

COMPLIANCE OVERVIEW

Provided by Davevic Benefit Consultants, Inc.

Employer Record Retention Requirements

Federal laws, such as the Federal Insurance Contributions Act (FICA), the Fair Labor Standards Act (FLSA) and the Equal Pay Act (EPA), impose recordkeeping duties on employers. These recordkeeping duties require employers to create and retain certain information related to their compliance with federal laws.

This Compliance Overview includes a table that summarizes numerous employer recordkeeping and retention requirements, indicating the longest retention period established by federal law. This table does not attempt to outline all documents an employer may need in all situations.

State law requirements are not addressed in this table. To determine the time period for which records should be retained, it is important to reference applicable state laws in addition to federal laws. State laws may include recordkeeping requirements that operate in addition to or in conjunction with federal requirements.

HIGHLIGHTS

FAIR EMPLOYMENT RECORDS

- Federal fair employment laws require that employers keep all personnel or employment records for one year.
- If an employee is fired, his or her employment records must be retained for one year from the date of termination.

FLSA RECORDS

- Employers covered by the FLSA must keep certain records for covered, nonexempt workers.
- There is no required form for the records, but the records must include accurate information about the employee and data about the hours worked and wages earned.

LINKS AND RESOURCES

- Department of Labor's (DOL) [web page](#) on OSHA injury and illness recordkeeping requirements
- Equal Employment Opportunity Commission's (EEOC) [web page](#) on fair employment recordkeeping requirements.
- DOL's [web page](#) on recordkeeping under the FLSA

This Compliance Overview 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.



LAW	TYPE OF RECORD	RETENTION PERIOD
<p>Age Discrimination in Employment Act of 1967 (ADEA)</p>	<p>Payroll or other records for each employee which contain:</p> <ol style="list-style-type: none"> 1. Name; 2. Address; 3. Date of birth; 4. Occupation; 5. Rate of pay; and 6. Compensation earned each week. 	<p>Three years</p>
	<p>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</p>	<p>One year from date of personnel action to which any records relate</p>
	<p>Employee benefit plans, such as pension and insurance plans, and copies of documents describing any seniority systems and merit systems</p>	<p>For the full period the plan or system is in effect, and for at least one year after its termination</p>
<p>Employment Retirement Income Security Act (ERISA)</p>	<p>Benefit plan documents, annual reports and summaries of annual reports, summary plan descriptions, and all information used in compiling required reports, such as vouchers, worksheets, receipts, applicable resolutions, and participants' elections and deferrals</p>	<p>Generally, not less than six years from the date of record or the date of filing (or date would have been filed but for exemption or simplified reporting requirement)</p>

LAW	TYPE OF RECORD	RETENTION PERIOD
Americans with Disabilities Act (ADA)	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	One year from date record is made or date of personnel action involved (whichever is later)
	Personnel records of an individual who is involuntarily terminated	One year from date of termination
Civil Rights Act of 1964 – Title VII	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	One year from date record is made or date of personnel action involved (whichever is later)
	Personnel records of an individual who is involuntarily terminated	One year from date of termination
	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	Two years from date record is made or program length, whichever is greater

LAW	TYPE OF RECORD	RETENTION PERIOD
Genetic Information Nondiscrimination Act (GINA)	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	One year from date record is made or date of personnel action involved (whichever is later)
Occupational Safety and Health Act (OSHA)	OSHA Form 300 (Log of Work-related Injuries and Illnesses), OSHA Form 300A (Summary of Work-related Injuries and Illnesses) and OSHA Form 301 (Injury and Illness Report)	Five years following the end of the calendar year that these records cover
	Employee exposure or medical records pertaining to employees exposed to toxic substances or harmful physical agents	30 years
Internal Revenue Code (IRC)	Tax and Social Security records such as income tax withholding, Social Security, unemployment compensation and advanced date earned income credit payments	Four years from date of filing
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

LAW	TYPE OF RECORD	RETENTION PERIOD
<p>Family and Medical Leave Act (FMLA)</p>	<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>
<p>Employee Polygraph Protection Act (EPPA)</p>	<p>Polygraph test results and the reasons for administering the test</p>	<p>Three years from the date the polygraph test is conducted</p>
<p>Equal Pay Act of 1963 (EPA)</p>	<p>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</p>	<p>Two years</p>
<p>Immigration Reform and Control Act (IRCA)</p>	<p>Form I-9 for terminated employees (All current employees hired since Nov. 6, 1986, must have an I-9 on file)</p>	<p>Three years from the date of completion or one year from termination of employment, whichever is later</p>

LAW	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
	Records required for the computation of wages, 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
	Certificates authorizing payment at less than minimum wage	Three years
	Employee dispute records	Five years from making of the record for employers in the airlines industry, or two years for employers in the railroad industry