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Short Title: Government Transparency Act of 2021.

(Public)

Sponsors:

Referred to:

February 10, 2021

A BILL TO BE ENTITLED
AN ACT TO STRENGTHEN CONFIDENCE IN GOVERNMENT BY INCREASING
ACCESSIBILITY TO CERTAIN PUBLIC PERSONNEL PERFORMANCE AND
DISMISSAL RECORDS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 126-23 reads as rewritten:

"§ 126-23. Certain records to be kept by State agencies open to inspection.

(a) Each department, agency, institution, commission and bureau of the State shall maintain a record of each of its employees, showing the following information with respect to each such employee:

- (1) Name.
- (2) Age.
- (3) Date of original employment or appointment to State service.
- (4) The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the agency has the written contract or a record of the oral contract in its possession.
- (5) Current position.
- (6) Title.
- (7) Current salary.
- (8) Date and amount of each increase or decrease in salary with that department, agency, institution, commission, or bureau.
- (9) Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with that department, agency, institution, commission, or bureau.
- (10) ~~Date~~ Subject to subsection (g) of this section, date and general description of the reasons for each ~~promotion of the following~~ with that department, agency, institution, commission, or ~~bureau~~ bureau:
 - a. Promotion.
 - b. Demotion.
 - c. Transfer.
 - d. Suspension.
 - e. Separation.
 - f. Dismissal.

- (11) ~~Date and type of~~ For each ~~dismissal, suspension, or demotion~~ dismissal for disciplinary reasons taken by the department, agency, institution, commission,



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1 or ~~bureau. If the disciplinary action was a dismissal, bureau,~~ a copy of the
2 written notice of the final decision of the head of the department setting forth
3 the specific acts or omissions that are the basis of the dismissal.

4 (12) The office or station to which the employee is currently assigned.

5 ...

6 (f) Nothing in this section shall be construed to authorize the disclosure of any
7 confidential information protected by the Health Insurance Portability and Accountability Act of
8 1996 (HIPAA), 110 Stat. 1936, the Americans with Disabilities Act of 1990 (ADA), 104 Stat.
9 327, or other applicable law.

10 (g) The following shall apply to the general descriptions as required by subdivision
11 (a)(10) of this section:

12 (1) No general description shall disclose information otherwise prohibited from
13 disclosure by an applicable law but shall be listed as "description of action
14 prohibited by applicable law."

15 (2) The general description for each promotion, demotion, transfer, suspension,
16 separation, or dismissal shall become part of the record maintained under
17 subsection (a) of this section upon the later of the expiration of the time period
18 to file an appeal under any applicable administrative appeals process or a final
19 decision being entered in that administrative appeals process."

20 **SECTION 1.(b)** G.S. 126-22(b) reads as rewritten:

21 "(b) For purposes of this Article the following definitions apply:

22 (1) "Employee" means any current State employee, former State employee, or
23 applicant for State ~~employment~~employment subject to this Article.

24 (2) "Employer" means any State department, university, division, bureau,
25 commission, council, or other agency subject to ~~Article 7 of this Chapter.~~this
26 Article. The term "university" shall include all of the following, as defined in
27 G.S. 116-2:

28 a. The Board.

29 b. The Board of Trustees.

30 c. Chancellor.

31 d. Constituent institutions.

32 e. The President.

33 (3) "Personnel file" means any employment-related or personal information
34 gathered by an employer or by the Office of State Human Resources.
35 Employment-related information contained in a personnel file includes
36 information related to an individual's application, selection, promotion,
37 demotion, transfer, leave, salary, contract for employment, benefits,
38 suspension, performance evaluation, disciplinary actions, and termination.
39 Personal information contained in a personnel file includes an individual's
40 home address, social security number, medical history, personal financial
41 data, marital status, dependents, and beneficiaries.

42 (4) "Record" means the personnel information that each employer is required to
43 maintain in accordance with G.S. 126-23."

44 **SECTION 2.** G.S. 115C-320 reads as rewritten:

45 **"§ 115C-320. Certain records open to inspection.**

46 (a) Each local board of education shall maintain a record of each of its employees,
47 showing the following information with respect to each employee:

48 (1) Name.

49 (2) Age.

