

## Recordkeeping Retention Requirements

**NOTE TO EMPLOYER:** All employers are required to keep certain records regarding employees. Listed below are federal requirements, along with specific state requirements for Illinois, Iowa, Minnesota and Wisconsin. Regardless of the specific retention period, if a lawsuit or agency proceeding is begun, the records which relate to the case must be retained until it is finally resolved.

Under the Lilly Ledbetter Fair Pay Act (LLFPA), an employee may sue on any employment-related decision that affects an employee's pay no matter when the decision (or act) occurred so long as the effects of the decision (or act) are felt by the employee within 300 days (or 180 days in some states). Under the LLFPA, the effects of a decision are commonly felt whenever the employee receives a paycheck or other compensation or benefit that is affected by the decision. Accordingly, it is recommended that employers maintain all personnel records that reflect or relate to any decision that may have an effect on an employee's compensation or benefits for the length of the employee's employment and for one year beyond the end of employment.

### Federal Requirements

Category	Records to Be Retained	Period of Record Retention	Regulations and Statutes
<b>Affirmative Action Plans</b>  (for qualified contractors and subcontractors)	Written affirmative action plans; supporting documentation, analyses and related records or raw data; tests given to employees; documents on their use and validation studies	2 years for companies with more than 150 employees  1 year for companies with less than 150 employees	Americans with Disabilities Act
	Self-Identification Forms	3 years	Executive Order 11246
	Internal complaints and termination information for individuals with disabilities and disabled veterans; all records concerning the actions taken and responses to such complaints and actions	1 year from termination of employment	Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA)
	Records relating to outreach, outreach assessment, and metrics	3 years	Rehabilitation Act

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<b>Applications for Employment (for applicants not hired)</b>	Applications for positions known by the applicant to be of a temporary nature	90 days from date of filling the position	Executive Order Number 11246
	All other applications including related records, job orders to employment agencies or labor organizations and advertisements	1 year from date of filling the position <i>Observation:</i> If an employer is a federal contractor or subcontractor, all employment applications should be retained for the employer's current year and the prior affirmative action program year	
	Affirmative action employers with 150 or more employees	2 years from filling the position	
	Affirmative action employers with fewer than 150 employees or contracts of less than \$150,000	1 year from date of filling the position	
<b>Apprenticeship</b>	All employment records of apprentices in a program for skilled trades certified by the federal Department of Labor	5 years from the date an employee completes the program	Title VII of the Civil Rights Act of 1964
	All employment records of apprentices in a program for skilled trades under which the employer pays a sub-minimum wage	3 years from the termination date of the program	
	A chronological listing of the names, addresses, sex, test scores, and minority group identification of all applicants for an apprenticeship program; any test papers and notes of interviews	2 years or program length, whichever is greater	

<b>Benefits Records</b>	COBRA Health Insurance Continuation - Copies of all COBRA required notices; any valid documentation or signed acknowledgments that the notices were received by the employee/qualified beneficiary; detailed documentation related to any instance in which COBRA continuation is not offered due to gross misconduct, late notification, Medicare entitlement, etc.; all related correspondence	COBRA regulations do not specify a recordkeeping period. Since COBRA amended ERISA, it is generally recommended that records be maintained for 6 years from the date of the record, in accordance with ERISA requirements	Affordable Care Act (ACA)  Employee Retirement Income Security Act (ERISA)  Consolidated Omnibus Budget Reconciliation Act (COBRA)  Age Discrimination Employment Act (ADEA)
	Summary Plan Description, including, but not limited to, vouchers, receipts, worksheets, resolutions	6 years after the date of filing	
	Benefit records	Duration of plan benefits	
	Form 1094 and 1095 information returns	3 years from the due date of the returns	
	Pensions, Profit Sharing, and other Benefit Plans - Plan documents, reports, and all recorded information used in compiling required reports	6 years from the date of the making of the record or 6 years from the date the report is filed, whichever is longer Official pension benefit plan documents should be retained indefinitely.	
	HSA/HRA records and agreements		
	Listing of years of service and vesting percentage of each employee; records required to determine eligibility and employee benefits, including age, service, marital status and pay records; documents relating to discipline and promotion, demotion, or transfer	No definite period specified in ERISA. However, all information used to calculate a participant's benefit and records of benefit payments should be retained for at least 10 years after the benefit is paid (or date benefit would have been paid if participant had a vested right to a benefit). In addition, if a benefit owed to a participant is reported on schedule SSA of the Form 5500, information should be retained for at least one year after the participant attains age 65.	
	Records indicating the amount of separation and/or sickness and accident benefits paid out of a Supplemental Unemployment Benefit trust to each employee as well as records of employee contributions, if any.	6 years from the date of making the record or the related personnel action	
	Unemployment Insurance - Wage reporting records	4 years from the date tax is due or paid, whichever is later	
	Unemployment Insurance - Benefits records	1 year from initial determination or after all appeals have been exhausted, whichever is later	

