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**ARA 3.01  
ADMINISTRATION**

**Chapters:**

- I. City Auditor's Duties and Authority for Human Resources
- II. Personnel Files
- III. Employee Medical Record Files
- IV. Time Review and Approval
- V. Employee Representation
- VI. Posting Requirements

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**Auditor's Office Administrative Rule Information and History**

Questions about these administrative rules may be directed to the [Auditor's Office's Operations Management Division](#).

These rules were originally adopted by the City Auditor on December 11, 2017, and are adapted from [City Human Resources Administrative Rules](#), as noted below.

Revised and adopted by the City Auditor as ARA 3.01 on *Click to enter date*.

## **CHAPTER I: CITY AUDITOR'S DUTIES AND AUTHORITY FOR HUMAN RESOURCES**

### **A. Purpose**

[Section 2-506\(b\)](#) of the Portland City Charter authorizes the City Auditor to adopt human resources administrative rules for Auditor's Office employees. The rules must be consistent with the City's human resources rules and policies, except where the City Auditor determines, in writing, that a City rule or policy impairs the City Auditor's independence or the ability to carry out the Auditor's duties.

The Auditor's Office's human resources rules have been re-organized and streamlined to facilitate understanding and compliance, but are consistent with the rules adopted by the City's Bureau of Human Resources, except where noted.

### **B. Authority of the City Auditor**

1. The City Auditor is responsible for administrative and technical activities related to the human resources of the Auditor's Office. [Charter Section 2-506\(b\)](#) authorizes the City Auditor to:
  - a. Appoint a Chief Deputy and other employees.
  - b. Establish the compensation for Auditor's Office employees.
  - c. Establish human resources policies and administrative rules, including for classification and compensation.
  - d. Provide functionally equivalent employee protections to the City's classified service.
2. The City Auditor formulates, approves, administers, and monitors human resources rules for non-represented Auditor's Office employees, including provisions for:
  - Recruitment, certification, and appointment on the basis of applicants' knowledge, skills, and abilities;
  - Classification;
  - Preparation and maintenance of an equitable compensation plan;
  - Employee behavior and expectations;

- Disciplinary guidelines, with notice to employees of prohibited practices;
  - Employee training and development; and
  - Affirmative Action and Diversity.
3. The City Auditor is the "public employer" and "public employer representative" as defined in the Public Employee Collective Bargaining Act with the ability to negotiate and enter into agreements with labor organizations, recognizing their exclusive representation, for employees in the Auditor's Office. The Bureau of Human Resources will provide advice on labor negotiations at the Auditor's request.
  4. The Auditor's Office hereby adopts the City's [Comprehensive Financial Management Policies](#) ("FINs") as the financial policies of the Auditor's Office, unless such policies conflict with the Auditor's Office's administrative rules. The City Auditor is considered a "Commissioner-in-Charge" for purposes of the FINs, unless the context requires otherwise.
  5. The Auditor's Office has access to City systems, such as SAP and [NEOGOV](#), to perform technical administrative functions related to human resources, such as personnel actions, employee recruitment, and hiring.
  6. Auditor's Office employees participate in citywide [health and financial benefits programs](#), and Human Resources administers payroll for the Auditor's Office.

### **C. Scope of Rules**

The Auditor's Office's human resources rules apply to all employees of the Auditor's Office. Represented employees also will be governed by their collective bargaining agreements.

### **D. Violation of Rules**

Any person found to have violated any Auditor's Office's human resources rule may be subject to discipline up to and including termination of employment.

## **E. Interpretation; Severability**

The City Auditor is responsible for the interpretation and application of the Auditor's Office's human resources rules. It is the intent of the City Auditor that these rules be liberally construed to carry out their purpose. Division managers and supervisors are expected to administer these rules in a consistent manner.

