

Federal Record Retention Requirements and Relevant Laws by Number of Employees

This chart identifies federal requirements for record-keeping and retention of employee files and other employment-related records. Some of the requirements apply to most or all employers while others apply to government contractors and subcontractors. Employers should review the laws to determine specific coverage and responsibilities. Individual states may have additional obligations not mentioned in this chart; therefore, employers should review state employment laws for additional record-keeping and retention requirements.

Type of Record	Retention Period	Relevant Law(s)
<p>Selection, hiring and employment records:</p> <ul style="list-style-type: none"> • Job applications • Resumes • Job ads • Screening tools/tests • Interview notes and other records related to hire/no-hire decisions <p>Records related to:</p> <ul style="list-style-type: none"> • Promotion • Demotions • Transfers • Performance appraisals • Terminations • Reasonable accommodations and/or requests • Training records • Incentive plans • Merit systems • Seniority systems <p>Copy of EEO-1 survey and self-identification forms if applicable.</p>	<p>1 year after creation of the document or the hire/no-hire decision, whichever is later. Employers must keep the terminated employee's employment records for one year from the date of the termination.</p> <p>2 years after creation of the document or the hire/no-hire decision for qualified federal contractors If, however, the contractor has fewer than 150 employees or does not have a government contract of at least \$150,000, the minimum record retention period is 1 year.</p>	<p>Civil Rights Act of 1964 (Title VII) * Applies to employers with 15 or more employees.</p> <p>Americans with Disabilities Act (ADA) *Applies to employers with 15 or more employees.</p> <p>Age Discrimination in Employment Act (ADEA) * Applies to employers with 20 or more employees.</p> <p>Section 503 of the Rehabilitation Act Executive Order 11246 Vietnam Era Veterans Readjustment Assistance Act (VEVRAA) * All of the above apply to federal contractors with 50 or more employees.</p>

<p>Affirmative action plan (AAP) records (federal contractors)</p> <p>AAP records including those related to:</p> <ul style="list-style-type: none"> • Workforce analysis • Job group analysis • Availability analysis • Placement goals • Internal audit and reporting systems <p>Copy of EEO-1 survey and self-identification forms if applicable.</p>	<p>2 years. A contractor must maintain a copy of its AAP and all documentation of good-faith efforts for the current and preceding year.</p>	<p>Section 503 of the Rehabilitation Act of 1973 Executive Order 11246 * Both apply to federal contractors with 50 or more employees.</p>
<p>AAP records including those related to:</p> <ul style="list-style-type: none"> • External dissemination of policy, outreach, and positive recruitment activities • Audit and reporting system • Data collection analysis • Benchmarks for hiring 	<p>3 years</p>	<p>Vietnam Era Veterans Readjustment Assistance Act (VEVRAA) Section 503 of the Rehabilitation Act of 1973 * All of the above apply to federal contractors with 50 or more employees.</p>
<p>Payroll records, time sheets/cards</p> <p>Basic employee data:</p> <ul style="list-style-type: none"> • Name • Address • Social Security number • Gender • Date of birth • Occupation • Job classification 	<p>3 years</p>	<p>Fair Labor Standards Act (FLSA) * Applies to <u>all</u> employers.</p> <p>Service Contract Act Davis-Bacon Act Walsh-Healey Act * All of the above apply to <u>all</u> federal contractors regardless of size.</p> <p>Age Discrimination in Employment Act (ADEA) * Applies to employers with 20 or more employees.</p> <p>Family Medical Leave Act (FMLA) * Applies to employers with 50 or more employees.</p>

