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Records Retention Overview

A summary of legislative record requirements,
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BROTHERS®**

THE RECORDS YOU KEEP COULD SAVE YOUR COMPANY

Recent legislation has expanded the amount of information you need to record and the length of time you must retain it.

If your company has employment-related litigation brought against it or goes under a Department of Labor investigation, providing complete and accurate documentation is your best defense.

But how do you know if your records are “complete and accurate”?

In order to help you evaluate if your practice is keeping the appropriate records for the proper length of time, your friends at Henderson Brothers put together this guide to the unique requirements of key federal recordkeeping laws.

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RECORDKEEPING SINCE THE LEDBETTER ACT

Keeping up with all of the different record retention obligations can be cumbersome; statutory retention requirements can vary from one to 30 years after termination of employment.

If your company has plenty of access to secure file storage space, rather than researching unique retention periods required for each individual law, record type, and employee in question, consider adhering to federal safe harbor retention periods.

Federal Safe Harbor Retention Periods

- Hiring, application, related records: retain two years after personnel decision
- Employment verification (I-9), related records: retain four years after personnel decision
- Medical, benefits, related records: retain six years, if no toxic exposure occurred
- Personnel, related records: retain seven years after termination of employment

These documents, and any other miscellaneous documents relating to a charge, complaint, enforcement action, or other compliance review should be kept until final disposition of the matter.

Remember: the federal safe harbor retention periods, as well as the specific details provided in this guide on key recordkeeping law requirements, are considered the **minimum** amount of information employers should document and the **minimum** length of time those documents should be retained.

Lilly Ledbetter Fair Pay Act (Ledbetter Act)

It's good practice for employers to preserve personnel records— particularly those related to pay decisions, such as promotions or evaluations— for longer than statutory requirements, since the Lilly Ledbetter Fair Pay Act changed the landscape of employee recordkeeping in 2009.

The Ledbetter Act placed the burden of proof on employers, not only for charges of recent discrimination, but also for those against a former employee that could have taken place years ago. This has effectively increased the weight of importance on an employer's recordkeeping system.

Defending against a discrimination charge could require unearthing older records well outside federal or state statutory retention requirements, as well as records of employees who have long since left the company.

Are you concerned that your compensation plan may be discriminatory, or that current pay decisions may retain ties to past discriminatory practices? Consult legal counsel to address and remedy the compensation plan and establish best practices for managing records related to compensation.

ADEA

Age Discrimination in Employment Act

Employers with 20 or more employees

Retain one year

Counted from either the date of action or after the termination of the benefit plan.

Records related to:

- Job applications, résumés, and other forms of job inquiries
- Promotions, demotions, and transfers
- Selection for overtime, training, layoff, recall, or discharge
- Job orders submitted to employment agencies
- Candidate test papers for any position
- Physical exam results if used in employment decisions
- Job advertisements, internal notices of job openings
- Employee benefit plans

Information from medical exams is confidential and must be kept separately. Limit access to safety workers, workers' compensation/ other insurance carrier, and employee's supervisors and managers.

Retain three years

Payroll or other records for all full-time, part-time, and temporary employees including each employee's:

- Name
- Address
- Date of birth
- Occupation
- Rates of pay
- Weekly compensation

Legal action taken under the ADEA

If a charge of age discrimination or a lawsuit under the ADEA is brought against the employer, all relevant records must be kept until the final disposition of the matter.

OWBPA

Older Workers Benefit Protection Act (ADEA amendment)

Employers with 20 or more employees

Retain three years

Payroll or other records for all full-time, part-time, and temporary employees including each employee's:

- Name
- Address
- Date of birth
- Occupation
- Rates of pay
- Weekly compensation

Optional additional records

Settlement or severance agreements including signed waivers of employee ADEA rights to sue for age discrimination along with all related documents.

While it's not mandatory, it's very highly recommended to retain these documents for least one year from the date employment is terminated.

ADA & GINA

Americans with Disabilities Act & Genetic Information Nondiscrimination Act

Employers with 15 or more employees

Retain one year

Counted from date of either making the record or personnel action.

- Job résumés, application forms, notes on interviews, and notes on reference checks
- Records of promotion, demotion, transfer, termination, layoff, rate of pay or other compensation
- Selection for training or apprenticeship, including test papers and application forms
- Applications for disability benefits
- Requests for reasonable job accommodation.