1. The Auditor's Office's human resources rules should be read in conjunction with related federal and state statutes and local ordinances, as applicable.
2. The Auditor's Office's human resources rules are a resource document containing personnel related rules for employees. The rules are not conditions of employment and should not be construed as a contractual agreement between the City and its employees. The City Auditor reserves the right, at any time, to withdraw or amend any portion of the Auditor's Office administrative rules as they apply to current or future employees, in accordance with these rules.
  - a. Rules may be modified, revoked, or changed in accordance with [Auditor's Office Administrative Rule 1.02 – Auditor's Office Administrative Rule Process](#).
  - b. Any procedural aspects not fundamentally changing the substantive content of a rule may be changed at the City Auditor's discretion.
  - c. Guidelines attached to any of the rules are not subject to the rules revision processes.
3. If any section, subsection, sentence, clause, or phrase of the Auditor's Office's human resources rules is found to be invalid by any court of competent jurisdiction, such decision will not affect the validity of the remaining rules.

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This Chapter was adapted from:

[City Human Resources Administrative Rule 1.01 – Duties & Authority of the Director of Human Resources – Mission & Vision of the Bureau of Human Resources](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised February 15, 2018.

## CHAPTER II: PERSONNEL FILES

### A. Responsibility of Employees

To assure proper records management, employees are expected to promptly notify their supervisor and Operations Management of changes to their name, home address, and/or telephone number.

### B. Personnel Files

1. Personnel files include only information that is necessary and relevant to employment and are used only for employment-related purposes. An official personnel file consists of information gathered by Operations Management that relates to an employee or potential employee's:
  - Application;
  - Personal information (non-medical);
  - Selection materials;
  - Promotions, demotions, and/or transfers;
  - Salary;
  - Performance evaluations;
  - Disciplinary actions and termination of employment; and
  - Work history, status, and tenure.
2. Employees have the right to include letters of commendation, training certifications, educational records, and other documents relevant to their employment in their personnel files.
3. No information that reflects critically on an employee may be placed in the employee's personnel file unless the employee is notified.

### C. Medical Records

Medical records may not be retained in personnel files. Instead, medical information must be stored in a separate, confidential file. [See Chapter III - Employee Medical Record Files.](#)

#### **D. Maintaining and Securing Personnel Records**

The Auditor's Office retains employee files in accordance with applicable [record retention requirements](#), as well as federal, state, and local laws for maintaining personnel records.

1. Operations Management is responsible for maintaining and securing the personnel records of Auditor's Office applicants and employees. Operations Management will designate a record location for employees and prospective employees, and will maintain and secure all types of records, forms, and data relating to the selection, status, performance, salary, discipline, and training of employees. This includes responsibility for ensuring the confidentiality of records designated as confidential.
2. When documents that need to be placed in a personnel file are created or received, Division managers and supervisors are responsible for ensuring that the documents are sent to Operations Management.
3. To ensure the security and confidentiality of personnel records, Operations Management and Division managers and supervisors must establish administrative, technical, and physical controls to protect confidential information from unauthorized access or disclosure.

#### **E. Employee Access to Personnel Files**

Employees have the right to inspect and obtain copies of their own personnel files, in accordance with this rule, to the extent provided by applicable law. Employees must contact Operation Management to request to see their personnel file. An Operations Management employee must be present at all times while an employee reviews their personnel file, or other safeguards must be in place to ensure protection of the file.

#### **F. Disclosing Personnel Records**

The City Auditor will determine procedural requirements regarding the release of personnel data.

1. Confidential personnel records may be disclosed within the Auditor's Office only to aid in personnel administration.

2. Responses to external inquiries for the personnel records of an employee or former employee must comply with public records laws. Personnel information may also be released with the employee's written authorization in accordance with Auditor's Office [Administrative Rule 3.03 – Recruitment and Hiring, Chapter V: Background Checks and Employment Verification](#).
3. The Auditor's Office may charge fees for providing information to requestors. These charges may not exceed the actual cost of providing the information but may include copying costs and costs for the labor involved in locating and copying the information.