<p>Compensation records:</p> <ul style="list-style-type: none"> • Amounts and dates of actual payment. • Time and day of week when employee's workweek begins. • Total hours worked each day and workweek. • Basis and rate at which wages are paid. • Straight time and overtime hours/pay. All additions to or deductions from the employee's wages. • Total wages paid each pay period. • Records explaining any sex-based pay differences. • Annuity and pension payments. • Fringe benefits paid. • Date of payment and the pay period covered by the payment. 	<p>There are no retention requirements under Lilly Ledbetter; however, it is recommended that employers retain records for the length of employment, plus an additional 5 years or indefinitely.</p>	<p>Lilly Ledbetter Fair Pay Act * Applies to <u>all</u> employers regardless of size.</p>
	<p>Under the Equal Pay Act, employers must keep for at least 2 years all records (including wage rates, job evaluations, seniority and merit systems, and collective bargaining agreements) that explain the basis for paying different wages to employees of opposite sexes in the same establishment.</p>	<p>Equal Pay Act (EPA) * Applies to <u>all</u> employers regardless of size.</p>
<p>Form I-9</p> <ul style="list-style-type: none"> • Form I-9. • Copies of documentation (if applicable). 	<p>3 years after date of hire or 1 year after date of termination, whichever is later.</p>	<p>Immigration Reform and Control Act (IRCA) Immigration and Nationality Act (INA) * Both apply to <u>all</u> employers regardless of size.</p>
<p>Employment benefits</p> <p>Except for specific exemptions, Employee Retirement Income Security Act's (ERISA) reporting and disclosure requirements apply to all pension and welfare plans, including:</p> <ul style="list-style-type: none"> • Summary plan descriptions (updated with changes and modifications). • Annual reports. • Notice of reportable events (e.g., plan amendments that may decrease benefits, a 	<p>6 years</p> <p>Records used to determine benefits that are or will become due for each employee participating in the plan must be retained as long as they are relevant.</p>	<p>Employee Retirement Income Security Act (ERISA) * Applies to <u>all</u> employers regardless of size.</p>

<p>substantial decrease in the number of plan participants).</p> <ul style="list-style-type: none"> • Plan termination. <p>See more at §107 [29 U.S.C. §1027].</p>		
<p>Background checks</p> <p>Background check information obtained through a consumer reporting agency, for example:</p> <ul style="list-style-type: none"> • Credit reports. • Criminal history reports. • Driving records. • Information regarding character, general reputation, personal characteristics or mode of living. • Any other background check reports created by a third party. • Consent forms and required disclosures to individuals subject to background checks. 	<p>1 year. No specific retention requirement under the FCRA, but general EEOC requirements to retain hiring and selection records apply. Experts recommend retaining related information for at least 5 years after the date of the consumer report, which is the statute of limitations in the Fair Credit Reporting Act (FCRA).</p>	<p>Fair Credit Reporting Act (FCRA) * Applies to <u>all</u> employers regardless of size.</p> <p>(The FCRA does not apply when an employer does their own background investigation, only when it uses a third party.)</p> <p>Civil Rights Act of 1964 (Title VII) * Applies to employers with 15 or more employees.</p>
<p>Tax records</p> <ul style="list-style-type: none"> • Employer identification number. • Amounts and dates of all wage, annuity and pension payments. • Amounts of tips reported. • The fair market value of in-kind wages paid. • Names, addresses, Social Security numbers, and occupations of employees and recipients. • Any employee copies of Form W-2 that were returned as undeliverable. • Dates of employment. • Periods for which employees and recipients were paid while absent due to 	<p>4 years after filing the 4th quarter for the year.</p>	<p>Federal Insurance Contribution Act (FICA) Federal Unemployment Tax Internal Revenue Code * All of the above applies to <u>all</u> employers regardless of size.</p>