<b>Contract Agreements and Other Documents</b>	Collective Bargaining - Actual agreement or contract	3 years after the date of termination	Fair Labor Standards Act (FLSA)  Age Discrimination Employment Act (ADEA)  Equal Pay Act (EPA)  National Labor Relations Act (NLRA)
	On LM-10: all payments to labor organizations or their representatives, union officers or employees; expenditures related to labor rights or disputes; agreements with labor relations consultants, and any other related records	At least 5 years after the report is filed	
	Benefit plan descriptions, insurance contracts, labor agreements	Full period that plan is in effect plus 1 year after termination; may also need to maintain for term of employment of employees subject to the plan under the LLFPA	
	Seniority or merit rating system: Plan descriptions, insurance contracts, labor agreements	Full period that the plan is in effect, plus one year after termination	
<b>Discrimination Charges</b>	Personnel records concerning any discrimination charge brought by any agency or individual (records about charging party and all other employees holding similar positions, application forms, or test papers completed by all applicants for same position)	Until final disposition	Title VII of the Civil Rights Act of 1964  Age Discrimination in Employment Act (ADEA)
	Personnel records concerning employee or applicant in action brought against employer,		
<b>Drug Testing (Employers Covered by Federal Drug Testing Rules)</b>	Verified positive controlled substances test results, documentation of refusals to submit to required tests, driver evaluation and referrals, controlled substances testing program administration, calendar year summary of drug/alcohol test results	5 years from making of the record	Controlled Substances and Alcohol Use and Testing

	Controlled substances collection process and training; information received from prior employers regarding the test results of employees	2 years from any change	Omnibus Transportation Employee Testing Act
	Education and training of screening test technicians, supervisors and trainers; inspection, maintenance and calibration of EBT's	Maintain while individual performing the function and 2 years after individual leaves the function	
	Negative and canceled drug tests; alcohol test results of less than 0.02	1 year from test date	
<b>Drug Testing (Employers Not Covered by Federal Drug Testing Rules)</b>	Current Employees: See "Medical Records"	See "Medical Records"	Controlled Substances and Alcohol Use and Testing
	Failed Applicants: Verified positive controlled substance test results used to deny employment	1 year from filling position	Omnibus Transportation Employee Testing Act
<b>Employment Taxes</b>	Income tax withholding and date, Social Security, unemployment compensation, and advanced date earned income credit payments	4 years from date of filing or tax due date, whichever is later *If the tax year is still open for assessment purposes, retain for 1 year after statutory period of assessment expires.	Federal Insurance Contribution Act (FICA)  Federal Unemployment Tax Act (FUTA)
	For each person for which income tax is withheld: amount of payment withheld and date, amount paid per period, periods of employment, returns and statements required to be filed; W-2, W-2G, W-4, 1099; payments for personal service contracts and for prizes awarded, names, addresses, and Social Security numbers.	4 years from date of filing or tax due date, whichever is later	
	Certificates: W-4, W-4G, W-5, W-5-NR	4 years from date of filing or tax due date, whichever is later	

<b>Family and Medical Leave</b>	Medical certifications and related medical information; type of leave taken; dates or hours of leave taken; name, position, and pay rate of individual on leave; copies of all notices given to or received from employee; documents describing employee benefits and status; records of any dispute between employer and employee	3 years after the last date the record is made or until final disposition of any pending charge, complaint, or action relating to FMLA leave, whichever is later	Family and Medical Leave Act (FMLA)
<b>Government Reports</b>	EEO-1 Reports	2 years after filing or 2 years after close of applicable year, unless subject to a discrimination charge. If such charge is brought, report must be retained until final disposition of charge. Copy of most recent EEO-1 report filed must always be on premises.	Executive Order Number 11246  Title VII of the Civil Rights Act of 1964
	VETS-4212 Reports	3 years from filing	
	Sarbanes-Oxley Records - Audit process documents, including correspondence and working papers	7 years	
<b>Immigration Records</b>	Form I-9 for current employees	All current employees hired since November 6, 1986 must have an I-9 on file	Immigration Reform and Control Act (IRCA)
	Form I-9 for terminated employees	3 years from date of hire or 1 year from termination of employment, whichever is later	

