

LEGAL MEMORANDUM

TO: PET MEMBERS

FROM: Larry L. Crain, J.D.
Office of General Counsel

Tennessee Public Records Act

Under Tenn. Code Ann. § 10-7-503 certain records, including teacher personnel files, are open to public inspection. This same statute also protects from disclosure certain information which may be contained in those records that is considered confidential under §10-7-504 and may not be released to the public for inspection. Section 10-7-504(f)(1)(a)-(d) exempts from disclosure the social security numbers of employee and requires that this information be redacted:

The following records or information of any state, county, municipal or other public employee . . . in the possession of a governmental entity or any person in its capacity as an employer shall be treated as confidential and shall not be open for inspection by members of the public:

- (A) unpublished telephone numbers;
- (B) Bank account information;
- (C) Social security number;
- (D) Driver license information except where driving or operating a vehicle is part of the employee's job description or job duties or incidental to the performance of the employee's job

The disclosure of confidential information such as a social security number is also prohibited under other provisions of the act. See §§10-7-105(a)(12) and 10-7-105(a)(9)(c) ("Information received by the state that is required by federal law or regulation to be kept confidential shall be exempt from public disclosure and shall not be open for inspection by members of the public").

Please be advised that disclosure of personal information prohibited under state and federal law may result in criminal and civil penalties under Section 7 of the Privacy Act, 5 USCS §533(a). See *Romero-Vargas v Shalala*, 907 F. Supp. 1128, 1131 (N.D. Ohio 1995) (holding defendant official liable for improper disclosure of plaintiff's social security number entitling plaintiff to an award of damages).

You have the right to inspect your personnel file. If you discover that any of the identifying information referenced above has not been redacted, a written communication to your HR Director should be sent directing that this be done.