Legal action taken under the ADA or GINA

If a charge of disability discrimination or a lawsuit under the ADA or GINA is brought against the employer, all relevant records must be kept until the final disposition of the matter.

TITLE VII

Civil Rights Act of 1964, as Amended in 1991

Employers with 15 or more employees

Retain one year

Counted from date of either making the record or personnel action.

- Job résumés, application forms, interview notes
- Notes on reference checks
- Tests and test results
- Job advertisements and postings
- All records related to hiring, promotion, demotion, transfer, layoff, and termination
- Payroll records, such as rate of pay and other compensation
- Requests for accommodation
- Records related to selection for training or apprenticeship

Apprenticeship records must be kept for one year from the date an application for an apprenticeship is received or from when a successful apprenticeship ends, whichever is later.

Employers with 100 or more employees & Federal contractors with 50 or more employees

Retain one year

Copy of current Form EEO-1 for each:

- Location
- Unit
- Company headquarters

Completed EEO-1 forms must be filed annually with the Equal Employment Opportunity Commission.

Employers with more than 150 employees & More than \$150,000 in government contracts

Retain two years

Affirmative Action plans and all supporting evidence of good faith efforts to comply with affirmative action laws.

Legal action taken under Title VII

If a charge of discrimination or a lawsuit has been filed against the employer under Title VII, all relevant records must be kept until final disposition of the matter.

COBRA

Consolidated Omnibus Budget Reconciliation Act

Employers with 20 or more employees & Offer employees group health insurance benefits

Retain three years

COBRA does not have specific recordkeeping requirements, but it's recommended employers retain:

- Lists of employees covered by a group health plan
- Addresses of covered employees
- Records related to any qualifying event (such as hour reduction, termination, leave of absence, death of employee, divorce, Medicare eligibility, or disability status)
- Records related to retirees covered by group health plan
- Records of COBRA premium payments
- Records of changes made to group health plan
- Records of employees denied coverage and reason for each denial
- Copies of both general and specific notices informing employees of their rights under COBRA
- Evidence the required notices were sent and received by employees and/or covered beneficiaries (such as copies of return receipt cards)
- Completed election forms

Legal action taken under COBRA

If an employer's compliance with COBRA is questioned, the burden of proof is on the employer. Without the appropriate records, the employer will be unable to prove compliance.

While it's not mandatory, it's advisable to retain COBRA related records for at least 3 years in the event an employee claims they were not notified of their rights to continue coverage or terminated coverage before the employee's 18-month eligibility period expired.

DAVIS-BACON

Davis-Bacon Act

All federal contractors and subcontractors

Retain three years

Counted from the date of completion of the contract.

Payroll records containing each employee's:

- Name, address, gender, date of birth
- Social Security number
- Occupation, job classification
- Rate of hourly, daily, and weekly pay
- Rates of contributions, anticipated costs for fringe benefits or cash equivalents
- Hours worked
- Deductions
- Actual pay for each employee

Contractors employing apprentices or trainees

Retain three years

- Written evidence of the registration of approved apprenticeship programs
- Certification of approved trainee programs
- Registration of apprentices and trainees
- Ratios and wage rates prescribed in applicable programs

EPA

Equal Pay Act

All employers

Retain three years

Payroll or other records for all full-time, part-time and temporary employees that include each employee's:

- Name, gender
- Occupation, job title
- Rate of pay, weekly compensation

Documents related to:

- Job evaluations and wage rates
- Job descriptions
- Description of merit or seniority systems
- Explanations of wage differentials for different genders

EPPA

Employee Polygraph Protection Act

All employers

Retain three years

This time from the date the polygraph test was administered or, if the employee did not take the test, from the date it was scheduled.

- For each employee required to submit to a polygraph test
- Copy of statement provided informing the employee of the specific incident under investigation and basis for testing
- Records identifying the employer's loss being investigated
- Records identifying the nature of the employee's access to the person/property being investigated
- Copy of any notice given to the examiner identifying the person(s) to be examined
- Copy of any reports, questions, lists, and other records given to the employer by the examiner
- Copy of the written statement setting forth the time and place of the exam and the individual's right to an attorney

Records should be kept in a confidential location at employee's place of employment.

