

# ADMINISTRATIVE PROCEDURES



Procedure Number 23-21

Effective Date: 09/01/2003

Revision Date: 06/13/2007

*C. P. Mulberry*

County Administrator

---

**SUBJECT: SEALED DOCUMENT IN THE OFFICIAL PERSONNEL FILE**

---

**DEPARTMENT RESPONSIBLE: Human Resources Department**

---

## **I. PURPOSE**

The purpose of this procedure is to a) establish under what circumstances disciplinary and other documents maintained by Human Resources in the official personnel files may be sealed, and b) designate the status of sealed documents, once opened by the employee whose official personnel record contains such sealed files.

## **II. DISCUSSION**

Pursuant to provisions of Arizona's Public Records statute, public records must be open for public view and made available to the public upon request unless explicitly protected from disclosure by a specific statute, or unless one of the three common law exceptions apply, i.e. to do so would result in a specific, actual harm to confidentiality, privacy, or a specific, actual detriment to the ability of the governmental entity to carry out its statutory purposes. Such analysis must be made on a case-by-case basis and must include coordination with the Office of the County Attorney. Challenges are subject to judicial review.

## **III. APPLICABILITY**

It would be a rare circumstance that a record maintained by Human Resources would be properly sealed, although it could be appropriate to do so in the best interest of the County in the case of a settlement of a claim or lawsuit.

- A. The reversal of a disciplinary action by the Merit Commission would not serve as a basis for sealing the disciplinary document.
- B. It is not necessary to unseal any records currently sealed under prior procedures that allowed for the sealing of records in good faith at the time the request was honored. Nevertheless, if a request is made in the future for such records and these records were not sealed as part of a claim or lawsuit against the County, those records may have to be unsealed and produced at that time.
- C. A disciplinary document that was issued in error is not grounds for sealing such document. Instead, if the department erred in issuing the disciplinary document,

- C. the department may send a memorandum for attachment to the disciplinary document in file, or accompanying the disciplinary action, stating that the action was taken in error and is therefore rescinded. Nevertheless, the document(s) must remain unsealed and in the official personnel file.
- D. If a department rescinds a disciplinary action at its level and the disciplinary document is already contained in the official personnel file, the department may submit a memorandum to Human Resources for attachment to the disciplinary action. The memorandum must contain a brief description of the reasons for the reversal of discipline. Neither of those records may be sealed.
- E. If a grievance committee overturns a letter of reprimand, the department must send the appropriate memorandum to Human Resources for attachment to the disciplinary document in the official personnel file.
- F. Records officially sealed in the official personnel file based on the settlement of a claim or lawsuit by the County or the Court may be opened only at the direction of the County Administrator or by Court order.
  - 1. An employee may request to unseal his or her own documents. In doing so, the employee waives the original demand that the contents of the sealed envelope be sealed indefinitely. Once the employee signs a written waiver (Attachment), the envelope will remain unsealed unless further directed by the Court and will contain the written waiver. In addition, the employee grants the County the right to reveal the contents of the envelope to any party authorized to access the file, once unsealed or opened.
  - 2. If a request is made from other than the employee to review the official personnel file, the employee will be informed within two (2) business days of the request to allow the employee to raise with the appropriate tribunal any objection to the requested review. The employee must notify Human Resources in writing within five (5) business days of the date of notification that he or she is raising the matter with the appropriate tribunal. Failure to notify Human Resources timely and in writing grants the County the right to unseal and reveal the contents of the envelope to any party authorized to access the file from thenceforth.

#### **IV. RESPONSIBILITY**

- 1. The Human Resources Director, in consultation with the Office of the County Attorney and with the written approval of the County Administrator, is solely responsible for directing that the contents in the official personnel file be sealed. This decision must be in conformance with the Arizona's Public Records statute.
- 2. In the case of sealed documents in the official personnel file, the Human Resources Director, or designee during the Director's absence, has the authority to accept a request and written waiver from the employee to unseal documents in his or her official personnel file.

ATTACHMENT



# MEMORANDUM

## WRITTEN WAIVER BASED ON EMPLOYEE'S REQUEST TO UNSEAL HIS OR HER OWN DOCUMENTS IN THE OFFICIAL PERSONNEL FILE

I hereby waive my original demand that the contents of this sealed envelope be sealed indefinitely. The original request may have been by Court order, administrative decision, settlement agreement or other action and may have been requested by the County or its representatives, or by me or any party who represents or represented me. The original request allowed the sealed envelope to be opened only at the direction of the County Administrator or by Court order. The County Administrator delegates authority to the Human Resources Director, or designee during the Director's absence, to unseal documents when an employee requests to unseal his or her own records.

I understand that once my request to unseal these documents is honored, that any and all documents contained in the previously sealed envelope are now available for review by any party granted access to my files. I further understand, that my request to unseal this sealed envelope is the equivalent of my granting the County, from henceforth on, the right to reveal the contents of this envelope to any party authorized to access my file. This envelope will remain unsealed unless further directed by the Court.

Employee's Printed Name: \_\_\_\_\_

Employee's EIN: \_\_\_\_\_

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness (Human Resources' Staff Signature)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Human Resources Director's Consent

\_\_\_\_\_  
Date