50 (3) Date of original employment or appointment.

- 1 (4) The terms of any contract by which the employee is employed whether written
 2 or oral, past and current, to the extent that the board has the written contract
 3 or a record of the oral contract in its possession.
 4 (5) Current position.
 5 (6) Title.
 6 (7) Current salary.
 7 (8) Date and amount of each increase or decrease in salary with that local board
 8 of education.
 9 (9) Date and type of each promotion, demotion, transfer, suspension, separation,
 10 or other change in position classification with that local board of education.
 11 (10) ~~Date~~ Subject to subsection (e) of this section, date and general description of
 12 the reasons for each ~~promotion of the following~~ with that local board of
 13 ~~education~~ education:
 14 a. Promotion.
 15 b. Demotion.
 16 c. Transfer.
 17 d. Suspension.
 18 e. Separation.
 19 f. Dismissal.
 20 (11) ~~Date and type of~~ For each ~~dismissal, suspension, or demotion~~ dismissal for
 21 disciplinary reasons taken by the local board of ~~education~~. If the disciplinary
 22 ~~action was a dismissal, education~~, a copy of the written notice of the final
 23 decision of the local board education setting forth the specific acts or
 24 omissions that are the basis of the dismissal.
 25 (12) The office or station to which the employee is currently assigned.
 26 ...
 27 (d) Nothing in this section shall be construed to authorize the disclosure of any
 28 confidential information protected by the Health Insurance Portability and Accountability Act of
 29 1996 (HIPAA), 110 Stat. 1936, the Americans with Disabilities Act of 1990 (ADA), 104 Stat.
 30 327, or other applicable law.
 31 (e) The following shall apply to the general descriptions as required by subdivision
 32 (a)(10) of this section:
 33 (1) No general description shall disclose information otherwise prohibited from
 34 disclosure by an applicable law but shall be listed as "description of action
 35 prohibited by applicable law."
 36 (2) The general description for each promotion, demotion, transfer, suspension,
 37 separation, or dismissal shall become part of the record maintained under
 38 subsection (a) of this section upon the later of the expiration of the time period
 39 to file an appeal under any applicable administrative appeals process or a final
 40 decision being entered in that administrative appeals process."

41 **SECTION 3. G.S. 115D-28 reads as rewritten:**

42 **"§ 115D-28. Certain records open to inspection.**

- 43 (a) Each board of trustees shall maintain a record of each of its employees, showing the
 44 following information with respect to each employee:
 45 (1) Name.
 46 (2) Age.
 47 (3) Date of original employment or appointment.
 48 (4) The terms of any contract by which the employee is employed whether written
 49 or oral, past and current, to the extent that the board has the written contract
 50 or a record of the oral contract in its possession.
 51 (5) Current position.

- 1 (6) Title.
- 2 (7) Current salary.
- 3 (8) Date and amount of each increase or decrease in salary with that community
- 4 college.
- 5 (9) Date and type of each promotion, demotion, transfer, suspension, separation,
- 6 or other change in position classification with that community college.
- 7 (10) ~~Date~~ Subject to subsection (e) of this section, date and general description of
- 8 the reasons for each ~~promotion~~ of the following with that community
- 9 ~~college~~ college:
- 10 a. Promotion.
- 11 b. Demotion.
- 12 c. Transfer.
- 13 d. Suspension.
- 14 e. Separation.
- 15 f. Dismissal.
- 16 (11) ~~Date and type of~~ For each ~~dismissal, suspension, or demotion~~ dismissal for
- 17 disciplinary reasons taken by the community college. ~~If the disciplinary action~~
- 18 ~~was a dismissal, college,~~ a copy of the written notice of the final decision of
- 19 the board of trustees setting forth the specific acts or omissions that are the
- 20 basis of the dismissal.
- 21 (12) The office or station to which the employee is currently assigned.
- 22 ...

23 (d) Nothing in this section shall be construed to authorize the disclosure of any

24 confidential information protected by the Health Insurance Portability and Accountability Act of

25 1996 (HIPAA), 110 Stat. 1936, the Americans with Disabilities Act of 1990 (ADA), 104 Stat.

26 327, or other applicable law.

