



# THE PRINCE GEORGE'S COUNTY GOVERNMENT

## Office of Audits and Investigations

September 7, 2022

### FISCAL AND POLICY NOTE

TO: Robert J. Williams, Jr.  
Council Administrator

William M. Hunt  
Deputy Council Administrator

FROM: Josh Hamlin  
Director of Budget and Policy Analysis

RE: Policy Analysis and Fiscal Impact Statement  
CB-082-2022 Personnel Law – Inspection of Records

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**CB-082-2022** (*Proposed and presented by:* The Chair of the Council at the request of the County Executive)

Assigned to the Government Operations and Fiscal Policy (GOFP) Committee

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**AN ACT CONCERNING PERSONNEL LAW** for the purpose of amending certain provisions of the Personnel Law relating to personnel records to reflect the current and future state of personnel record management within the County.

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### Fiscal Summary

#### Direct Impact:

##### *Expenditures:*

- None likely.

##### *Revenues:*

- None likely.

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**VOICE (301) 952-3431; FAX (301) 780-2097; TDD (301) 925-5167**

**Indirect Impact:**

None likely.

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**Legislative Summary:**

CB-082-2022, proposed by Chair Hawkins at the request of the County Executive, was presented on September 6, 2022, and referred to the Government Operations and Fiscal Policy (GOF) Committee. CB-082-2022 would amend certain provisions of Subtitle 16 of the County Code to align with new administrative procedures relating to the inspection of personnel records. The most notable change the Bill would make to existing law is the addition of the requirement of a signed release form from an employee prior to inspection of their records in cases not involving a subpoena in a criminal case or an administrative investigation.

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**Current Law/Background:**

Subtitle 16, Division 16 of the County Code governs County personnel records. Among other things, §16-216 sets for the procedure for the inspection of official personnel records. It currently provides:

Any person, other than the employee in interest, a person authorized by the employee in interest, the Director of Human Resources Management, or a person acting on behalf of the Director of Human Resources Management, who reviews or examines a personnel file shall be required to record the person's name, authority to review this personnel file, and date of review on a form which shall be maintained in the personnel file. A copy of the form shall be forwarded to the employee within five business days. In the event that the personnel file of an employee who is the subject of a criminal investigation conducted by a law enforcement agency is reviewed pursuant to a subpoena or of an employee who is the subject of an administrative investigation concerning the employee's conduct pursuant to Section 16-193, the Director of Human Resources Management shall forward a copy of the form to the employee within five business days after the subpoena allows disclosure or after ninety days of the examination by the appointing authority conducting an administrative investigation. If any person, including the employee in interest, a person authorized by the employee in interest, the Director of Human Resources Management or appointing authority, or a person acting on behalf of the Director of Human Resources Management examines a personnel file, the date of examination, reason for examination, and identity of the person examining the file shall be recorded in one or more logs maintained by the Director of Human Resources Management. The entry into a personnel file by staff assigned to the Personnel Office whose job function requires regular access to such files for the

purposes of routine filing of records and/or verifying or updating information is not required to be logged.”<sup>1</sup>

Notably, a signed release from the employee whose record is sought is not required, although a required justification form must be provided to the employee within five business days. Similar notice must be provided to the employee when the record is sought pursuant to a subpoena or as part of an administrative investigation.

The keeping of an unofficial file without the express knowledge of the employee is also prohibited.<sup>2</sup> Similar inspection provisions for departmental or agency files are set forth in §16-217.<sup>3</sup>

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**Resource Personnel:**

- Shawn Y. Stokes, Director, Office of Human Resources Management
- Adaora Otiji-Spizler, Manager, Office of Human Resources Management

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**Discussion/Policy Analysis:**

CB-082-2022 would make the following changes to the existing law in §§16-216 and 16-217 of the County Code:

*§16-216(d) and (e) – Official personnel records.*

- Any request to inspect an official personnel record, other than when subject to a subpoena in a criminal case or when the employee is subject to an administrative investigation under Sec. 16-193 *requires* a release form, *signed by the employee* whose file is the subject of the request. (p. 1, line 21 – page 2, line 3)
- When inspection is pursuant to a subpoena, the Director of the Office of Human Resources Management (OHRM) must notify the employee within five (5) business days after the subpoena allows disclosure (page 2, lines 3-6).
- When inspection is part of an administrative investigation, the Director must notify the employee of the review 90 days after the examination of the Appointing Authority or designee conducting an investigation (page 2, lines 6-9).
- The prohibition on keeping an “unofficial file” without the express knowledge of the employee is deleted (page 3, lines 5-6).

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<sup>1</sup> [§16-216\(d\)\(4\)](#)

<sup>2</sup> [§16-216\(e\)](#)

<sup>3</sup> [§16-217\(d\)](#)

*§16-217(a) and (d) – Departmental or agency personnel files.*

- Keeping of separate departmental or agency personnel files is prohibited without consultation with OHRM and following the guidance and provisions provided thereupon (page 3, lines 8-11).
- The same requirements regarding signed release and notice to employee that apply to official records apply to departmental or agency personnel files (page 3, lines 19-30).

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**Fiscal Impact:**

*Direct Impact:*

- Enactment of CB-082-2022 should not have any direct fiscal impact.

*Indirect Impact:*

- Enactment of CB-082-2022 should not have any indirect fiscal impact.

*Appropriated in the Current Fiscal Year Budget:*

N/A

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**Effective Date of Proposed Legislation**

The proposed Act shall take effect forty-five (45) calendar days after it becomes law.

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If you require additional information, or have questions about this fiscal impact statement, please call me.