any public record.

(B)(2) The burden of proving that a public record is not subject to inspection, copying, or reproduction shall rest with the custodian.

4. **L.R.S. 44:32. Duty to permit examination; prevention of alteration; payment for overtime; copies provided; fees**

(A) The custodian shall present any public record to any person of the age of majority who so requests and can make no inquiry of such person except as to his age and identification. Examinations of public records must be conducted during regular office hours unless the custodian shall authorize examination of records in other than regular office hours. In this event, the persons designated to represent the custodian during such examination shall be entitled to reasonable compensation to be paid to them by the public body out of funds provided in advance by the person examining such record in other than regular office hours.

(B) If any record contains material which is not a public record, the custodian may separate the nonpublic record and make the public record available for examination.

(C)(1) It shall be the duty of the custodian of the public records to provide copies to persons so requesting. The custodian may establish and collect reasonable fees for making copies of public records.

(C)(3) No fee shall be charged to any person to examine or review any public records, except as provided in this Section.

(D) In any case in which a record is requested and a question is raised by the custodian as to whether it is a public record, such custodian shall within three days, exclusive of Saturdays, Sundays, and legal public holidays, of the receipt of the request in writing for such record notify in writing the person making such request of his determination and the reasons therefor. Such written notification shall contain a reference to the basis under law which the custodian has determined exempts a record, or any part thereof, from inspection, copying, or reproduction.

5. **L.R.S. 44:33. Availability of records**

(A)(1) When a request is made for a public record to which the public is entitled, the custodian of records shall have the records segregated from other records so that the public can reasonably view it.

(A)(2) If segregating the record would be unreasonably burdensome or expensive, or, if the record requested is maintained in a fashion that makes it readily identifiable, the custodian shall so state in writing and shall state the location of the requested record.

- (B)(1) If the public record applied for is immediately available, it shall be immediately presented to the authorized person applying for it. If the public record applied for is in active use at the time of the application, the custodian shall promptly certify this in writing to the applicant and shall fix a day and hour within three days, exclusive of Saturdays, Sundays, and legal public holidays, for review of the record.
- (B)(2) The fact that the public records are being audited shall not be construed as a justification for refusing to allow their inspection except when the public records are in active use by the auditor.

6. **L.R.S. 44:34. Absence of records**

If any public record applied for is not in the custody or control of the person to whom the application is made, such person shall promptly certify this in writing to the applicant and shall state to the best of his knowledge and belief the reason for the absence of the record from his custody or control, its location, what person then has custody of the record and the manner, method and time it was taken from his custody or control.

7. **L.R.S. 44:35. Enforcement**

- (A) Any person who has been denied the right to inspect or copy a record, either by a final determination of the custodian or by the passage of five days, exclusive of Saturdays, Sundays, and legal public holidays, from the date of his request without receiving a final determination in writing by the custodian, may institute legal proceedings for a writ of mandamus, injunctive or declaratory relief, attorney's fees, costs, and damages. Such suit must be filed in the parish in which the office of the custodian is located.
- (B) In any suit filed under Subsection A above, the burden is on the custodian to sustain his action to deny access to the records. The court may view the documents in controversy in camera before reaching a decision, and any noncompliance with the order of the court may be punished as a contempt of court.
- (C) Any suit brought to enforce the provisions of this chapter shall be tried by preference and in a summary manner.
- (D) If the person filing the suit prevails, he shall be awarded reasonable attorney's fees and other costs of litigation. If such person prevails in part, the court may in its discretion award him reasonable attorney's fees or an appropriate portion thereof.
- (E)(1) If the court finds that the custodian arbitrarily or capriciously withheld the requested record, it may award the requester any actual damages proven by him to have resulted from the actions of the custodian. It may also award the requester civil penalties not to exceed \$100 per day, exclusive of Saturdays,

Sundays and legal public holidays, for each such day of such failure to give notification.

- (E)(2) The custodian shall be personally liable for the payment of any such damages and shall be held liable in solido with the public body for the payment of the requester's attorney's fees and other costs of litigation, except where the custodian has withheld or denied production of the requested record or records on advice of legal counsel representing the public body in which the office of such custodian is located. In the event the custodian retains private legal counsel for his defense in connection with the request for records, the court may award attorney's fees to the custodian.
- (F) An award for attorney's fees in any suit brought under the provision of this Chapter shall not exceed the amount approved by the Attorney General for the employment of outside counsel.

