

New Article 43

Old Article 45

Access to Personnel Records ~~and Information Requests~~

45.1 Access to Records

Each employee and/or the employee's representative (designated in writing) shall, upon written request and proper identification, be granted access to any record(s) pertaining to the employee in accordance with the Privacy Act or other applicable law or regulation. Such access will take place in the presence of the individual(s) having official custody of the record.

45.2 Copies of Documents

Copies of documents made available under Section 45.1 may be furnished to the employee and/or designated representative upon written request by the employee.

Charges shall be in accordance with applicable regulations ~~10-CFR-9.14~~.

45.3 Privacy Act

Any record which is not available to the employee or his/her representative (designated in writing) for inspection and review will not be made available to any unauthorized person(s) for inspection, review, or duplication. Such information will be made available to authorized persons only for official use as provided for in the Privacy Act of 1974.

45.4 Official Personnel Folders

It is agreed that Official Personnel Folders (OPF's) and other personnel records will be maintained in accordance with applicable law and regulation, including the Privacy Act of 1974. The NRC will purge records in accordance with any standard set forth in law and regulation ~~therein~~.

45.5 Employee Records Maintained By Supervisor

In the event a supervisor decides to maintain a work folder on an employee, it shall be limited to documents and records pertinent to the employee's performance and conduct. Such document and records, both positive and negative, should be provided to the employee as feedback on a timely basis, in order to reinforce positive performance or conduct or to correct deficiencies as soon as possible. Any adverse document or record concerning performance or conduct may not be used as documentation for a performance rating or disciplinary/adverse action, unless the employee has been given 5 work days to review and comment on the document or record prior to its use. This section does not apply to a supervisor's personal notes or "memory joggers." Memory joggers are private notes retained and used for personal use of the manager to recall events or aid memory.

~~Memory joggers may be prepared, retained or discarded at the manager's discretion. Memory joggers shall not be provided to any person. Written notes and memoranda of a supervisor concerning any employee under his/her supervision shall be subject to disclosure or non-disclosure as provided by applicable law and Government-wide regulation. In addition, any material which a supervisor maintains on an employee which is of an adverse nature or could pose potential harm to the employee's career must be shown to the employee at the time that a supervisor proposes to place such material in the employee's official personnel folder, and the employee must be given an opportunity to copy such material for his/her own records.~~

45.6 Union Requests for Documents

The following governs Union requests for documents under 5 U.S.C. 7114(b)(4).

45.6.1 NRC agrees to provide the Union documents appropriately requested under 5 U.S.C. 7114(b)(4) to the extent ~~consistent with that such documents are not classified, proprietary or otherwise prohibited or restricted from disclosure by the Privacy Act or other~~ law or regulation, including the Privacy Act. The Union will be advised by NRC within ten calendar days of receipt of the request as to whether and to what extent the requested documents can be released. The Union will receive the documents within twenty-five (25) calendar days of the request. Exceptions to the 25 day requirement shall be granted by the Union for good cause shown.

~~45.6.2 All Union requests for documents under 5 U.S.C. 7114(b)(4) shall contain a statement showing clearly the reasons(s) why the documents are sought and demonstrating how they are relevant and necessary to the Union as exclusive representative.~~

~~45.6.3 Union requests for documents for the purpose of representing a grievant(s) shall contain the following:~~

~~45.6.3.1 — A description of the documents requested.~~

~~45.6.3.2 — The name of the potential or actual grievant.~~

~~45.6.3.3 — An explanation of the nature of the grievance (or potential grievance) and specific need for documents requested (this would include scope of information requested — for example, one branch).~~

~~45.6.3.4 — An agreement that the use of the documents provided shall be limited to the specific grievance identified in the above.~~

~~45.6.3.5 — Name and signature of requestor and date requested. A signature will not be required in cases where the request is made by e-mail.~~

[Move to Grievance Procedure, Article 51:

45.6.4 Whenever the Union requests documents for the purpose of representing a grievant(s) the time frame for Union response/action on the grievance shall be extended day for day, from the time the request is received until the NRC either denies the request or provides the documents, whichever is appropriate.]

[Move to Article 49, Mid-term Bargaining:

45.6.5 Whenever the Union requests documents for the purpose of bargaining over changes in personnel policies, practices, or conditions of employment not otherwise covered by this Agreement (i.e., as described in Article 49), ~~Sections 49.1 and 49.2 and requiring a 15-day notice to the Union and opportunity to bargain), the Union may be granted an extension of time to submit proposals under the following conditions: the time frame for the Union to respond shall be extended day for day, from the time the request is received until the NRC either denies the request or provides the documents, whichever is appropriate.~~

~~The Union must request documents within 5 workdays of being noticed. An extension of time within which to submit proposals will be granted to the Union allowing 2 additional days from the time NRC either denies the request or provides the documents.~~

~~For example, if NRC denies/provides up to the eighth day of the original 15-day notice period then no extension is provided. However, if the NRC denies/provides on the 14th day, the Union would have until COB the 16th day to submit proposals, or if management were to deny/provide on the 15th day, the Union would have until COB the 17th day to submit proposals, etc. In other words, when the Union requests documents within the first 5 days after being noticed, the Union will have at least 2 days from denial/provision in which to submit proposals.~~