<b>Minors</b>	General: Name, home address, and date of birth; dates of hire and termination; times each work day began and ended; times of daily meal periods(s); hour and day when the workweek began; total hours worked in each day and week; total daily or weekly straight-time earnings; total overtime pay for the workweek; total wages paid each period; rate of pay for each payroll period; amount of each deduction and the reason; output of minor employee if paid other than on an elapsed time basis; date of payment and pay period covered; and any written training agreements	3 years from termination of employment	Fair Labor Standards Act (FLSA)
	Student Learners: Copies of employment applications; certificates authorizing the employment of student learners; payroll records; and a notation of occupation	3 years from termination of employment These documents should be maintained in a separate file whenever possible	
<b>OSHA</b>	OSHA Forms 300, 300A, and 301, including supporting records	5 calendar years following the end of the year to which they relate	Occupational Safety and Health Act (OSHA)
	Noise exposure measurements	2 years minimum	
	Audiometric exams	Duration of employment plus 30 years from termination of employment	
	Safety Data Sheets (SDS) containing physical and health hazards of each hazardous substance used in workplace	30 years from date substance was last received in the workplace	

	Employee exposure records	30 years	
	Job descriptions; job and/or merit evaluations; other data which explains any pay differential between the sexes; records relating to promotion, demotion, transfer, discipline, termination; copies of tests given to employees	2 years from making the record or related personnel action or 1 year following the date the disciplinary action ceases to be effective, whichever is later	
	Medical Records - Current Employees: Employee medical records concerning the health status of an employee. Such records include: medical and employment questionnaires or histories; results of medical examinations and laboratory tests; medical opinions, diagnoses, progress notes and recommendations; first-aid records and the results of physical examinations considered in connection with any personnel action. Includes drug test results.	Duration of employment plus 30 years from termination of employment <i>Exception:</i> For persons employed less than one year, medical records need not be retained if provided to employee upon termination.	
	Toxic and Hazardous Substances Exposure - Medical records of employees, for employers subject to OSHA standards including, but not limited to: <ul style="list-style-type: none"> <li>• asbestos</li> <li>• benzene</li> <li>• cadmium</li> <li>• formaldehyde</li> <li>• occupational exposure to bloodborne pathogens</li> </ul>	Duration of employment plus 30 years from termination of employment	
<b>Pay Differences Documentation</b>	Certificates authorizing payment at less than minimum wage, evidence of productivity and prevailing wages paid to and production standards for workers not disabled for the job performed, certificates from schools for students	3 years from termination of employment	<p>Fair Labor Standards Act (FLSA)</p> <p>Age Discrimination in Employment Act (ADEA)</p>



<b>Payroll Records</b>	Name, address, date of birth, Social Security number, date of hire and termination	3 years from termination of employment  <i>Note:</i> Certain supplemental records, including time cards, need only be kept for 2 years from termination or 3 years from the making of the record.	Fair Labor Standards Act (FLSA)  Age Discrimination in Employment Act (ADEA)  Family and Medical Leave Act  Equal Pay Act  Davis Bacon Act
	Occupation, rate of pay, compensation, time each work day began and ended; time each meal period was started and concluded; total hours worked in each day and each week; rate of pay and wages paid during each pay period; amount of and reason for each deduction from wage; and daily output of an employee not paid on an elapsed-time basis		
<b>Personnel File -</b> Employee personnel files typically contain several different types of records that may have different periods of retention. When purging files, it is important to review each document separately rather than purging the entire personnel file.	Records used for employment decisions	At least 2 years after the date of decision	Americans with Disabilities Act Amendments Act (ADAAA)  Age Discrimination in Employment Act (ADEA)  Civil Rights Act of 1866  Title VII, Civil Rights Act of 1964  Davis-Bacon and Related Acts  Executive Order Number 11246  Rehabilitation Act  Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA)
	Performance evaluations, attendance, discipline, suspensions, applications, resumes, tests and test results, interview notes, promotions, transfers, wage changes, bonuses, handbooks, selection to training programs, accommodation requests, etc.	1 year from date of employee's termination or separation from employment. Employers may want to archive discipline or performance evaluations that are more than 5 years old if there are no ongoing issues or trends.  <i>Note:</i> It is recommended that a personnel file be retained for 3 years from the date of the employee's termination of employment. This period coincides with the longest time limit for bringing an action against an employer over an employment decision. Of course, if a claim is brought against an employer, the records should be retained until final disposition of the matter.	

