



Education, Audiovisual and Culture Executive Agency

Privacy Statement for data related to health

The Education, Audiovisual and Culture Executive Agency ("the Agency") is dedicated to respecting the privacy of its staff members and candidates for recruitment. Within the framework of the processing of data related to health (pre-recruitment medical examination, annual medical visits, management of medical leaves and other aspects of staff well-being at work), all personal data are dealt with in compliance with Regulation (EC) N° 45/2001 on the protection of personal data¹.

Controller identity:

Education Audiovisual and Culture Executive Agency, Head of the Unit "Human Resources, administration and communication" (EACEA-R1), Avenue du Bourget 1, BE-1140 Brussels, Belgium. Functional mailbox: EACEA-HR@ec.europa.eu

Purpose(s) of the processing:

The purpose of the processing of data relating to health at the Agency is to determine the physical fitness for employment, the entitlement to guaranteed benefits in relation to sickness, invalidity or death, or protecting the health of staff members.

More specifically:

- **Pre-recruitment medical examination:** Verify if candidates for recruitment are physically fit to perform their duties.
- **Annual medical check-up:** Preventive medicine at the work place.
- **Data related to sick leave:** Management and justification of medical leaves during a staff member's career.
- **Request for declaration of invalidity:** To decide whether the person concerned has a condition rendering him unfit to carry out his duties (or duties corresponding to employment in his function group); or whether he is fit to return to work, perhaps subject to certain recommendations, such as a return to work part-time for a limited period.
- **Staff well-being at work:** Ensure good health conditions at the work place.

Data categories concerned:

Identification data, such as name, date of birth, private and office address, personnel number, postal address etc.

Health data in the strict sense of staff members and candidates for recruitment are exclusively processed by the Medical Service of the European Commission, which keeps

¹ Regulation (EC) N° 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, OJ L8 of 12.1.2001, p. 1.

the medical files of staff members. For further information regarding the administrative and personal data protection aspects relevant to the Medical Service you may refer to the Intranet site of the Medical Service:

http://myintracomm.ec.testa.eu/hr_admin/en/medical/Pages/index.aspx

No medical data *stricto sensu* are processed by the Agency. The Agency may process only administrative and financial data relating to the health status of a person. These documents do not contain a diagnosis, details of examinations undergone, vaccination details etc.² Aptitude certificates of pre-recruitment examinations as well as the Medical Service Note on the declaration of invalidity are kept in the Agency's personal file of the staff member.

In the context of the mandatory pre-employment medical visit the replies to the questions of the Medical Service are obligatory –unless explicitly mentioned otherwise– since all the documents requested are necessary to facilitate the recruitment process and to determine whether the candidate is physically fit to perform his duties. NB: disabilities or other medical conditions should not act as a bar to candidates for recruitment, as long as they are able to perform their duties when reasonable accommodation is made.

Pre-employment medical visits and other check-ups are carried out by the Medical Service of the European Commission, while the optional annual medical check up may be carried out by the Medical Service of the European Commission or by a general practitioner of the staff member's choice.

Recipients of data related to health:

Recipients of data are the Medical Service of the Commission and the Human Resources Sector of the Agency. The former process the medical files (medical questionnaires and reports, laboratory tests etc); the latter process only administrative and financial documents related to health (document certifying medical aptitude for work, form concerning the duration of sick leave etc).

In case that a EACEA staff member selects a private practitioner for his/her optional annual check-up, he/she will have to send to the Medical Service the medical report, invoice(s) showing the services provided and the proof of payment(s). The relevant procedure is described on the Intranet site of the Medical Service:

http://myintracomm.ec.testa.eu/hr_admin/en/medical/Pages/check.aspx#2

If necessary for the performance of their respective tasks, other potential recipients may be the Accountant of the Agency, the Director of the Agency, an Invalidity Committee (Art. 9, paragraph 2 (b), of the Staff regulations), the PMO and the Joint Sickness Insurance Scheme.

Upon request of the staff member, data related to health may be transferred to external doctors appointed by the staff member.

It may occur that a national authority, in the context of an investigation, asks for data related to health. In such a case, the necessity of the transfer should be demonstrated by this body under Article 8 of Regulation (EC) No 45/2001.

