



TIM GRIFFIN
ATTORNEY GENERAL

Opinion No. 2025-105

October 2, 2025

Blake Pennington
Senior Assistant City Attorney
113 W. Mountain Street, Suite 302
Fayetteville, Arkansas 72701

Dear Mr. Pennington:

You have requested an opinion from this Office regarding the Arkansas Freedom of Information Act (FOIA). Your request, which is made on behalf of the custodian of records, is based on A.C.A. § 25-19-105(c)(3)(B)(i). This subdivision authorizes the custodian, requester, or the subject of certain employee-related records to seek an opinion stating whether the custodian's decision regarding the release of such records is consistent with the FOIA.

You report that someone requested a copy of a police officer's personnel file from the City of Fayetteville. The custodian identified certain employee records as responsive to this request, and the custodian intends to disclose all of those records with redactions. You ask whether the custodian's decisions are consistent with the FOIA.

You have provided copies of the following employee records for my review:¹

- **Administrative records.** These include an "Official Academic Transcript"; a list of "Active Field Training Officers 4/18/2022"; "Employee Information Reports"; "Personnel Action" forms; a "2023 Budget/Position Control Transfer" form; certificates; a signed "Law Enforcement Oath of Office"; a screenshot of a database with the employee's employment status and job position entry dates; a February 6, 2017 email concerning employee address change; a signed employee gym agreement; a multi-page initial "Hire/Personnel Action Form"; the employee's "New Hire Check List"; the employee's job application; a signed "Employee Access Form"; a signed "Urinalysis Consent Form"; a copy of a driver's license; a copy of a military identification card; a signed "Compensatory Time Agreement of Understanding" form; a signed "Drug Free Workplace Policy" acknowledgement; a signed "Safety Policy"; an "Essential Employee Information" and "Emergency Notification" form; a veteran notice form; a signed "Employee Internet

¹ The records include both redacted and unredacted copies.

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and E-mail Authorization” form; a screenshot of the employee’s “Attendance Accrual Content”; a letter from the Arkansas Occupational Health Clinic to the City of Fayetteville certifying the employee’s ability to perform duties as a new hire; a “Physical Training Form”; a four-page “Medical Questionnaire” completed by employee; a letter from a physician concerning the employee’s new-hire psychological screening; a Form F-2b “Confirmation of Psychological Evaluation” for new hire; multiple “Facsimile Transmittal Sheets” from the Arkansas Municipal League Worker’s Comp Trust; a signed life insurance beneficiary designation forms; a Notice of Worker’s Compensation Responsibility; an email concerning the employee’s dental appointment; a 2021 “COVID Leave Request Form” with no results or analysis; an “Adult Fall Prevention in the Hospital” form; a hospital “Return to work” form; an email concerning employee pay as field training officer; a memorandum concerning position change and uniform allowance; an email concerning the FLMA process; a letter from Human Resources concerning an initial request for FMLA leave; and U.S. Wage and Hour Division FMLA forms.

- **Medical records.** These include a “Medical Examination Report” completed by a physician; a “Urinalysis Report”; a Quest Diagnostics analysis; an “Audiogram Analysis Report”; a June 17, 2025 letter from the Arkansas Occupational Health Clinic to the City of Fayetteville; multiple pages of a “Physician Report” (Form AR-3); worker’s compensation reports; hospital discharge instructions; a hospital procedures and tests form; and laboratory or test results, including a 2022 “Sick Leave Request Form” containing test results.
- **Commendations.** These include a screenshot of a text from a third party; duplicate emails concerning a “Citizen Compliment”; and an email from a third party thanking the employee.
- **Employee evaluations.** These include multiple “Police Employee Evaluations.”
- **Performance Development plans.** These include duplicate copies of a performance development plan, duplicate copies of monthly performance plan reviews, and duplicate copies of an April 2020 email concerning the plan.
- **Written reprimand.** These include multiple letters of reprimand.
- **Suspensions.** These include multiple “Written Reprimand & Suspension” letters.

The subject of the records objects to the release of the records, questions the requester’s motives for making the request, and “would like the Attorney General to review the FOIA request of [his] personnel file in its entirety.”