<b>Polygraph Testing</b>	Explanation of the loss or injury, explanation of the employee connection, statement to employee, including the date, time, and right to counsel, notice to the examiner identifying the employee, and all results and opinions	3 years from the date the polygraph examination is conducted (or from the date the examination is requested if no examination)	Employee Polygraph Protection Act (EPPA)
<b>Time and Vacation Records</b>	Records of vacation days earned and taken	3 years from the making of the record	Fair Labor Standards Act (FLSA)  Family and Medical Leave Act (FMLA)
	Records showing time each workday began and ended, total hours worked per week, pay rate tables, work schedules, amount and reason for any addition or deduction to pay, daily output for employees not paid for time worked	3 years from termination of employment	
<b>Workers' Compensation</b>	Documents concerning work-related deaths and injuries or illnesses for workers' compensation purposes	No minimum years specified, except if OSHA related; then keep according to OSHA regulations  Note: State laws may provide additional regulations	Occupational Safety and Health Act (OSHA)

### State Requirements

Category	Records to Be Retained	Period of Record Retention	Regulations and Statutes
<b>ILLINOIS</b>			
<b>Harassment Prevention</b>	Employers should document the name of the employee who received the required harassment prevention annual training, the date of training, copy of materials and training provider information.	Every year (recommended)	Illinois Workplace Transparency Act

<b>Minors</b>	A copy of the certificate for a work hours waiver at the exact place(s) and address(es) where the minor is working during the hours covered by the waiver.	3 years	56 Ill Admin Code 250.315
<b>Payroll</b>	An employer subject to the Illinois Equal Pay Act must document the name, address, occupation of each employee, and the wages paid to each employee.  Records of the hours worked in each day and week by non-exempt and exempt employees.	5 years  Note: If the records are part of an ongoing investigation or enforcement action, keep them until authorized by a court.	Illinois Equal Pay Act  Illinois Minimum Wage Law
	For tipped employees: maintain employee's daily or weekly hours in a tipped position and straight time earnings; daily or weekly hours in a non-tipped position and straight time earnings; percent increase in wages from tips; weekly or monthly tips received; daily signed accounting. Also, any change in employer tip credit.		
<b>Sick Leave (Chicago)</b>	Covered employers must maintain the following records: name of each covered employee; mailing address; phone number and email address of each covered employee; occupation and job title of each covered employee; hire date of each covered employee; date each covered employee was eligible to use paid sick leave; number of hours of paid sick leave accrued by, or awarded to, each covered employee; dates and number of hours each covered employee used paid sick leave; rates of pay of each covered employee; hours worked each day and each workweek by each covered employee; type of payment (hourly rate, salary, commission, etc.) straight-time and overtime pay and total wages paid to each covered employee in each pay period; additions and deductions from each covered employee's wages for each pay period and an explanation of additions and deductions; dates of payment of each pay period covered by each wage payment to each covered employee.	5 years	City of Chicago Paid Sick Leave Ordinance

<b>Sick Leave (Cook County)</b>	Covered employers must maintain the following records: each covered employee's name; each covered employee's contact information, including mailing address, telephone number and/or email address; each covered employee's occupation or job title; each covered employee's hire date; the number of hours that each covered employee worked each workweek or pay period; the number of hours of Earned Sick Leave each covered employee was awarded; the number of hours of Earned Sick Leave each covered employee used; and the date upon which each covered employee used Earned Sick Leave.	3 most recent years	Cook County Earned Sick Leave Ordinance
<b>Unemployment Insurance</b>	Employment records with regard to services performed for the company (employee name, Social Security number, wages per pay period, and wage rates; and other payroll data)	<p>All employers must maintain true and accurate payroll records for at least 5 years, whether they are liable under the state unemployment compensation law or not</p> <p>Note: If a determination and assessment of contributions, interest, or penalties are made, or an action for the collection of contributions, interest or penalties is brought, records must be kept until the action has become final or has been canceled or withdrawn</p>	Illinois Unemployment Insurance Act
<b>IOWA</b>			
<b>Unemployment Insurance</b>	Work records (including payroll information) for all locations must be maintained for all employees. This applies to Iowa employers and out-of-state employers performing a service in Iowa.	5 years after the calendar year in which the wages were paid	Iowa Unemployment Insurance
<b>MINNESOTA</b>			
<b>Sick and Safe Time (Minneapolis)</b>	<p>Employers may adopt or retain any recordkeeping policies or practices, as long as their records indicate:</p> <ul style="list-style-type: none"> <li>• Hours worked, for non-exempt employees</li> <li>• Hours of leave available for sick and safe time purposes</li> <li>• Hours of leave used</li> </ul>	3 years, in addition to the current year	Minneapolis Sick and Safe Time Ordinance

