

# State employees' privacy rights

BY JAMES CARROLL

## How confidential are state employee records and public records?

In an age in which a vast amount of information can be downloaded by the click of a mouse, privacy is increasingly important. Ensuring that private records remain private may seem difficult if not impossible. This month, Inquiry Line will examine the privacy of state employees' personnel files and public records that state employees maintain.

State employees' personnel files fall under privacy law for several reasons. While the state may feel it has the right to keep certain managerial judgments from an employee, the employee may feel entitled to refute any disparaging remarks in his or her record. The state also might need to conceal records of a criminal investigation from an employee who is being investigated. In both cases, each party's rights are at stake, making this area of privacy law highly debated.

States have handled these issues in various ways. Twenty-five states allow public employees to inspect their personnel files, and 11 of those allow employees to copy portions of their files. However, many states have some restrictions on an employee's access to his or her files.

• Eight states do not allow access to information regarding criminal investigations of the employee (California, Hawaii, Illinois, Iowa, Michigan, Nevada, Oregon and Washington).

• Five states do not allow access to letters of reference (California, Hawaii, Illinois, Michigan and Rhode Island).

• Four states explicitly deny an employee access to performance evaluations (Iowa, Michigan, Nevada and Oregon).

• Two states restrict the frequency with which an employee may examine his or her file: Delaware allows access once a year and Minnesota once every six months.

• Eight states allow employees to submit a rebuttal to any disparaging information or questionable material (Connecticut, Delaware, Massachusetts, Michigan, Minnesota, North Carolina, Washington and Wisconsin).

Public records maintained by state employees also are covered under privacy law. Every state has a statute that addresses access to public records, and most states grant open access to any person. For example, in most states, a mother who wants to find information about the school her daughter is

attending will have free access to that school's records. Because of space limitations, public-records laws for every state cannot be listed here, but can be found in *Compendium of State Privacy and Security Legislation: 1999 Overview*, published by the U.S. Bureau of Justice Statistics, and *Compilation of State & Federal Privacy Laws, 1997*, published by Privacy Journal.

For more information, contact the States Information Center at (888) CSG-4SIC or sic@csg.org.



*State employees don't all enjoy the same privacy rights for their personnel records.*

James Carroll is Southern regional coordinator with CSG's States Information Center.

Your One Link to the States

# StatesNews

Get all your election results from CSG on StatesNews – [www.csg.org](http://www.csg.org)