In case of control or dispute, the supervisory instances of EACEA (i.e. Internal Audit Capacity, European Commission, European Court of Auditors, OLAF etc.) and the judicial authorities (i.e. EU Courts, Ombudsman etc.).

² Examples of data processed at the Agency: Aptitude certificates, medical certificate supplied by the staff members that is required for justifying a special leave, invoices stating that a staff member carried out an annual medical visit or a vaccination, recommendation on specific ergonomic equipment but without diagnosis.

Retention period:

Pre-employment aptitude certificate for recruited staff: will be kept in the personal file of the staff member for 10 years after the end of the period during which a staff member is in active employment or the last pension payment.³

Pre-employment aptitude certificate for non recruited staff: 2 years after the decision to not recruit the candidate.

Certificate to justify special leave: 3 years (or longer, in case of dispute).⁴

Medical Service Note on the declaration of invalidity: will be kept in the personal file of the staff member for 10 years after the end of the period during which a staff member is in active employment or the last pension payment.⁵

Medical Service Recommendation on ergonomic equipment: will be kept for 2 years.

The medical files, including the declaration of the optional annual medical check up, are kept by the Medical Service of the European Commission for 30 years after the termination of employment at the Agency.⁶

Right of access and rectification:

Each candidate for recruitment, as well as visitors, trainees or other persons who might be subject to a medical treatment in the course of their presence in the Agency can access personal related to his/her health and have them rectified upon a written request addressed to the data controller (EACEA-HR@ec.europa.eu).

For staff members: data related to health are contained in their personal file, which is equally accessible upon simple request to EACEA-HR@ec.europa.eu. Considering the nature of the data, the right to rectify personal data is restricted to material errors.

To exercise the rights of access and rectification concerning the medical file kept by the European Commission's Medical Service, you may address your request directly to the medical service (hr-mail-C3@ec.europa.eu). In order to complete your medical file kept by the Medical Service you may have the right to supplement your medical file by adding a second opinion of another doctor. To data of psychological or psychiatric nature you may have an indirect access through a doctor of your choice.

Recourse:

In case of conflict on any Personal Data Protection issue you can address yourself to the Controller at the above mentioned address and functional mailbox. You can also contact EACEA's Data Protection Officer at the following email address: eacea-data-protection@ec.europa.eu.

Should the conflict not be resolved by the Controller or the Data Protection Officer you may lodge a complaint with the European Data Protection Supervisor at any time: Website <http://www.edps.europa.eu>; E-mail: edps@edps.europa.eu.

Legal basis:

³ In line with Article 26 of the Staff Regulations and the Common Conservation List (CCL), SEC (2007) 970 adopted by the Commission on 04/07/2007, Annex 1, p. 19, point 12.3.7.

⁴ In accordance with Article 59 (4) of the Staff Regulations.

⁵ In line with Article 26 of the Staff Regulations and the CCL, Annex 1, p. 20, point 12.3.10.

⁶ CCL, Annex 1, point 12.3.12.

Article 11, paragraph 6, and Article 18 of Council Regulation (EC) No 58/2003 laying down the statute for executive agencies⁷.

Staff Regulations (hereinafter "Staff regulations") and the conditions of employment of other servants of the European Communities (hereinafter "CEOS")⁸:

- The legal basis of the processing operation relating to the pre-employment medical visit is Articles 28 (e) and 33 of the Staff Regulations and Article 1 of Annex VIII of the, as well as Articles 12(d), 13(2) and 83(2) of the CEOS.
- The legal basis of the processing operation relating to the annual medical visits is Articles 59 (6) of the Staff Regulations and Articles 16, 59 and 91 of the CEOS.
- The legal basis of the processing operation relating to the management of medical leaves is Article 59 (paragraphs 1, 2 and 3) of the Staff Regulations and Articles 16 and 91 of the CEOS.
- The legal basis of the data processing relating to the state of invalidity is Article 59(4) and Article 78 of the Staff Regulations, and Articles 7, 8 and 9 of Annex II to the Staff Regulations. For contract staff and temporary staff, the legal bases are Article 102 and Article 33 of the Conditions of Employment respectively.

⁷ OJ L 11 of 16.1.2003, p. 1.

⁸ As fixed by Regulation (CEE, Euratom, CECA) n° 259/68 of the Council, OJ L 56 of 4.3.1968. Regulation as last amended by Regulation (CE, CECA, Euratom) n° 23/2005.