This Office has consistently opined that, under the FOIA, the requester's intent and motives are generally irrelevant when determining whether public records must be disclosed.² Thus, whether someone has certain motives in making a FOIA request is not a sufficient basis for the custodian to withhold the records from release.

RESPONSE

The City of Fayetteville's custodian of records has determined that the records should be released with certain redactions. The custodian's decision to release the records is partially correct under the FOIA for the reasons outlined in the opinion.

DISCUSSION

1. General rules. A document must be released in response to a FOIA request if all three of the following elements are met. First, the FOIA request must be directed to an entity subject to the FOIA.³ Second, the requested document must constitute a public record.⁴ Third, the document must not be subject to an exemption.⁵

The first two elements appear to be met here. The request was made to Washington County, which is a public entity subject to the FOIA.⁶ And the records at issue appear to be public records.⁷ Because these records are held by a public entity, they are presumed to be public records,⁸ although that presumption is rebuttable.⁹ I have no information, however, to suggest that the presumption can be rebutted, so I will turn to whether any exemptions prevent the documents' release.

² *E.g.*, Ark. Att'y Gen. Ops. 2023-051, 2016-118, 2014-094, 2011-095.

³ *Legis. Joint Auditing Comm. v. Woosley*, 291 Ark. 89, 91, 722 S.W.2d 581, 582 (1987).

⁴ *Id.*

⁵ *Id.*

⁶ *See, e.g.*, A.C.A. § 25-19-103(14)(A), as amended by Act 505 of 2025, § 1 (including "a public official or employee" or "a governmental agency").

⁷ The FOIA defines public records as "writings, recorded sounds, films, tapes, electronic or computer-based information, or data compilations in any medium, required by law to be kept or otherwise kept, and that constitute a record of the performance or lack of performance of official functions ... carried out by a public official or employee." A.C.A. § 25-19-103(14)(A), as amended by Act 505 of 2025, § 1.

⁸ *Id.*

⁹ *See Pulaski Cnty. v. Ark. Democrat-Gazette, Inc.*, 370 Ark. 435, 440–41, 260 S.W.3d 718, 722 (2007) ("[T]he presumption of public record status established by the FOIA can be rebutted if the records do not otherwise fall within the definition found in the first sentence, i.e., if they do not 'constitute a record of the performance or lack of performance of official functions.'" (quoting Ark. Att'y Gen. Op. 2005-095)).

For purposes of the FOIA, employees' personnel files¹⁰ normally contain two distinct groups of records: "personnel records" and "employee-evaluation or job-performance records." The test for whether these two types of documents may be released differs significantly. When reviewing documents to determine whether to release them under the FOIA, the custodian must first decide whether a record meets the definition of either a "personnel record" or an "employee-evaluation or job-performance record" and then apply the appropriate test for that record to determine whether the record should be released under the FOIA.

The "Action History" screenshots concerning an "Anonymous User" are neither personnel records nor evaluations. Thus, such records fall outside the scope of my review under A.C.A. § 25-19-105(c)(3)(B)(i), and I lack the authority to opine on whether the custodian's decisions concerning those records are consistent with the FOIA.

2. Mixed records. Some employee-related records are "mixed records" because they are (1) more than one person's evaluation, (2) at least one person's evaluation and at least one person's personnel record, or (3) more than one person's personnel record.¹¹ When a portion of a record is mixed, the custodian should apply the applicable tests for disclosure to that portion of the record.

3. Administrative records. The administrative records are best categorized as "personnel records," and the custodian's decisions concerning the administrative records are partially consistent with the FOIA's treatment of "personnel records." Public records are "personnel records" when (1) they pertain to an individual employee, as each document within the set of administrative records does; and (2) they are not an employee-evaluation or job-performance record—created by or at the behest of the employer to evaluate the employee.¹² Although each administrative record appears to have been created by the employer, these records do not provide details or specifics concerning the former employee's performance or lack of performance as a police officer. So the documents that make up the set of administrative records are best classified as "personnel records."

