

Employee Record Retention Guide



Employers have access to an incredible amount of information about their employees: dates of birth, Social Security Numbers, bank account information, background/criminal history reports, tax forms, medical records, employment histories, performance reviews, compensation histories and much, much more.

Federal law requires that employers keep and maintain certain information pertaining to each of their employees, but requirements vary based on the type of information contained in the record. This guide outlines some of the federal laws that regulate employee records, the types of employee records to which they apply, and the required retention period that may apply.

Relevant Legal Authority	Type of Record	Retention Period
Fair Labor Standards Act (FLSA)	Payroll and other records containing each employee's name, Social Security number, address, date of birth (if under 19), sex, occupation, time and day of the week when the employee's workweek begins, hours worked each day, total hours worked each workweek, basis on which employee's wages are paid, regular hourly pay rate, total daily or weekly straight-time earnings, total overtime earnings for the workweek, all additions to or deductions from the employee's wages (including reasons for such additions/deductions), total wages paid each pay period, date of payment and the pay period covered by the payment	Three years from the date of entry
	Collective bargaining agreements, individual contracts, certificates, notices, sales and purchase records	Three years from the last effective date
	Supplementary basic records, including: basic time and earning cards/sheets; wage rate tables; order, shipping, and billing records; and records of additions to or deductions from wages paid	Two years

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Family and Medical Leave Act (FMLA)	<p>Medical certifications and related medical information; type of leave taken; dates or hours of leave taken; name, position, and pay rate of person on leave; copies of all notices given to or received from employee; documents describing employee benefits and status; documents describing employer policies and practices regarding leave; records of any dispute about the designation of leave as FMLA leave</p>	<p>Three years from the date the leave ended</p>
Americans with Disabilities Act (ADA)	<p>Any personnel or employment record made or kept by an employer, including requests for reasonable accommodation, application forms and other records having to do with hiring, promotion, demotion, transfer, lay-off or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship</p>	<p>One year from date record is made or date of personnel action involved (whichever is later)</p>
Civil Rights Act of 1964 – Title VII	<p>Any personnel or employment record made or kept by an employer, including requests for reasonable accommodation, application forms and other records having to do with hiring, promotion, demotion, transfer, lay-off or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship</p>	<p>One year from date record is made or date of personnel action involved (whichever is later)</p>
	<p>Personnel records of an individual who is involuntarily terminated</p>	<p>One year from date of termination</p>
	<p>For an apprenticeship program, a chronological listing of the names, addresses, gender, and minority group identification of all applicants, including the dates applications were received, any test papers and interview notes, and all other records relating to apprenticeship</p>	<p>Two years from date record is made or program length, whichever is greater</p>

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Equal Pay Act of 1963 (EPA)	Any records relating to payment of wages, wage rates, job evaluations, job descriptions, merit or seniority systems, collective bargaining agreements, description of practices or other matters which describe or explain the basis for payment of any wage differential to employees of the opposite sex in the same establishment and which may be pertinent to a determination whether such differential is based on a factor other than sex	Two years
Immigration Reform and Control Act (IRCA)	Form I-9 for terminated employees (All current employees hired since Nov. 6, 1986 must have an I-9 on file)	Three years from the date of completion or one year from termination of employment, whichever is later
Age Discrimination in Employment Act of 1967 (ADEA)	Payroll or other records for each employee which contain: (1) Name; (2) Address; (3) Date of birth; (4) Occupation; (5) Rate of pay; and Compensation earned each week.	Three years
	All personnel records, including job applications, resumes, job advertisements, documents related to hiring/failure to hire, firing, transfer, demotions, promotions, layoffs/recall, payroll records, job descriptions, employment handbooks, training programs, employee evaluations and requests for reasonable accommodation	One year from date of personnel action to which any records relate

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	Employee benefit plans, such as pension and insurance plans, and copies of or memorandums describing any seniority systems and merit systems	For the full period the plan or system is in effect, and for at least one year after its termination
Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA)	Copies of all COBRA required notices; any documentation or signed acknowledgments that the notices were received by the employee/qualified beneficiary; and detailed documentation related to any instance in which COBRA continuation is not offered due to gross misconduct, late notification, Medicare entitlement or other reasons and all related correspondence	COBRA regulations do not specify a recordkeeping period. Since COBRA amended ERISA, it is generally recommended that records be maintained for not less than six years from the date of record, in accordance with ERISA requirements

Maintaining employee records can be overwhelming, but the consequences of noncompliance can be severe: Employers who are found to have failed to maintain statutory records as required by federal law may be subject to civil monetary penalties. That's why G&A Partners has a team of HR professionals available to advise and assist employers with HR compliance issues, policy development, employee management and more.

A national professional employer organization (PEO) and human resources outsourcing provider, G&A Partners' team of certified HR experts can help you understand the steps your organization needs to take to comply with applicable federal, state and local employment laws and regulations.

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This guide is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.