<b>Sick and Safe Time (St. Paul)</b>	Employers shall retain accurate records documenting hours worked by employees, the accrual of earned sick and safe time, and the use of earned sick and safe time.	3 years	St. Paul Earned Sick and Safe Time Ordinance
<b>Sick and Safe Time (Duluth)</b>	A covered employer must keep accurate records documenting the total number of hours worked by each employee, the number of earned sick and safe time hours accrued by each employee, and the number of earned sick and safe time hours used by each employee.	3 years	Duluth Earned Sick and Safe Time Ordinance
<b>Unemployment Insurance</b>	Employers keep a record of first and last name, Social Security number, location where services were performed, rate of pay, actual days and number of hours worked, gross earnings and the amount paid for each employee. Employers should also keep a record of all payroll information.	4 years after the calendar year in which remuneration for the services was paid or payable	Minnesota Unemployment Insurance
<b>Wage Theft (Minnesota)</b>	<p>Minnesota employers keep a copy of employee wage notices and earnings statement records. Employers must maintain a record of each employee's name, address, position, rates of pay, amounts paid per pay period and hours worked each day and each workweek. For all employees paid at piece rate, the number of pieces completed at each piece rate must be kept on record.</p> <p>Employers should also create a handbook acknowledgement or list of policies given to employees with a brief description of the policies, with acknowledgements that are signed and dated.</p>	<p>3 years from the date of termination.</p> <p>Records are required to be kept at an employee's worksite or in a location that is accessible within 72 hours if requested.</p>	Minnesota Wage Theft Prevention Act

<b>Wage Theft (Minneapolis)</b>	<p>Employers subject to the Minneapolis Safe and Sick Time ordinance will be subject to the Wage Theft Prevention ordinance and must keep a copy of employee wage notices and earnings statement records. Employers must maintain a record of each employee's name, address, position, rates of pay, amounts paid per pay period and hours worked each day and each workweek. For all employees paid at piece rate, the number of pieces completed at each piece rate must be kept on record.</p> <p>Employers should also create a handbook acknowledgement or list of policies given to employees with a brief description of the policies, with acknowledgements that are signed and dated.</p>	<p>3 years from the date of termination, <b>except</b> for the earnings statement records which must be kept for at least 3 years from the date the statement was provided to the employee.</p> <p>Records are required to be kept at an employee's worksite or in a location that is accessible within 72 hours if requested.</p>	Minneapolis Wage Theft Prevention Ordinance
<b>WISCONSIN</b>			
<b>General Work Records (Employer)</b>	Full name, address, Social Security number of each employee employed by the employer; dates on which each employee performed services for the employer; weekly wages earned by each employee; date on which wages were paid to each employee	3 years from the date employee last performed services for the employer	Wisc. DWD 272.11
<b>Workers' Compensation</b>	Documents concerning work-related deaths and injuries or illnesses for worker's compensation purposes (name, address, age, and wages of the deceased or injured employee, the time and causes of the accident, the nature and extent of the injury)	The later of 12 years from date of injury, death, or last payment of compensation (WI statute is silent regarding record retention for WC records, however, the statute of limitations on a WC claim is 12 years)	Wis. Stat. 102
	As to minors, employees in the armed services, or those suffering from insanity; for worker's compensation purposes	<p>12 years from the date the limitation on a claim would expire</p> <p>Note: If OSHA-related, retain documents according to OSHA regulations</p>	

<b>Unemployment Insurance</b>	Wage reporting records Benefits records	6 years from the date on which each individual last performed services  1 year from initial determination or after all appeals have been exhausted, whichever is later	Wis. Stat. 108.21 and DWD 110.02
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