27 (e) The following shall apply to the general descriptions as required by subdivision

28 (a)(10) of this section:

- 29 (1) No general description shall disclose information otherwise prohibited from
- 30 disclosure by an applicable law but shall be listed as "description of action
- 31 prohibited by applicable law."
- 32 (2) The general description for each promotion, demotion, transfer, suspension,
- 33 separation, or dismissal shall become part of the record maintained under
- 34 subsection (a) of this section upon the later of the expiration of the time period
- 35 to file an appeal under any applicable administrative appeals process or a final
- 36 decision being entered in that administrative appeals process."

37 **SECTION 4.** G.S. 122C-158 reads as rewritten:

38 **"§ 122C-158. Privacy of personnel records.**

- 39 ...
- 40 (b) The following information with respect to each employee is a matter of public record:
- 41 (1) Name.
- 42 (2) Age.
- 43 (3) Date of original employment or appointment to the area authority.
- 44 (4) The terms of any contract by which the employee is employed whether written
- 45 or oral, past and current, to the extent that the agency has the written contract
- 46 or a record of the oral contract in its possession.
- 47 (5) Current position.
- 48 (6) Title.
- 49 (7) Current salary.
- 50 (8) Date and amount of each increase or decrease in salary with that area
- 51 authority.

- 1 (9) Date and type each promotion, demotion, transfer, suspension, separation, or
 2 other change in position classification with that area authority.
 3 (10) ~~Date~~ Subject to subsection (j) of this section, date and general description of
 4 the reasons for each ~~promotion~~ of the following with that area
 5 ~~authority~~ authority:
 6 a. Promotion.
 7 b. Demotion.
 8 c. Transfer.
 9 d. Suspension.
 10 e. Separation.
 11 f. Dismissal.
 12 (11) ~~Date and type of~~ For each dismissal, suspension, or demotion ~~dismissal~~ for
 13 disciplinary reasons taken by the area authority. ~~If the disciplinary action was~~
 14 ~~a dismissal, authority,~~ a copy of the written notice of the final decision of the
 15 area authority setting forth the specific acts or omissions that are the basis of
 16 the dismissal.
 17 (12) The office or station to which the employee is currently assigned.
 18 ...
 19 (i) Nothing in this section shall be construed to authorize the disclosure of any
 20 confidential information protected by the Health Insurance Portability and Accountability Act of
 21 1996 (HIPAA), 110 Stat. 1936, the Americans with Disabilities Act of 1990 (ADA), 104 Stat.
 22 327, or other applicable law.
 23 (j) The following shall apply to the general descriptions as required by subdivision
 24 (b)(10) of this section:
 25 (1) No general description shall disclose information otherwise prohibited from
 26 disclosure by an applicable law but shall be listed as "description of action
 27 prohibited by applicable law."
 28 (2) The general description for each promotion, demotion, transfer, suspension,
 29 separation, or dismissal shall become part of the record maintained under
 30 subsection (b) of this section upon the later of the expiration of the time period
 31 to file an appeal under any applicable administrative appeals process or a final
 32 decision being entered in that administrative appeals process."

33 **SECTION 5.** G.S. 130A-45.9 reads as rewritten:

34 **"§ 130A-45.9. Confidentiality of personnel information.**

- 35 ...
 36 (b) The following information with respect to each employee of a public health authority
 37 is a matter of public record:
 38 (1) ~~name;~~ Name.
 39 (2) ~~age;~~ Age.
 40 (3) ~~date~~ Date of original employment or appointment; appointment.
 41 (4) ~~beginning~~ Beginning and ending dates; dates.
 42 (5) ~~position title;~~ Current position and title.
 43 (6) ~~position descriptions;~~ Position description.
 44 (7) Current salary and total compensation of current and former positions;
 45 positions. For the purposes of this subdivision, the term "total compensation"
 46 includes pay, benefits, incentives, bonuses, and deferred and all other forms
 47 of compensation paid by the employing entity.
 48 (8) ~~the~~ The terms of any contract by which the employee is employed whether
 49 written or oral, past and current, to the extent that the authority has the written
 50 contract or a record of the oral contract in its possession; possession.

