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Admitted to practice:
- South Carolina (1976)
- Federal District Court (SC)
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OPINION OF EXTERNAL COUNSEL

TO: Kim Sherfese, Human Resources
FROM: Edgar Dyer
DATE: December 13, 2016



The Office of University Counsel received your request for guidance on certain questions from the Staff Advisory Council and has asked that I render clarification on the questions. The questions are: (1) whether a staff member has the right to see his or her personnel record that is kept on file in Human Resources upon request, (2) whether a staff member has the right to see his or her departmental personnel record upon request, and (3) who should have access to such departmental files.

I am of the opinion that a staff member has an absolute right to see his or her personnel record, regardless of where it is housed, absent a specific state or federal regulation to the contrary and I am not currently aware of one. Supervisors in an employee's chain of command may have access to the employee's Human Resources personnel file on a need-to-know basis upon presentation of appropriate identification credentials. However, **supervisors may not review an employee's benefits file**, which must be maintained separately from the employee's personnel record.

To insure compliance with state and federal laws and regulations, **the Office of University Counsel must formally approve all requests for access to or disclosure of any information from personnel files** and, accordingly, must first be apprised of the reason(s) therefor, provided that supervisors in an employee's chain of command may review an employee's departmental file without such approval. Further, as the lawfully-designated representatives of the South Carolina Attorney General at Coastal Carolina University, University Counsel and Associate University Counsel have full and unfettered access to any and all University documents at any time, including personnel and benefits files, upon request to the holder of any such documents.

Others who may have access, upon presentation of need-to-know and upon approval by the Office of University Counsel, include but may not be limited to: authorized law enforcement personnel, pertinent federal or state agency personnel, members of duly appointed University grievance committees, and personnel from agencies processing claims made by the employee.

To avoid liability for the University and to avoid personal liability for the University employees who review and/or disclose any of the contents of any employee's personnel file, it is vital that all such information be reviewed and disclosed in accordance with University policy and the inclusion of the Office of University Counsel is critical to such compliance.