<p>sickness or injury and the amount and weekly rate of payments the employer or third-party payers made to them.</p> <ul style="list-style-type: none"> • Copies of employees' and recipients' income tax withholding allowance certificates (Forms W-4, W-4P, W-4S and W-4V). • Dates and amounts of tax deposits. • Copies of returns filed. • Records of allocated tips. • Records of fringe benefits provided, including substantiation. 		
<p>Safety data</p> <ul style="list-style-type: none"> • Log of occupational injuries and illnesses. • Records of injuries and illnesses. • Summary of injuries and illnesses. • Records of exposure to toxic substances for each employee. 	<p>5 years following the year records pertain to (medical exams, material safety data sheets and exposure to toxic substances records retained for the duration of employee's job tenure plus 30 years).</p> <p>The medical records of employees who have worked for less than 1 year for the employer do not need to be retained beyond the term of employment if they are provided to the employee upon the termination of employment.</p>	<p>Occupational Health & Safety Act (OSHA) * Applies to <u>all</u> employers regardless of size.</p> <p>Walsh-Healy Act * Applies to <u>all</u> federal contractors regardless of size.</p>
<p>FMLA leave records</p> <p>Employee data, including:</p> <ul style="list-style-type: none"> • Basic payroll and identifying employee data. • Dates FMLA leave is taken by FMLA-eligible employees (leave must be designated in records as FMLA leave), including the hours of the leave, if FMLA leave is taken in increments of less than one full day. 	<p>3 years</p>	<p>Family Medical Leave Act (FMLA) *Applies to employers with 50 or more employees.</p>

<ul style="list-style-type: none"> • Copies of employee notices of leave provided to the employer under the FMLA, if in writing, and copies of all eligibility notices given to employees as required under the FMLA. • Any documents (including written and electronic records) describing employee benefits or employer policies and practices regarding the taking of paid and unpaid leave. • Premium payments of employee benefits. • Records of any dispute between the employer and an eligible employee regarding designation of leave as FMLA leave, including any written statement from the employer or employee of the reasons for designation and for the disagreement. 		
<p>Health care continuation</p> <p>Records of written notice to employees and their dependents of their option to continue group health plan coverage following certain qualifying events.</p>	<p>COBRA has no record-keeping requirements. However, many experts recommend that records be maintained for 6 years from the date of the record to remain consistent with ERISA requirements.</p>	<p>Consolidated Omnibus Budget Reconciliation Act (COBRA) * Applies to employers with 20 or more employees.</p>
<p>Polygraph test records</p> <ul style="list-style-type: none"> • A copy of the written statement that outlines the time and place of the test and the employee's right to consult an attorney. • A copy of the employer's written notice to the examiner that identifies the employee(s) to be tested. • Copies of all opinions, reports, or other records obtained by the employer from the examiner relating to the polygraph test. 	<p>3 years from the date the polygraph was conducted or from the date it was requested if it was never administered.</p>	<p>Employee Polygraph Protection Act * Applies to <u>all</u> employers regardless of size.</p>

<p>Disability accommodations</p> <p>Requests for reasonable accommodation from employees and/or applicants and responses and/or accommodations provided by employer.</p>	<p>1 year from the date of making the record or of the personnel action involved, whichever occurs later.</p> <p>In the case of involuntary termination, retain the terminated employee's personnel or employment records for 1 year from the date of termination.</p> <p>Federal Contractors & Public employers: 2 years.</p>	<p>Americans with Disabilities Act as Amended (ADAAA) * Applies to employers with 15 or more employees.</p> <p>Section 503 of the Rehabilitation Act of 1973 Executive Order 11246 Vietnam Era Veterans Readjustment Assistance Act (VEVRAA) * All of the above apply to federal contractors with 50 or more employees.</p>
<p>Drug test records</p> <p>See list of records at 49 C.F.R. §382.401 for employees covered by the U.S. Department of Transportation (DOT).</p>	<p>1 year from test date and up to 5 years for records relating to drug testing for DOT positions.</p>	<p>DOT-covered safety-sensitive transportation positions in industries such as aviation, trucking, railroads, mass transit and pipelines.</p>
<p>Military leave records</p> <p>All records related to a military leave of absence and reemployment and employee benefits during and upon return from a military leave.</p>	<p>Indefinite; no statute of limitations under the Uniform Services Employment and Reemployment Rights Act (USERRA).</p>	<p>Uniform Services Employment and Reemployment Rights Act (USERRA) * Applies to all employers regardless of size.</p>