Disclosure of test results limited to the examinee, employer, court, or government agency subject to order of the court.

ERISA

Employee Retirement Income Security Act

Employers maintaining employee benefit plans subject to ERISA

Retain six years

Annual reports of:

- Summary Plan Descriptions (SPD)
- Records supporting data in SPDs
- Notices of plan changes, amendments, or termination
- Related welfare and pension reports

Retain as long as relevant

Records needed to determine a participant's eligibility for benefits.

EO/OFCCP

Executive Order 11246 OFCCP Rules

Federal contractors and subcontractors with fewer than 150 employees or government contracts less than \$150,000

Retain one year

- Personnel and employment records relating to hiring, assignment, promotions, demotions, termination, pay rates, transfers, wage increases, and other compensation
- Selection for training or apprenticeship
- Reasonable accommodation requests
- Physical exam requests
- Job advertisements and postings
- Applications, résumés, tests and test results
- Interview notes

Federal contractors and subcontractors with more than 150 employees

Retain two years

- Personnel and employment records relating to hiring, assignment, promotions, demotions, termination, pay rates, transfers, wage increases, and other compensation
- Selection for training or apprenticeship
- Reasonable accommodation requests
- Physical exam requests
- Job advertisements and postings
- Applications, résumés, tests and test results
- Interview notes

Contractors required to develop affirmative action plans

Retain for current and prior year

Certain contractors are also required to develop written affirmative action plans, which must be retained for the current and prior year. Additional requirements apply to affirmative action programs for veterans and disabled individuals.

EO/OFCCP

Executive Order 11246 OFCCP Rules

Contractors maintaining records electronically

The Office of Federal Contract Compliance Programs (OFCCP) allows the use of electronic recordkeeping systems if the records are:

- Accurate and complete
- Readily available for review
- Readable and capable of being copied by the OFCCP

Contractors may dispose of original paper records after they have been transferred to the electronic recordkeeping system if:

- Original copy is accurately reproduced by the system
- Electronic copy is acceptable under federal law

Adequate records management practices should be established and implemented by compliance officers.

Legal action taken by OFCCP

An employer under OFCCP investigation or discrimination charges must keep all relevant records until final disposition of the matter.

FLSA

Fair Labor Standards Act

All employers

Retain two years

- Basic employment and earnings records
- Wage rate tables
- Actual work completed
- Additions to/deductions from wages
- Wage differential payments to employees of the opposite sex with the same job
- Evaluations
- Job descriptions, and merit or seniority systems.

Retain three years

- Employee information, including name, occupation, address, gender, and birth date (if under the age of 19)
- Complete payroll records, including hours worked, overtime, and wage deductions
- Certificates and union agreements
- Written training agreements
- Sales and purchase records
- Certificate of age for each employee under the age of 18

FLSA

Equal Pay Act

All employers

Retain two years

This time should be counted from either the date the agreement ends or records are made.

- Explanation of merit or seniority systems
- Employee time sheets or cards.

Retain three years

This time should be counted from either the date the agreement ends or records are made.

- Collective bargaining agreements
- Employee and payroll information

FLSA

Homeworker Regulations

All employers

Retain two years

- Payroll records
- Dates work was distributed and submitted
- Amount and kind of work
- Hours worked and piece rates paid per lot
- Name and address of agent or distributor and homeworker
- Journal in which homeworkers record their daily/weekly hours worked and related business expenses

FLSA

Tipped Employees

Employers with employees receiving tips as part of their required wages

Retain two years

This time should be counted from the date the record is made.

- Time paid for hours worked each day in a tipped position
- Time paid for hours worked each day in a nontipped position
- Tips received and accounted for or turned over to employer in a weekly or monthly amount

FMLA

Family and Medical Leave Act

Private employers with 50 or more employees and public employees

Retain three years

- Detailed payroll and employee identification data
- Records of dates of FMLA block leave and hours of intermittent leave taken
- Copies of employee notices and documents describing FMLA, policies related to benefits, and unpaid leaves
- Records related to premium payments made by employees on FMLA leave
- Copies of requests for leave, responses to leave requests, and notices designating leave as FMLA
- Records of any dispute regarding an FMLA leave designation

Medical records of employees and family members must be kept in a separate, secure location in conformance with ADA. Electronic records may be kept if they are able to be transcribed or copied. Exceptions are:

- Supervisors and managers may be informed of necessary restrictions on work
- First aid and safety personnel
- Government officials investigating pertinent law

FICA

Federal Insurance Contributions Act

All employers

Retain four years

Time period should be counted from the tax due date or payment date, whichever is later.