Personnel records are open to public inspection except "to the extent that disclosure would constitute a clearly unwarranted invasion of personal privacy."¹³ While the FOIA does not define the phrase "clearly unwarranted invasion of personal privacy," the Arkansas Supreme Court has provided some guidance. In *Young v. Rice*, the Court applied a balancing test that weighs the

¹⁰ "Personnel files" are not referenced in the FOIA but typically includes the following documents: employment applications; school transcripts; payroll-related documents such as information about reclassifications, promotions, or demotions; transfer records; health- and life-insurance forms; performance evaluations; recommendation letters; disciplinary-action records; requests for leave-without-pay; certificates of advanced training or education; and legal documents such as subpoenas. *E.g.*, Ark. Att'y Gen. Ops. 2016-104, 97-368; John J. Watkins et al., *The Arkansas Freedom of Information Act* 203-04 (6th ed. 2017).

¹¹ See Ark. Att'y Gen. Op. 2020-037.

¹² See, *e.g.*, Ark. Att'y Gen. Ops. 2015-072, 1999-147; Watkins et al., *supra* note 10, at 202.

¹³ A.C.A. § 25-19-105(b)(12).

public's interest in accessing the records against the individual's interest in keeping them private.¹⁴ The balancing test, which takes place with a thumb on the scale in favor of disclosure, has two steps.¹⁵

First, the custodian must assess whether the information contained in the requested record is of such a personal or intimate nature that it gives rise to a greater than minimal privacy interest.¹⁶ If the privacy interest is minimal, then disclosure is required.

Second, if the information gives rise to a greater than minimal privacy interest, then the custodian must determine whether that privacy interest is outweighed by the public's interest in disclosure.¹⁷

This Office has consistently opined that the following are personnel records subject to disclosure under the FOIA: documents that confirm someone's employment;¹⁸ dates of hire;¹⁹ general education background, including schools attended and degrees received;²⁰ training and certifications;²¹ signed acknowledgments of having received policies and procedures;²² pre-employment background investigations;²³ general change-of-status records that don't contain reasons for change;²⁴ employee race and gender;²⁵ employee names;²⁶ salaries;²⁷ payroll records;²⁸

¹⁴ 308 Ark. 593, 826 S.W.2d 252 (1992).

¹⁵ Watkins et al., *supra* note 10, at 208.

¹⁶ Young, 308 Ark. at 598, 826 S.W.2d at 255.

¹⁷ *Id.*

¹⁸ Ark. Att'y Gen. Op. 97-063.

¹⁹ Ark. Att'y Gen. Ops. 2016-103, 95-256.

²⁰ Ark. Att'y Gen. Ops. 2016-124, 2015-034, 2008-082, 2006-176, 2006-165.

²¹ Ark. Att'y Gen. Ops. 2002-252 (training), 96-256 (certifications).

²² Ark. Att'y Gen. Ops. 2025-063, 2025-059, 2025-049, 2024-067, 2008-053. *But see* Ark. Att'y Gen. Ops. 2002-326, 2002-210 (opining that just an "excerpt from the Department's Policies and Procedures" is neither a personnel record nor an employee-evaluation or job-performance record).

²³ Ark. Att'y Gen. Op. 95-256.

²⁴ Ark. Att'y Gen. Ops. 2014-116, 99-040.

²⁵ Ark. Att'y Gen. Ops. 2024-073, 2019-008, 2009-156, 2005-100, 99-305, 91-351.

²⁶ Ark. Att'y Gen. Op. 2009-156.

²⁷ Ark. Att'y Gen. Op. 2002-159.

²⁸ Ark. Att'y Gen. Ops. 2008-129, 94-198.

and general resignation letters.²⁹ Therefore, except for the transcript discussed below, the custodian's decision to withhold these administrative records is inconsistent with the FOIA.

Even if a document, when considered as a whole, meets the test for disclosure, it may contain pieces of information that must be redacted, such as personal contact information of public employees (including personal phone numbers, email addresses, and home addresses);³⁰ employee personnel numbers or identification codes;³¹ marital status of public employees;³² dates of birth of public employees;³³ social security numbers;³⁴ driver's license numbers;³⁵ insurance coverage;³⁶ tax information or withholdings;³⁷ payroll deductions;³⁸ names of children, spouses, and ex-spouses;³⁹ net pay;⁴⁰ banking information;⁴¹ and other financial "records that would divulge intimate financial detail."⁴²

A college transcript has been redacted in its entirety. This Office has consistently opined that college transcripts and school transcripts are exempt from disclosure.⁴³ Thus, it is my opinion that the custodian's decision to withhold this record is consistent with the FOIA.