- 1 (9) ~~and date~~ Date and type of the most recent each promotion, demotion, transfer,
2 suspension, separation, or other change in position classification.
- 3 (10) Subject to subsection (e) of this section, date and general description of the
4 reasons for each of the following with that public health authority:
- 5 a. Promotion.
6 b. Demotion.
7 c. Transfer.
8 d. Suspension.
9 e. Separation.
10 f. Dismissal.
- 11 (11) For each dismissal for disciplinary reasons taken by the public health
12 authority, a copy of the written notice of the final decision of the public health
13 authority setting forth the specific acts or omissions that are the basis of the
14 dismissal.
- 15 (12) The office or station to which the employee is currently assigned.
- 16 (13) In addition, the following information with respect to each licensed medical
17 provider employed by or having privileges to practice in a public health
18 facility shall be a matter of public record: educational history and
19 qualifications, date and jurisdiction or original and current licensure; and
20 information relating to medical board certifications or other qualifications of
21 medical specialists. For the purposes of this subsection, the term "total
22 compensation" includes pay, benefits, incentives, bonuses, and deferred and
23 all other forms of compensation paid by the employing entity.

24 ...

25 (d) Nothing in this section shall be construed to authorize the disclosure of any
26 confidential information protected by the Health Insurance Portability and Accountability Act of
27 1996 (HIPAA), 110 Stat. 1936, the Americans with Disabilities Act of 1990 (ADA), 104 Stat.
28 327, or other applicable law.

29 (e) The following shall apply to the general descriptions as required by subdivision
30 (b)(10) of this section:

- 31 (1) No general description shall disclose information otherwise prohibited from
32 disclosure by an applicable law but shall be listed as "description of action
33 prohibited by applicable law."
- 34 (2) The general description for each promotion, demotion, transfer, suspension,
35 separation, or dismissal shall become part of the record maintained under
36 subsection (b) of this section upon the later of the expiration of the time period
37 to file an appeal under any applicable administrative appeals process or a final
38 decision being entered in that administrative appeals process."

39 **SECTION 6.** G.S. 131E-257.2 reads as rewritten:

40 **"§ 131E-257.2. Privacy of employee personnel records.**

41 ...

42 (b) The following information with respect to each public hospital employee is a matter
43 of public record:

- 44 (1) Name.
45 (2) Age.
46 (3) Date of original employment.
47 (4) Current position title.
48 (5) ~~Date of the most recent~~ and type for each promotion, demotion, transfer,
49 suspension, separation or other change in position classification.
50 (6) The office to which the employee is currently assigned.

- 1 (7) Subject to subsection (j) of this section, date and general description of the
2 reasons for each of the following with that public hospital:
3 a. Promotion.
4 b. Demotion.
5 c. Transfer.
6 d. Suspension.
7 e. Separation.
8 f. Dismissal.
9 (8) For each dismissal for disciplinary reasons taken by the public hospital, a copy
10 of the written notice of the final decision of the public hospital setting forth
11 the specific acts or omissions that are the basis of the dismissal.
12 (9) ~~In addition, the following information with respect to~~ For each licensed
13 medical provider employed by or having privileges to practice in a public
14 ~~hospital shall be a matter of public record:~~ hospital, the following information:
15 educational history and qualifications, date and jurisdiction or original and
16 current licensure; and information relating to medical board certifications or
17 other qualifications of medical specialists.
18 ...
- 19 (i) Nothing in this section shall be construed to authorize the disclosure of any
20 confidential information protected by the Health Insurance Portability and Accountability Act of
21 1996 (HIPAA), 110 Stat. 1936, the Americans with Disabilities Act of 1990 (ADA), 104 Stat.
22 327, or other applicable law.
23 (j) The following shall apply to the general descriptions as required by subdivision (b)(7)
24 of this section:
- 25 (1) No general description shall disclose information otherwise prohibited from
26 disclosure by an applicable law but shall be listed as "description of action
27 prohibited by applicable law."
28 (2) The general description for each promotion, demotion, transfer, suspension,
29 separation, or dismissal shall become part of the record maintained under
30 subsection (b) of this section upon the later of the expiration of the time period
31 to file an appeal under any applicable administrative appeals process or a final
32 decision being entered in that administrative appeals process."