Document each employee's:

- Name, address, and Social Security number
- Date, amount, and period of services paid for
- Amount of pay taxable as wages
- Reasons for discrepancies
- Amount of tax collected
- Date and details of adjustment or settlement of taxes
- Tips reported
- Employer filing records

For tipped employees:

- Total wages paid separating withholding
- Amount of pay subject to tax
- Reason for discrepancies between pay amount and total pay

FEDERAL RULES

Federal Rules of Civil Procedure

Any company in federal court for any type of lawsuit

Employers are obligated to preserve electronically stored information (ESI) once the employer reasonably anticipates litigation; for example, when an employee complains to Human Resources, or the company receives a communication from an attorney.

Retain accordance with applicable statutes of limitations

State statutes of limitation vary for certain claims. Put a “litigation hold” on data erasing policies when under duty to preserve ESI.

An employer’s obligation to preserve this material is ongoing, and ESI created after litigation commences should be stored in separate files.

Examples of ESI include:

- E-mails sent to or from a desktop computer, a laptop computer, or BlackBerry®
- Voice mails, instant messages, text messages, backup tapes of data if stored in a way permitting future retrieval, and mirror images (dated snapshots of a computer system)
- Communication from key players in employment decisions
- Anyone “cc’d” or “bcc’d” on message sent to/by key player
- Anyone (including secretaries and assistants) who prepares documents for key players

Further obligations when producing ESI

Electronic documents must be provided in their native form, so it is important for employers to maintain the integrity of ESI.

New federal rules prohibit sanctioning an employer for failing to provide ESI lost as a result of the “routine, good-faith operation of an electronic information system”; however, companies have been penalized for delays or failure to produce ESI in a timely fashion.

FUTA

Federal Unemployment Tax Act

All employers

Retain four years

This time should be counted from date tax is due or paid.

- Basic employee data, including name, address, Social Security number, birth date
- Payroll records, showing pay periods, daily and weekly hours, overtime, deductions from pay, payments for fringe benefits, and amounts and dates of wage payments
- Copies of employee withholding forms (Form W-4 or W4-E)
- Annual records showing total wages for each employee and amounts of taxable pay
- Documents showing the reason taxable pay does not equal total pay
- Amount paid into state unemployment fund, including deductions from employee pay
- Experience rating data

FOIA

Freedom of Information Act & Privacy Act

Public employers

Maintain public records accessible both to employees and the public.

Private employers

Retain certain parts of personnel files and permit employees to inspect and copy their files as per state law.

HIPAA

Health Insurance Portability and Accountability Act Privacy Rule

Standards of privacy for individual's health records, information, and access to medical records

Protected health information (PHI) includes any individually identifiable health information, including electronic and paper records and oral communications. PHI may be disclosed without authorization when required by law.

Employers that sponsor health plans

- Must obtain an individual's specific authorization to use and disclose any PHI for any reason other than treatment, payment, or healthcare operations.
- May not use PHI for employment-related purposes.
- Establish procedures to limit access to PHI to employees who have a need for such access
- Name a privacy official to administer entities' privacy policy
- Train all employees with access to PHI in privacy policies and procedures

Rights of individuals

- See and obtain copies of their records
- Request amendments to the records
- Receive a history of most disclosures upon request
- Receive detailed written information concerning privacy rights

Plan documents

- Must provide that disclosure will be limited to that permitted by the standards
- Disclosures other than for treatment must limit PHI to the minimum necessary for the intended purpose

Health plans, healthcare clearinghouses and providers

- Must obtain consent to disclose PHI for reasons other than treatment, payment, or healthcare operation purposes
- May disclose PHI to plan sponsors only if the sponsor certifies the information will be used in accordance with the standards

IRCA

Immigration Reform and Control Act

All employers

Retain three years

This time should be counted from date employee is hired or one year after termination, whichever is later.