²⁹ Ark. Att'y Gen. Ops. 2020-056, 2012-144, 2012-019, 2006-216, 2002-320, 99-119, 96-088, 95-162.

³⁰ A.C.A. § 25-19-105(b)(13).

³¹ Ark. Att'y Gen. Ops. 2022-032, 2014-094, 2007-070. Public employee personnel numbers are exempt from disclosure because "these numbers presumably provide access to computerized data, and records containing 'personal identification numbers' used for computer security functions are specifically exempt from disclosure under the FOIA." Ark. Att'y Gen. Op. 2022-032; *see also* A.C.A. § 25-19-105(b)(11).

³² Ark. Att'y Gen. Op. 2001-080.

³³ Ark. Att'y Gen. Op. 2007-064.

³⁴ Ark. Att'y Gen. Ops. 2006-035, 2003-153.

³⁵ Ark. Att'y Gen. Op. 2007-025.

³⁶ Ark. Att'y Gen. Op. 2004-167.

³⁷ Ark. Att'y Gen. Ops. 2005-194, 2003-385.

³⁸ Ark. Att'y Gen. Op. 98-126.

³⁹ Ark. Att'y Gen. Ops. 2018-084, 2006-165, 2002-237.

⁴⁰ *E.g.*, Ark. Att'y Gen. Ops. 2018-064, 2018-015, 2002-043, 98-126.

⁴¹ Ark. Att'y Gen. Op. 2005-194.

⁴² Ark. Att'y Gen. Ops. 2005-194, 98-126, 95-242, 95-110, 94-235, 91-093, 87-422.

⁴³ Ark. Att'y Gen. Ops. 2025-044, 2003-060.

An acronym has been redacted in both the “Personnel Action” form and the “2023 Budget/Position Control Transfer” form, while that same acronym appears unredacted in an April 2025 memorandum concerning “Specialty Pay.” It is unclear why the redactions were made. To the extent that the custodian believes that information qualifies for a FOIA exemption, the redactions should be applied consistently.

One of the records contains a list of several employee names. This is best classified as a mixed record because it contains the personnel records of multiple employees. Thus, the custodian’s decision to redact the names of other employees is consistent with the FOIA. But one of the employee names is left unredacted. Again, the custodian should review the record to ensure redactions are applied consistently.

4. Medical records. Generally, worker’s compensation records—including the corresponding medical records—are personnel records.⁴⁴ But under A.C.A. § 25-19-105(b)(2), such records are exempt from release because they include specific medical information about the employee that concerns the treatment or diagnosis of a medical condition.⁴⁵ Thus, the custodian’s decision to withhold the medical records is consistent with the FOIA.⁴⁶

5. Commendations. Commendation letters from the public praising a public employee are not employee-evaluation or job-performance records because they do not meet the first requirement of such records: being created by or at the behest of the employer.⁴⁷ Consequently, this Office has consistently concluded that unsolicited commendations by third parties—individuals other than the employer—are personnel records subject to release.⁴⁸ This includes the email created by another employee because it simply transcribed a compliment made by a third party over the phone—it does not constitute an evaluation made by or at the behest of the employer. Thus, the commendations should be released under the FOIA.

6. Employee evaluations. An employee-evaluation record is one that is created by or at the behest of an employer; to evaluate the employee; and that details the employee’s performance or lack of performance on the job.⁴⁹ The employee performance evaluations here meet those requirements and must be withheld unless all the following elements have been met:

⁴⁴ See Ark. Att’y Gen. Op. 97-070 (worker’s compensation).

⁴⁵ E.g., Ark. Att’y Gen. Ops. 2000-232, 2000-226, 99-110, 99-042, 98-261, 98-202, 96-203, 91-374, 87-070.

⁴⁶ See Ark. Att’y Gen. Op. 2017-121.

⁴⁷ Ark. Att’y Gen. Op. 2025-003.

⁴⁸ See, e.g., Ark. Att’y Gen. Ops. 2006-225, 2006-176, 2003-153.