33 **SECTION 7.(a) G.S. 153A-98 reads as rewritten:**

34 **"§ 153A-98. Privacy of employee personnel records.**

35 (a) Notwithstanding the provisions of G.S. 132-6 or any other general law or local act
36 concerning access to public records, personnel files of employees, former employees, or
37 applicants for employment maintained by a county are subject to inspection and may be disclosed
38 only as provided by this section. For purposes of this section, an employee's personnel file
39 consists of any information in any form gathered by the county with respect to that employee
40 and, by way of illustration but not limitation, relating to his application, selection or nonselection,
41 performance, promotions, demotions, transfers, suspension and other disciplinary actions,
42 evaluation forms, leave, salary, and termination of employment. As used in this section,
43 "employee" includes former employees of the county.

44 (a1) This section shall apply to all employees subject to G.S. 153A-103.

45 (b) The following information with respect to each county employee is a matter of public
46 record:

- 47 (1) Name.
48 (2) Age.
49 (3) Date of original employment or appointment to the county service.

- 1 (4) The terms of any contract by which the employee is employed whether written
 2 or oral, past and current, to the extent that the county has the written contract
 3 or a record of the oral contract in its possession.
 4 (5) Current position.
 5 (6) Title.
 6 (7) Current salary.
 7 (8) Date and amount of each increase or decrease in salary with that county.
 8 (9) Date and type of each promotion, demotion, transfer, suspension, separation
 9 or other change in position classification with that county.
 10 (10) ~~Date~~ Subject to subsection (h) of this section, date and general description of
 11 the reasons for each ~~promotion~~ of the following with that ~~county~~ county:
 12 a. Promotion.
 13 b. Demotion.
 14 c. Transfer.
 15 d. Suspension.
 16 e. Separation.
 17 f. Dismissal.
 18 (11) ~~Date and type of~~ For each dismissal, suspension, or demotion ~~dismissal~~ for
 19 disciplinary reasons taken by the county. If the disciplinary action was a
 20 ~~dismissal~~, county, a copy of the written notice of the final decision of the
 21 county setting forth the specific acts or omissions that are the basis of the
 22 dismissal.
 23 (12) The office to which the employee is currently assigned.

24 ...
 25 (g) Nothing in this section shall be construed to authorize the disclosure of any
 26 confidential information protected by the Health Insurance Portability and Accountability Act of
 27 1996 (HIPAA), 110 Stat. 1936, the Americans with Disabilities Act of 1990 (ADA), 104 Stat.
 28 327, or other applicable law.

29 (h) The following shall apply to the general descriptions as required by subdivision
 30 (b)(10) of this section:

- 31 (1) No general description shall disclose information otherwise prohibited from
 32 disclosure by an applicable law but shall be listed as "description of action
 33 prohibited by applicable law."
 34 (2) The general description for each promotion, demotion, transfer, suspension,
 35 separation, or dismissal shall become part of the record maintained under
 36 subsection (b) of this section upon the later of the expiration of the time period
 37 to file an appeal under any applicable administrative appeals process or a final
 38 decision being entered in that administrative appeals process."

39 **SECTION 7.(b)** G.S. 153A-99(b) reads as rewritten:

40 "(b) Definitions. For the purposes of this section:

- 41 (1) "County employee" or "employee" means any person employed by a county
 42 or any department or program thereof that is supported, in whole or in part, by
 43 county funds; funds but shall not include employees subject to G.S. 153A-103.
 44 (2) "On duty" means that time period when an employee is engaged in the duties
 45 of his or her employment; and
 46 (3) "Workplace" means any place where an employee engages in his or her job
 47 duties."

48 **SECTION 8.** G.S. 160A-168 reads as rewritten:

49 "**§ 160A-168. Privacy of employee personnel records.**

50 ...