- Employee Eligibility Verification forms (INS Form I-9) completed and signed by each newly hired employee and signed by employer
- Copies of the supporting documentation presented by each employee as proof of eligibility to work in the United States.

Since the Department of Labor may inspect the I-9 forms at any time, it is recommended that these be kept in a separate file and not as part of each employee's personnel file.

IRS

Internal Revenue Service Regulations

All employers

Retain indefinitely

The minimum required retention period is four years after payment, deduction of taxes, or due dates of returns. However, it's safest to keep these records indefinitely, because retention can be extended by the IRS as long as records are material to a tax filing.

- Basic employee data, including name, address, Social Security number, birth date
- Payroll records, showing pay periods, daily and weekly hours, overtime, tips, deductions from pay, taxes withheld, payments for fringe benefits, and amounts and dates of wage payments
- Copies of employee withholding forms (Form W-4 or W4-E)
- Annual records showing total wages for each employee and amounts of taxable pay
- Documents showing reason taxable pay does not equal total pay
- Amount paid into state unemployment fund, including deductions from employee pay
- Experience rating data

OSHA

Occupational Safety and Health Act

All employers with 10 or more employees

Retain five years

- Form 300: Log of work-related injuries and illness
- Form 301: Injury and illness incident report
- Form 300A: Annual injuries and illness report

Records of all legally required medical examinations, including records of employee exposure to potentially toxic material or harmful physical agents, must be available to employees for inspection.

An equivalent form may be used in place of Form 301 (such as a report of first injury made for purposes of worker's compensation) but the form must include statements related to employee access and employer penalties.

Retain thirty years

This time should be counted from the date employment is terminated.

- Records of any medical examination required by OSHA
- Records related to employee exposure to toxic or hazardous agents

Employers with a privacy concern case should enter "privacy concern case" in place of the employee's name in their logs and keep a separate, confidential list of case numbers and employee names so that cases may be identified and updated. Privacy cases are:

- Injuries or illnesses to an intimate body part or the reproductive system
- Sexual assault injury or illness
- Mental illness
- HIV infection, hepatitis, or tuberculosis
- Needlestick injuries
- Cuts from objects contaminated with blood /other infectious material
- Employee requests for privacy

Caution: OSHA has many record retention requirement standards for specialized occupations.

PRWORA

Personal Responsibility and Work Opportunity Reconciliation Act of 1996

All employers

Report within 20 days

Hiring or rehiring of each employee to a state directory of new hires within 20 days of hiring.

REHABILITATION ACT

Rehabilitation Act

Federal contractors or subcontractors with fewer than 150 employees or a government contract between \$10,000-\$150,000

Retain for one year

- Employment records, including records related to filling job vacancies, training, promotions, and demotions.
- Positions for which workers and applicants were considered
- Reasons for rejection
- Accommodations considered, rejected, or made
- Records of complaints

Federal contractors or subcontractors with 150 employees or more, or a government contract over \$150,000

Retain for two years

- Employment records, including records related to filling job vacancies, training, promotions, and demotions.
- Positions for which workers and applicants were considered
- Reasons for rejection
- Accommodations considered, rejected, or made
- Records of complaints

Federal contractors or subcontractors with 50 or more employees and a contract of \$50,000 or more

Retain current and prior year

- Written affirmative action plan

Federal contractors or subcontractors with 50 or more employees and a contract of \$50,000 or more

Retain three years

Additional documentation related to affirmative action programs, including required external outreach, recruitment efforts, and data collection analysis results such as:

- Number of applicants who self-identified as individuals with disabilities or known to be individuals with disabilities
- Total number of job openings and jobs filled
- Total number of applicants for all jobs
- Number of applicants with disabilities hired
- Total number of applicants hired

Legal action taken under Rehabilitation Act

Retain all records regarding employee until final disposition of action.

VEVRAA

Vietnam Era Veterans' Readjustment Assistance Act

Federal contractors and subcontractors with contracts of \$100,000 or more

Create and maintain an affirmative action plan for qualified covered veterans (disabled recently separated, campaign badge, active duty wartime, and armed forces service medal veterans).