### **G. Removing Documents from a Personnel File**

Documents may be removed from an employee's personnel file only with the mutual agreement of the City Auditor or designee, the employee's Division manager or supervisor, and the employee or the employee's representative. Any documents removed from a personnel file must be retained in accordance with public records laws and other applicable requirements.

### **H. Files of Employees Transferred to a Bureau or Separated from Service**

1. Files of employees who transfer or are promoted to a City bureau will be forwarded to the employee's new bureau.
2. Upon separation from City employment, except if there is related pending legal action, any remaining original documents in the employee's file must be transferred to Human Resources. The Auditor's Office will follow guidelines for confidential destruction when disposing of personnel records.
3. If there is pending legal action related to an employee's employment or separation, the employee's personnel file will be retained until the City Attorney's Office authorizes the transfer of the file to Human Resources.

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This Chapter was adapted from:



[City Human Resources Administrative Rule 1.04 – Personnel Records](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised January 1, 2020.

## **CHAPTER III: EMPLOYEE MEDICAL RECORD FILES**

### **A. Policy**

The Auditor's Office works to ensure the confidentiality and security of medical records and the privacy of employees. It is the policy of the Auditor's Office to treat all employee medical records as confidential, in accordance with all applicable laws and regulations.

All Auditor's Office employees are obligated and responsible for protecting the confidentiality of the medical records, medical conditions, and privacy of employees. No employee may disclose another employee's medical records or private health information, except in accordance with this rule. Failure to comply with this rule may result in discipline up to and including termination of employment.

### **B. Employee Medical Record Files**

The City maintains the following medical records concerning employees (collectively referred to as "employee medical records"):

1. Medical records relating to an employee's ability to perform employment duties.
2. Requests for leave that identify the employee's illness or injury.
3. Medical information related to sick leave, family medical leave, catastrophic leave management, or medical layoff.
4. Relevant records related to the health of an employee's family member, if needed for leave purposes.
5. Medical information relating to an employee's participation in City-sponsored benefit plans.
6. Emergency information forms that list the employee's medical condition(s), health care provider(s), and/or prescription medications.
7. Medical records related to an employee's exposure to hazardous conditions, such as chemicals, toxic substances, bloodborne pathogens, biological agents, bacteria, virus,

fungus, radiation, noise, dust, heat, cold, vibration, repetitive motion, or other dangerous work-related conditions.

8. Medical information related to an employee's litigation against the City, Occupational Safety and Health Administration ("OSHA") compliance, and workers' compensation and short- and long-term disability claims.
9. Post-offer, pre-employment physical records (if applicable).
10. Fitness for duty exam records.
11. Americans with Disabilities Act ("ADA") accommodation requests and supporting medical documentation. NOTE: Any authorized workplace accommodation should be documented in the employee's personnel file but should not reference any medical information.
12. Information from the employee's health care provider(s) regarding the employee's medical condition(s), physical restrictions, or need for workplace modification.
13. Release / readiness to return to work after disability.

### **C. Health Insurance Portability and Accountability Act (HIPAA)**

Federal regulations exclude certain employee medical records from Health Insurance Portability and Accountability Act ("HIPAA") medical record requirements, including workers' compensation health records, family medical leave health information, ADA accommodation requests and supporting documentation, occupational injury, disability insurance eligibility, sick leave requests, drug screenings, workplace medical surveillance, fitness-for-duty tests, injured worker return to work, medical layoff, and catastrophic leave records. See [67 Fed. Reg. 53181, 53192 \(August 14, 2002\)](#).

### **D. Employee Benefit Files**

Employee health or benefit information acquired by the City's Total Rewards Office for the purpose of benefit administration is covered by HIPAA standards. Information contained in employee benefit files includes:

- Initial and annual enrollment information,
- COBRA notice,
- Change in family status,
- Copy of marriage license / domestic partner affidavit for health benefits, and
- Beneficiary designation.

