



## **Access to Medical and Exposure Records**

### **1.0 Reference**

California Code of Regulations, Title 8, Section 3204.

### **2.0 Policy**

It is the policy of California State University, Fullerton, insofar as is reasonable and practical, to allow employees, or their designated representative, complete access to their medical and exposure records generated while working at the University. Furthermore, the University recognizes the employees' right to all information available pertaining to hazardous substances for which they have been exposed.

### **3.0 Purpose**

The purpose of this program is to establish procedures and provide information for the employee, their designated representative, and representatives from the Division of Occupational Safety and Health in order to gain access to relevant exposure and medical records. The purpose for medical/exposure records access is to improve the detection, treatment and prevention of occupational illness and disease. Nothing in this program is intended to affect existing legal and ethical obligations concerning the maintenance and confidentiality of employee medical information.

### **4.0 Scope and Application**

4.1 This program applies to all University Departments who make, maintain, contract out, or have access to employee exposure or medical records.

4.2 This program applies to all employee exposure and medical records made or maintained in any manner by the University either in house or by contract.

4.3 This program does not apply to:

- A. Any hazardous waste regulated by the Solid Waste Disposal Act, amended by the Resource Conservation and Recovery Act of 1976;
- B. Tobacco or tobacco products;
- C. Wood or wood products;
- D. Food, drugs, or cosmetics intended for personal consumption by employees while in the workplace; and

- E. Any product sold at retail which is also sold to the University or an employee, in the same form, approximate amount, concentration, and manner as it is sold to consumers.

## **5.0 Definitions**

### **5.1 Access.**

The right and opportunity to examine and copy.

### **5.2 Designated Representative.**

Any individual or organization to whom an employee gives written authorization to exercise a right of access. A recognized or certified collective bargaining agent shall be treated automatically as designated representative for the purpose of access to employee exposure records and analyses using exposure or medical records, but access to an employee's medical records requires the employee's written consent.

### **5.3 Employee**

A current employee, a former employee, or an employee being assigned or transferred to work where there will be exposure to toxic substances or harmful physical agents. For the purpose of this section, a deceased or legally incapacitated employee's legal representative may exercise all of the employee's rights under this section.

### **5.4 Employee Exposure Record**

A record containing any of the following kinds of information concerning employee exposure to toxic substances or harmful physical agents:

- A. Environmental (workplace) monitoring or measuring, including personal, area, grab, wipe, or other form of sampling, as well as related collection and analytical methodologies, calculations, and other background data relevant to interpretation of the results obtained;
- B. Biological monitoring results which directly assess the absorption of substance or agent by body systems (e.g., the level of chemical in the blood, urine, breath, hair, fingernails, etc.) but not including results which assess the biological effect of a substance or agent;
- C. Material safety data sheets; or
- D. In the absence of the above, any other record which reveals the identity (e.g., chemical, common, or trade name) of a toxic substance or harmful physical agent.

### **5.5 Employee Medical Record.**

A record concerning the health status of an employee which is made or maintained by a physician, nurse, or other health care personnel, or technician.

A. Employee medical record includes the following:

1. Medical and employment questionnaires or histories (including job description and occupational exposures);
2. The results of medical examinations (pre-employment, pre-assignment, periodic, episodic) and laboratory tests (including X-ray examinations and all biological monitoring
3. Medical opinions, diagnosis, progress notes, and recommendations;
4. Descriptions of treatments and prescriptions; and
5. Employee medical complaints.

B. Employee medical record does not include the following:

1. Physical specimens (e.g., blood or urine samples) which are routinely discarded as a part of normal medical practice and are not required to be maintained by other legal requirements;
2. Records concerning health insurance claims if maintained separately from the employer's medical program and its records, and not accessible to the employer by employee name or other personal identifier (e.g., social security number, payroll number, etc.); or
3. Records concerning voluntary employee assistance programs (alcohol, drug abuse, or personal counseling programs) if maintained separately from the employer's medical program and its records.

C. Employee medical record security:

1. Employee medical records shall be considered confidential information and must be secured with compliance to Executive Order 814.
2. Records shall be stored in a locked cabinet with only access allowed to authorized employees designated by the Director of Environmental Health and Safety. Keys to the locked cabinet shall be limited to only to authorized employees.
3. Facility which houses the medical records shall be secured and alarmed during non-business hours. Alarm system shall be tied into the Public Safety dispatch for constant monitoring.

## **5.6 Exposure**

Employee subjection to a toxic substance or harmful physical agent in the course of employment through any route of entry (inhalation, ingestion, skin contact, or absorption, etc.), and includes past exposure and potential (e.g., accidental or possible exposure, but does not include situations where the employer can demonstrate that the toxic substance or harmful physical agent

is not used, handled, stored, generated, or present in the workplace in any manner different from typical non-occupational situations.

## **5.7 Record**

Any item, collection, or grouping of information regardless of the form or process by which it is maintained (e.g., paper document, microfiche, microfilm, X-ray film, or automated data processing).

## **5.8 Toxic Substance or Harmful Physical Agent**

Any chemical substance, biological agent (bacteria, virus, fungus, etc.), or physical stress (noise, heat, cold, vibration, repetitive motion, ionizing and non-ionizing radiation, hypo-or hyperbaric pressure, etc.) which:

- a. is regulated by any California or Federal law or rule due to a hazard to health;
- b. is listed in the latest printed edition of the National Institute for Occupational Safety and Health (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS);
- c. Has yielded positive evidence of an acute or chronic health hazard in human, animal, or other biological testing conducted by, or known to, the employer; or
- d. Is described by a material safety data sheet available to the employer which indicates that the material may pose a hazard to human health.

## **6.0 Responsibilities**

### **6.1 Environmental Health and Safety Office**

- a. Develop, implement, and monitor the Medical and Exposure Records Access Program in accordance with Sections 3204, Title 8, California Code of Regulations (see [Appendix A](#)).
- b. Maintain all environmental monitoring and employee exposure records. Provide information on the location of employee medical records.
- c. Provide access to these records by the employee, designated representative or representative of the Division of Occupational Safety and Health in accordance with section 8.0.
- d. Maintain all medical exams, exposure records, wipe tests, etc. concerning radiation exposure.

### **6.2 Human Resources**

- a. Maintain all pre-employment medical records or advise the employee of the records location.

- b. Provide access to these records in accordance with the Human Resources policy and procedures.

### **6.3 Employee**

- a. Employee or designated representative shall request access to medical and/or exposure records in accordance with Section 8.0.
- b. Records shall either be made available to the employer or designated representative at no cost or loaned to the employee for a reasonable time to enable a copy to be made.

## **7.0 Preservation of Records**

### **7.1 Employee Medical Records**

Shall be preserved and maintained for the duration of employment plus 30 years.

### **7.2 Employee Exposure Record.**

Shall be preserved and maintained for a least 30 years.

## **8.0 Records Access**

8.1 All records shall be made available, upon request, to an employee or designated representative by submitting a Request for Medical and Exposure Records Access form available from the Environmental Health and Safety Office.

8.2 An employee or designated representative is able to release all or portions of their medical and/or exposure records by submitting an Authorization for Release of Medical Record Information form available from the Environmental Health and Safety Office.

8.3 Representatives of the Chief of the Division of Occupational Safety and Health (Cal/OSHA) or the Director of the National Institute for Occupational Safety and Health (NIOSH) shall have immediate access to all records upon request.

## **9.0 Employee Notification**

9.1 The Environmental Health and Safety Office shall notify employees of the availability of medical/exposure records by posting the Cal/OSHA poster "Access To Medical and Exposure Records." The poster shall include information on where and from whom records are available.