Retain current and prior year

- Written affirmative action plan

Retain three years

Documentation related to affirmative action programs, including required external outreach, recruitment efforts, and data collection analysis results such as:

- Number of applicants self-identified as protected veterans
- Total number of job openings and jobs filled
- Total number of applicants for all jobs
- Number of protected veteran applicants hired
- Total number of applicants hired
- Annual hiring benchmarks for protected veterans
- Documented factors considered in establishing benchmark

JVA

Jobs for Veterans Act (amendment to VEVRAA)

Federal contractors or fewer than 150 employees or a government contract \$150,000 or less

Retain one year

Time counted from the date record was made or personnel action was taken, whichever is later.

Maintain record of any personnel or employment record that is made or kept by a covered contractor, including:

- Records related to requests for reasonable accommodation
- Results of any physical examination
- Job advertisements and postings
- Applications and résumés
- Tests and test results
- Interview notes
- Records pertaining to hiring, assignment, promotion, transfer, demotion, layoff, termination, rates of pay, or other terms of compensation and selection for training or apprenticeship

Federal contractors that have entered into contracts \$50,000 or more before December 1, 2003, or entered into contracts \$100,000 or more after December 1, 2003

Retain two years

Time counted from the date record was made or personnel action was taken, whichever is later.

Maintain record of any personnel or employment record that is made or kept by a covered contractor, including:

- Records related to requests for reasonable accommodation
- Results of any physical examination
- Job advertisements and postings
- Applications and résumés
- Tests and test results
- Interview notes
- Records pertaining to hiring, assignment, promotion, transfer, demotion, layoff, termination, rates of pay, or other terms of compensation and selection for training or apprenticeship

Legal action taken under VEVRAA or JVA

Keep all relevant personnel records upon notice of a discrimination complaint, compliance evaluation, or enforcement action until the final disposition of the matter.

PCA

Walsh-Healey Public Contracts Act

Employers that manufacture, fabricate, or assemble equipment for the federal government under a contract of \$10,000 or more

Retain three years

Time counted from the date of entry.

Documentation for minors employed on public contracts:

- Certificates of age
- Title and address of the office issuing the certificate
- Date of issuance
- Number of certificate
- Name, address, and birth date of the minor as they appear on the certificate

Wage and hour records, including:

- Rate of wages
- Amount paid each pay period
- Hours worked daily and weekly
- Period employee was engaged on government contract
- Identification number of government contract
- Name, address, sex, occupation, and birth date of employees under the age of 19

Employment and earnings records:

- Employer documents on which are entered daily starting and stopping times of employees or the units produced when these determine pay period earnings
- Wage rate tables, such as employer tables providing the rates used in computing earnings
- Work-time schedules

REGULATION SUMMARY

Federal Safe Harbor

- | | |
|---------------|---|
| All employers | <ul style="list-style-type: none">• Hiring and application: Two years• Employment verification: Four years• Medical records: Six years• Personnel records: Seven years |
|---------------|---|

ADEA

- | | |
|---------------|---|
| 20+ employees | <ul style="list-style-type: none">• Payroll: Three years• Hiring and application: One year |
|---------------|---|

OWBPA

- | | |
|---------------|--|
| 20+ employees | <ul style="list-style-type: none">• Payroll: Three years• Settlement or severance: One year |
|---------------|--|

ADA & GINA

- | | |
|---------------|--|
| 15+ employees | <ul style="list-style-type: none">• Hiring and application: One year |
|---------------|--|

Title VII

- | | |
|--|---|
| 15+ employees | <ul style="list-style-type: none">• Hiring and application: One year |
| 100+ employees
50 + employees (federal contractors) | <ul style="list-style-type: none">• Current Form EEO-1: One year |
| 150+ employees, or
\$150,000+ government contracts | <ul style="list-style-type: none">• Affirmative Action plans/supporting evidence: Two years |

COBRA

- | | |
|---|--|
| 20+ employees and group health benefits | <ul style="list-style-type: none">• All health plan records: Three years |
|---|--|

DAVIS-BACON ACT

- | | |
|---------------------------------------|--|
| Federal contractors or subcontractors | <ul style="list-style-type: none">• Payroll: Three years |
|---------------------------------------|--|