#### **E. Employee Medical Records: Storage**

1. All medical and related information that describes the health, medical history, or condition of an employee or an employee's family member must be handled as confidential employee medical records and stored in a secure employee medical record file that is physically separate from the employee's personnel file. Employee medical records that are maintained by the City are not part of the employee's personnel records.
2. Medical records relating to an employee's exposure to hazardous conditions should be maintained in a secure file physically separate from other personnel files and handled as confidential medical information.

#### **F. Employee Medical Records: Access**

1. Access to employee medical records is generally limited to the employee and designated Operations Management staff. However, the City Auditor or a designee may share information contained in an employee medical record file:
  - a. To assist Division managers and supervisors responsible for making decisions about temporary or permanent accommodations related to an employee's medical condition.
  - b. To assist government officials conducting ADA compliance reviews.
  - c. To inform first aid and safety workers about a known condition that may require emergency treatment and/or about specific procedures that are needed if the workplace must be evacuated.

- d. When the City investigates, gathers, and/or retains medical records of an employee who is involved in an OSHA investigation, has applied for short- or long-term disability, or has initiated a tort claim against the City.
    - i. *OSHA Matters:* 29 CFR 1910.1020 requires that records be available to the employee, their designated representatives, and OSHA investigators. Records are shared with the City Attorney's Office if an OSHA matter is or is anticipated to be litigated.
    - ii. *Short-Term and Long-Term Disability Matters:* Records are shared with the City Attorney's Office if a disability matter is or is anticipated to be litigated. Records may also be provided to the employee or employee's representative with proper authorization as required by law.
    - iii. *Tort Matters:* Records are shared with the City Attorney's Office if a tort matter is anticipated to be litigated. They may also be provided to the employee or employee's representative with proper authorization as required by law.
  - e. With a Division manager or supervisor or their designee, Human Resources, the City's Risk Management Division, or legal counsel, as the situation requires.
2. Medical information about an employee should not be disclosed except in accordance with this section, or pursuant to a [City of Portland Authorization for Use or Disclosure of Health Information Form](#) signed by the employee who is the subject of the record, or an alternative form approved by the City Auditor in consultation with legal counsel and signed by the employee.

## **G. Handling Medical Records Requests**

All requests for employee medical records must be forwarded to Operations Management for appropriate action and response.

1. Employee medical records may not be released without authorization except as required by law or in accordance with this rule. It is a violation of this rule to release employee medical records or to discuss or disseminate such information to individuals who have no legitimate need to know, who do not have proper authorization, or who are not entitled to the medical records by law.

2. An employee requesting the release of their medical records must sign the [City of Portland Authorization For Use or Disclosure of Health Information Form](#) or an approved alternative form. The signed release form must be placed in the employee's appropriate file before the records are released.
3. An employee who receives a subpoena or other request to appear, respond, or answer questions related to employee medical records, or to provide employee medical records to an administrative agency or other legal authority, must immediately notify Operations Management, who will notify the City Attorney's Office. This requirement is designed to protect the employee and City and ensure employee privacy and compliance with the law and this rule.

#### **H. Workers' Compensation Medical Records**

The City's Risk Management Division investigates, gathers, and retains the medical records of employees relevant to claims filed for work-related injuries or occupational diseases.

1. Oregon law (ORS 656.360) requires confidentiality for these records.
2. To access workers' compensation medical records, outside entities other than those entitled to the documents by law must submit a [City of Portland Authorization for Use or Disclosure of Health Information Form](#) signed by the employee who is the subject of the record, or an approved alternative form signed by the employee.

#### **I. Electronic Communications and Employee Health Information**

1. Discussions regarding the specific health issues of employees are confidential and may not be conducted over e-mail, except when deemed necessary by the City's Risk Management Division and/or the City Attorney's Office to effectively manage and administer claims and benefits, and when the communications are otherwise protected from disclosure.
2. General information regarding an employee absence because of a health issue is permissible via email to manage leave or benefit coverage.