(b) The following information with respect to each city employee is a matter of public record:

- (1) Name.
- (2) Age.
- (3) Date of original employment or appointment to the service.
- (4) The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the city has the written contract or a record of the oral contract in its possession.
- (5) Current position.
- (6) Title.
- (7) Current salary.
- (8) Date and amount of each increase or decrease in salary with that municipality.
- (9) Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with that municipality.
- (10) ~~Date~~ Subject to subsection (h) of this section, date and general description of the reasons for each ~~promotion~~—of the following with that ~~municipality~~-municipality:
 - a. Promotion.
 - b. Demotion.
 - c. Transfer.
 - d. Suspension.
 - e. Separation.
 - f. Dismissal.
- (11) ~~Date and type of~~ For each ~~dismissal, suspension, or demotion~~ dismissal for disciplinary reasons taken by the ~~municipality~~. If the ~~disciplinary action was a dismissal, municipality~~, a copy of the written notice of the final decision of the municipality setting forth the specific acts or omissions that are the basis of the dismissal.
- (12) The office to which the employee is currently assigned.

...

(g) Nothing in this section shall be construed to authorize the disclosure of any confidential information protected by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 110 Stat. 1936, the Americans with Disabilities Act of 1990 (ADA), 104 Stat. 327, or other applicable law.

(h) The following shall apply to the general descriptions as required by subdivision (b)(10) of this section:

- (1) No general description shall disclose information otherwise prohibited from disclosure by an applicable law but shall be listed as "description of action prohibited by applicable law."
- (2) The general description for each promotion, demotion, transfer, suspension, separation, or dismissal shall become part of the record maintained under subsection (b) of this section upon the later of the expiration of the time period to file an appeal under any applicable administrative appeals process or a final decision being entered in that administrative appeals process."

SECTION 9. G.S. 162A-6.1 reads as rewritten:

"§ 162A-6.1. Privacy of employee personnel records.

...

(b) The following information with respect to each authority employee is a matter of public record:

- (1) Name.
- (2) Age.

- 1 (3) Date of original employment or appointment to the service.
2 (4) The terms of any contract by which the employee is employed whether written
3 or oral, past and current, to the extent that the authority has the written contract
4 or a record of the oral contract in its possession.
5 (5) Current position.
6 (6) Title.
7 (7) Current salary.
8 (8) Date and amount of each increase or decrease in salary with that authority.
9 (9) Date and type of each promotion, demotion, transfer, suspension, separation,
10 or other change in position classification with that authority.
11 (10) ~~Date~~ Subject to subsection (j) of this section, date and general description of
12 the reasons for each ~~promotion of the following~~ with that ~~authority~~ authority:
13 a. Promotion.
14 b. Demotion.
15 c. Transfer.
16 d. Suspension.
17 e. Separation.
18 f. Dismissal.
19 (11) ~~Date and type of~~ For each ~~dismissal, suspension, or demotion~~ dismissal for
20 disciplinary reasons taken by the ~~authority~~. ~~If the disciplinary action was a~~
21 ~~dismissal, authority,~~ a copy of the written notice of the final decision of the
22 authority setting forth the specific acts or omissions that are the basis of the
23 dismissal.
24 (12) The office to which the employee is currently assigned.

25 ...
26 (i) Nothing in this section shall be construed to authorize the disclosure of any
27 confidential information protected by the Health Insurance Portability and Accountability Act of
28 1996 (HIPAA), 110 Stat. 1936, the Americans with Disabilities Act of 1990 (ADA), 104 Stat.
29 327, or other applicable law.

30 (j) The following shall apply to the general descriptions as required by subdivision
31 (b)(10) of this section:

- 32 (1) No general description shall disclose information otherwise prohibited from
33 disclosure by an applicable law but shall be listed as "description of action
34 prohibited by applicable law."
35 (2) The general description for each promotion, demotion, transfer, suspension,
36 separation, or dismissal shall become part of the record maintained under
37 subsection (b) of this section upon the later of the expiration of the time period
38 to file an appeal under any applicable administrative appeals process or a final
39 decision being entered in that administrative appeals process."

40 **SECTION 10.** No later than November 30, 2021, each employer affected by this act
41 shall adopt personnel policies to effectuate this act to permit all of its employees to challenge the
42 wording of the general description of any promotion, demotion, transfer, suspension, separation,
43 or dismissal occurring on or after December 1, 2021.

44 **SECTION 11.** Sections 1 through 9 of this act become effective December 1, 2021,
45 and apply to promotions, demotions, transfers, suspensions, separations, and dismissals occurring
46 on or after that date. The remainder of this act is effective when it becomes law.