⁴⁹ *Thomas v. Hall*, 2012 Ark. 66, at 8–9, 399 S.W.3d 387, 392; see also *Davis v. Van Buren Sch. Dist.*, 2019 Ark. App. 466, at 7–8, 572 S.W.3d 466, 471 (noting that “[o]ur supreme court has approved” the definition of employee-

- *Suspension or termination.* The employee was suspended or terminated;
- *Administrative finality.* The suspension or termination is administratively final and is, therefore, incapable of any administrative reversal or modification;
- *Relevance.* The records in question formed a basis for the decision to suspend or terminate the employee; and
- *Compelling interest.* The public has a compelling interest in the disclosure of the records in question.⁵⁰

Because the employee was not suspended or terminated based on the contents of the evaluations, the first element is not met, and the evaluation should be withheld from release under the FOIA.

7. Performance development plans. Additional records provided for my review include multiple performance improvement plans for the employee. Such plans qualify as employee-evaluation or job-performance records. Therefore, the performance development plans cannot be released unless all the following elements have been met: suspension or termination; administrative finality; relevance; and compelling interest.

Here, all the elements likely are met. Therefore, the custodian's decision to withhold the suspension letters is not consistent with the FOIA. First, the provided information indicates that the officer was given the performance development plans because of a suspension. Second, although you have not noted whether the suspension was administratively final, the record itself indicates that the suspension was incapable of any administrative reversal or modification. That is, the suspension ended after a certain number of hours, and nothing submitted indicates that an appeal was timely made or is still pending. Third, the plans are relevant to the suspension because they detail grounds for the suspension. Fourth, the public has a compelling interest in the disclosure of the record in question because, as this Office has consistently opined, law-enforcement officers are invested with a significant public trust, so there is usually a compelling public interest in a record, such as this one, that reflects violations of office policy.⁵¹

8. Written reprimands. Among the documents you have provided for my review are multiple written reprimands signed by a supervisor. This Office has consistently opined that employee-evaluation and job-performance records include "written reprimands ... [and] letters of caution."⁵² That is the case here. Therefore, the written reprimands cannot be released unless all the following

evaluation records developed by the Attorney General's Office); Ark. Att'y Gen. Ops. 2015-057, 2009-067, 2006-038, 2003-073, 95-351, and 93-055.

⁵⁰ A.C.A. § 25-19-105(c)(1).

⁵¹ Ark. Att'y Gen. Ops. 2023-071, 2023-013, 2014-129, 2006-026.

⁵² E.g., Ark. Att'y Gen. Ops. 2009-146, 2008-135, 1997-261, 1993-105, 1992-231, 1991-324.

elements have been met: suspension or termination; administrative finality; relevance; and compelling interest.

The written reprimands do not meet the requirements of disclosure because the employee was not suspended or terminated based on the contents of the letters. Although the letters provide reasons for the reprimands, they do not reflect adverse employment action that goes beyond just a written warning: “You are hereby given this Written Reprimand,” but “further occurrences ... will result in more severe disciplinary action.” Therefore, the written reprimands should be withheld from release under the FOIA.

9. Suspensions. A suspension letter may qualify as a personnel record or as an employee-evaluation or job-performance record depending on the letter’s contents. This Office has consistently opined that a suspension letter qualifies as a personnel record when the letter *does not specify* the grounds for suspension.⁵³ On the other hand, this Office has consistently opined that a suspension letter qualifies as an employee-evaluation and job-performance record when that letter *does specify* the grounds for the suspension.⁵⁴

Each “Written Reprimand & Suspension” contains the specific reasons for the suspension. Thus, they are employee-evaluation or job-performance records and meet each element for release: suspension; administrative finality; relevance; and compelling interest.

Assistant Attorney General William R. Olson prepared this opinion, which I hereby approve.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tim Griffin", with a horizontal line above it.

TIM GRIFFIN
Attorney General

⁵³ *E.g.*, Ark. Att’y Gen. Ops. 2023-081, 2023-077, 2023-069, 2015-053.

⁵⁴ *E.g.*, Ark. Att’y Gen. Ops. 2001-276 (opining that a letter of suspension was an “employee evaluation/job performance record” when the letter “detail[ls] the incidents that gave rise to the discipline”); 2001-244 (opining that “any document reflecting the fact of disciplinary charges brought against [the employee], regardless of when the document was created, qualifies as a ‘job performance record’”); 1998-075 (analyzing a list containing law-enforcement officer disciplinary action in the past 5 years).