EPA

- | | |
|---------------|--|
| All employers | <ul style="list-style-type: none">• Payroll: Three years• Job evaluations and wage rates: Three years |
|---------------|--|

EPPA

- | | |
|---------------|--|
| All employers | <ul style="list-style-type: none">• Employee polygraph test records: Three years |
|---------------|--|

ERISA

- | | |
|---|---|
| Employers with benefit plans subject to ERISA | <ul style="list-style-type: none">• All notices, Summary Plan Description, supporting records: Six years• Participant eligibility: As long as relevant |
|---|---|

EO/OFFCP

Federal contractors/
subcontractors with:

- | | |
|---|--|
| Less than 150 employees or government contracts less than \$150,000 | <ul style="list-style-type: none">• Personnel and employment: One year |
| 150+ employees | <ul style="list-style-type: none">• Personnel and employment: Two years• Affirmative action plans: Current and prior year |

FLSA

- | | |
|------------------|---|
| All employers | <ul style="list-style-type: none">• Personnel: Three years• Basic employment and earnings: Two years |
| Tipped employees | <ul style="list-style-type: none">• Wages and tips: Three years |
| Homeworkers | <ul style="list-style-type: none">• Payroll: Two years |

FMLA

- | | |
|---------------------------------|--|
| 50+ employees, Public employers | <ul style="list-style-type: none">• Detailed payroll and employee identification data: Three years• Records showing FMLA leave taken: Three years |
|---------------------------------|--|

REGULATION SUMMARY

FICA

- All employers
 - Employee and wage data: Four years
- Tipped employees
 - Wage and tip records: Four years

FEDERAL RULES OF CIVIL PROCEDURE

- All employers
 - Ongoing obligation to preserve Electronically Stored Information (ESI) once the employer reasonably anticipates litigation, stored until matter is settled
 - ESI created after litigation commences stored in separate files

FUTA

- All employers
 - Employee and wage data: Four years

FOIA

- Public employers
 - Maintain public records and make accessible to employees and the public as required by state law

HIPAA PRIVACY

- Public employer-sponsored group health plans
 - Individuals must be able to see and obtain copies of their records, request amendments to the records, and be given a history of most disclosures upon request

IRCA

- All employers
 - Employee Eligibility Verification forms (INS Form I-9) : Three years

IRS Regulations

- All employers
 - Personnel and wage data: Four years
 - IRS may extend retention as long as records are material to tax filing

<p>OSHA</p> <p>10+ employees</p>	<ul style="list-style-type: none"> • Form 300- Log of work-related injuries and illness: Five years • Form 301- Injury and illness incident report: Five years • Form 300A- Annual injuries and illness report: Five years • Medical records related to toxic exposure: 30 years
<p>PRWORA</p> <p>All employers</p>	<ul style="list-style-type: none"> • Report hiring or rehiring each employee: Within 20 days
<p>REHABILITATION ACT</p> <p>Public employers and federal contractors/ subcontractors with:</p> <p>A government contract of \$10,000 or more</p> <p>50+ employees or government contract of \$50,000 or more</p> <p>Less than 150 employees or government contracts less than \$150,000</p> <p>150+ employees or government contracts over \$150,000</p>	<ul style="list-style-type: none"> • Employment and complaint records: One year • Written affirmative action plan: Current and prior year • Records of positive recruitment activities and research: Three years • Employment and personnel records: One year • Employment and personnel records: One year
<p>VEVRAA</p> <p>Federal contractors/ subcontractors with contracts of \$100,000+</p>	<ul style="list-style-type: none"> • Written affirmative action plan: Current and prior year • Records of positive recruitment activities and research: Three years

REGULATION SUMMARY

JVA

Federal contractors with contracts of \$50,000+ entered into before December 1, 2003, and contracts of \$100,000+ entered into after December 1, 2003:

Less than 150 employees or government contracts less than \$150,000

- Employment and personnel records: One year

150+ employees or government contracts over \$150,000

- Employment and personnel records: Two years

PCA

Manufacturing, fabricating, or assembling equipment for a federal contract of \$10,000+

- Certificates of age for minors: Three years
- Wage and hour records: Three years
- Employment and earnings record: Three years
- Medical records related to toxic exposure: 30 years