8. **L.R.S. 44:36. Preservation of records**

- (A) Public records shall be preserved and maintained for a period of at least three years from the date on which the public record was made.
- (C) All existing records accumulated by the various services of the state or its subdivisions which participate in federal programs or receive federal grants may be destroyed after three years from the date on which the records were made in those cases where this provision is not superceded by guidelines for the operative federal program or grant requiring longer retention periods for the record in question. These records shall not be destroyed in any case where litigation with reference thereto is pending or until the appropriate state or federal audits have been conducted.

C. LOUISIANA SCHOOL EMPLOYEE PERSONNEL FILES ACT, L.R.S. 17:1231 ET SEQ.

1. L.R.S. 17:1232. Statement of purpose

- (A) The Legislature enacts this section in order to provide for the development and implementation of a uniform system for the use and maintenance of a school employee personnel file to be followed by all local school systems. It is the intent of the legislature to:
- (1) Provide for procedures for the immediate notification to school employees of the filing of any document into their personnel file.
 - (2) Assure that each school employee has an opportunity to rebut and respond to any document placed into that school employee's personnel file.
 - (3) Provide the time frame within which to file such a response or rebuttal.
 - (4) Assure that any document from a school employee's personnel file forwarded to another location shall be accompanied by the employee's response or rebuttal.

2. L.R.S. 17:1233. Definitions

- (1) "Document" means "any written or otherwise tangible material intended to be or actually used as a part of or any evidence of the work history of any school employee including but not limited to any and all reports, comments, reprimands, correspondence, memoranda, evaluations, observations, and grievances."
- (2) "Personnel file" means "the file or files which contain the cumulative collection of any and all documents maintained by the school system with respect to each individual school employee."

3. L.R.S. 17:1234. Requisite signature of school employee on all documents placed in personnel file

- (A) Each document concerning a school employee shall be placed in the employee's personnel file within a reasonable time and no document shall be placed in the file unless and until the employee is presented with the original copy prior to filing.
- (B) The employee shall sign the original document as an acknowledgment of the receipt of a copy of the document. His signature shall not be construed as an agreement to the contents of the document.

4. L.R.S. 17:1235. Rebuttal and response

- (A) Each school employee shall be given the opportunity to rebut and to respond to a document placed in his personnel file.

- (B) The rebuttal and response must be in written form and once filed shall be attached to the document to which the response and rebuttal applies, and thus become a permanent part of the employee's file as long as the document remains part of the file.
- (C) No document to which a response or rebuttal is filed may be used unless the response or rebuttal is attached.
- (D) The school employee shall have the right to receive proof of any allegations contained in a document placed in his file the school employee believes to be inaccurate or misrepresented. If no proof is presented, the document shall be removed and destroyed.

5. **L.R.S. 17:1236. Procedure for filing of rebuttal and response**

- (A) Any rebuttal and response shall be filed within 15 days from the date the employee signs the document.
- (B) The school may grant an additional 10 days if the employee requests in writing within the original 15 day period. Permission shall not be unreasonably
- (C) Rebuttal and response are deemed filed by delivery of the original and one copy of it to the personnel file custodian. The custodian shall sign and date the original and place it in the personnel file and sign and date the copy and return it to the employee.

withheld.

6. **L.R.S. 17:1237. Access to files**

- (A) No school employee shall be denied access to his personnel file. The contents of an employee's file shall not be divulged to a third party absent the express written consent of the employee, except when ordered by a court or by subpoena. No school employee other than the file custodian or the superintendent or the designee of either who shall be a school system employee shall be allowed access to a school employee's personnel file without the employee's express written consent. The employee charged with the duty of supervising that school employee's performance may also have access to the personnel file without the consent of the school employee. If the file is accessed by the superintendent or someone designated by him, the employee shall receive written notice of the fact and the name and title of the person receiving the file.
- (B) An employee shall be given access to his personnel file if he requests it at a single location and at any reasonable time.

7. **L.R.S. 17:1238. Public records; effect of this part**

- (A) Nothing in this Part shall be construed to supercede the provisions of the Public Records Act.

8. **L.R.S. 17:81. General powers of city and parish school boards**

- (K)(1) Any school board member or other person authorized pursuant to written policy of a school board shall have the right to examine all school system records except school employee records relative to evaluations, observations, formal complaints, and grievances.
- (K)(2) Any school board, upon majority vote of the authorized board membership, shall have the right to examine any or all records of the school system.
- (K)(3) Should a employee's personnel file be accessed by the school board, the employee shall receive written notice of such action, and the individual school board members shall maintain the confidentiality of the documents examined.