#### **J. Medical Record File Retention**

1. Employee medical record files are retained in accordance with state and federal record retention requirements. Once the applicable retention period has expired, the files must be disposed of in a confidential and secure manner.
2. If an employee transfers to a City bureau, Operations Management will forward their medical record file, in full, to the employee's new bureau, except that hazard exposure records must be maintained for the entire retention period by the safety office of the office that employed the employee at the time of the exposure.
3. When an employee separates from service, the medical file (except hazard exposure records) will be forwarded to Human Resources for incorporation into the employee's permanent medical record.

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This Chapter was adapted from:

[City Human Resources Administrative Rule 1.06 – Employee Medical Files](#). Adopted by the Chief Administrative Officer on July 1, 2004. Last revised January 1, 2020.

## CHAPTER IV: TIME REVIEW AND APPROVAL

### A. Time Review and Approval Requirements

Management review and approval of Auditor's Office employee time entry is required to ensure that time submissions are accurate and that employees receive pay in accordance with applicable pay policy and practices.

1. Each Division's time review and approval process must include manager review and approval of leave requests in SAP and manager review of employee-entered SAP data to ensure that the data is consistent with approved leave requests. This review must be performed by an employee other than the employee(s) entering the data. If the reviewer identifies errors, the reviewer must notify the employee and their supervisor.
2. Operations Management will document Auditor's Office time review and approval processes and will make this information available to Human Resources and external financial auditors upon request.

### B. Timing

1. Time review and approval activities must be completed the Thursday after the end of each pay period.
2. The timeline for SAP time submission and manager review and approval processes may be adjusted because of announced process scheduling changes, including those noted in the [Annual Payroll Calendar](#), or because of exceptional circumstances. The Auditor's Office will adjust internal time review and approval processing schedules accordingly.

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This Chapter was adapted from:

[City Human Resources Administrative Rule 1.07 – Time Review and Approval](#). Adopted by the Chief Administrative Officer on November 4, 2011. Last revised April 25, 2016.



## CHAPTER V: EMPLOYEE REPRESENTATION

### A. Employee Representation

Some Auditor's Office employees are represented by a labor union. As noted in [Chapter I: City Auditor's Duties and Authority for Human Resources](#), the Auditor's Office human resources rules apply to all Auditor's Office employees who are represented by labor unions. In the event of a conflict between the Auditor's Office human resources administrative rules as they apply to represented employees and the applicable collective bargaining agreement, the collective bargaining agreement prevails.

### B. Auditor's Office Employees Subject to Collective Bargaining Agreements

Managers and supervisors must be familiar with the provisions of the collective bargaining agreements covering employees in their area of responsibility.

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This Chapter was adapted from:

[City Human Resources Administrative Rule 3.13 – Employee Representation](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised February 15, 2018.

## CHAPTER VI: POSTING REQUIREMENTS

### A. Required Postings

A variety of posters and notices required by law must be posted in a conspicuous place at the work site where employees have ready access to the information. Large fines can be charged for being out of compliance.

1. Operations Management is responsible for ensuring that required postings are conspicuously posted in each work site or location.
2. A conspicuous place would be anywhere that employees congregate, such as a lunchroom, time clock, or check-in table.

### B. Required Notices; Updates

1. A list of required posters is provided by Oregon's Bureau of Labor and Industries (BOLI), at: [https://www.oregon.gov/boli/TA/Pages/T\\_Tabooks.aspx](https://www.oregon.gov/boli/TA/Pages/T_Tabooks.aspx).
2. Labor Relations will notify Human Resources Site Team Managers if changes in postings are required, and will provide a yearly reminder of the posting requirements. Operations Management will consult with the Site Team Manager for the Auditor's Office.

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This Chapter was adapted from:

[City Human Resources Administrative Rule 1.05 – Posting Requirements](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised October 19, 2010.