

1799 Pennsylvania Street
P.O. Box 539
Denver, Colorado 80201-0539



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GUIDE TO FEDERAL EMPLOYMENT LAW



RECORD RETENTION

ON LINE AT WWW.MSEC.ORG

FEDERAL LAWS 1-4
A short summary of each federal law *covered in this guide* including applicable poster requirements.

RECORDS 7-27
A compilation of records you may need to maintain, the time you are required to keep each record, and the requiring federal statute or regulation.

PERIOD OF RETENTION/RECORD 31-33
A list to quickly see the number of years you need to keep the employer/employee records covered in this guide.

INDEX 37-48
An index which is *more than an index*. It is also a reference to know the employer/employee records required by a particular federal law. Look under the name of a federal law covered in this guide to *see the list of employer/employee records required by that law*.

NOTICE
This guide is not intended to be all-inclusive. These materials are not to be construed as the rendering of legal or management advice

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FEDERAL LAWS

AGE DISCRIMINATION IN EMPLOYMENT ACT of 1967 as Amended (ADEA)

EEOC Poster Required (GPO: 19840-438-915: "Equal Employment Opportunity Is the Law.")
Employers with **20 or more employees** for at least 20 weeks a year may not discriminate against them or job applicants at or above the age of 40.

AMERICANS WITH DISABILITIES ACT of 1990 (ADA)

EEOC Poster Required (GPO: 19840-438-915: "Equal Employment Opportunity Is the Law.")
Prohibits discrimination against qualified individuals with disabilities on all aspects of employment. Covers employers who have **15 or more employees**.

CIVIL RIGHTS ACT of 1964 as Amended, TITLE VII

EEOC Poster Required (GPO: 19840-438-915: "Equal Employment Opportunity Is the Law.")
Applies to employers with **15 or more employees** engaged in any industry affecting commerce. Employers cannot discriminate because of sex, color, race, national origin, or religion.

CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT of 1985 (COBRA)

Requires employers to allow covered employees and dependents to continue with group health insurance coverage after certain qualifying events. Typically applies to employers with **20 or more employees**.

CONSUMER CREDIT PROTECTION ACT, TITLE III

Restricts discharge from employment because of garnishment. The federal garnishment law applies to all employers not covered by "substantially similar" state law.
Note: Some state garnishment laws are more protective of the employee than the provisions of the federal law. The more protective provisions apply.

DAVIS-BACON ACT

Poster Required (WH Publication 1321 US Dept. of Labor: "Notice to Employees Working on Federal or Federally Licensed Construction Projects")
Covers employment on **federal public construction projects in excess of \$2,000**. Applies to contracts such as highway building, dredging, demolition, cleaning, painting and decorating of public buildings. Requires the employer to pay "prevailing" rates of pay.

DRUG-FREE WORKPLACE ACT of 1988

Requires most **federal government contractors**, as well as **recipients of federal grants**, to take specific steps to ensure a drug-free workplace. A central provision of the Act requires employers to prepare and distribute an anti-drug policy statement prohibiting the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances in the workplace.

Federal Laws

EMPLOYEE POLYGRAPH PROTECTION ACT of 1988 (EPPA)

Poster Required (WH Publication 1462: US Dept. of Labor)

Employers engaged in interstate commerce are prevented from using any lie detector tests, with certain very limited exemptions, either for pre-employment screening or during the course of employment.

EMPLOYEE RETIREMENT INCOME SECURITY ACT of 1974 (ERISA)

Applies to employers with *private pension and welfare plans*. Imposes regulatory provisions in reporting and disclosure, participation and vesting, funding, and fiduciary responsibility.

EQUAL PAY ACT

EEOC Poster Required (GPO: 19840-438-915: "Equal Employment Opportunity Is the Law.")

An amendment to the Fair Labor Standards Act; it covers *all employers* covered by the Fair Labor Standards Act. The Act prohibits wage differentials between men and women employed in the same establishment on jobs that require equal skill, effort, and responsibility and which are performed under similar working conditions.

EXECUTIVE ORDER 11246

EEOC Poster Required (GPO: 19840-438-915: "Equal Employment Opportunity Is the Law.")

Any employer holding a *federal contract or sub-contract of \$50,000 or more* AND who employs *50 or more employees*, or serves as a depository of government funds in any amount, or is a financial institution which is an issuing and paying agent for U.S. savings bonds and savings notes, must have a written affirmative action program with statistical data, goals and timetables.

FAIR CREDIT REPORTING ACT (FCRA) of 1971 Amended by the CONSUMER CREDIT REPORTING REFORM ACT of 1996

Covers employers who use consumer reporting agencies to check applicant or employee backgrounds for employment related decisions. This includes hiring an investigator or service to conduct background investigations before hiring or making employment-related decisions. FCRA basically requires disclosing an investigation is being made and may require obtaining written consent from the person being investigated and may involve furnishing the person a copy of the report.

FAIR LABOR STANDARDS ACT (FLSA)

Poster Required (W-H Publication 1088: US Dept. of Labor)

Covers wage-hour laws. Applies to *all employers* engaged in interstate commerce or in the production of goods for interstate commerce. Court cases have made it extremely difficult for any employer not to be covered under the Act.



FAMILY AND MEDICAL LEAVE ACT of 1993 (FMLA)

Poster Required (W-H Publication 1420: US Dept. of Labor; "Your Rights Under the Family and Medical Leave Act of 1993.")

Requires employers with **50 or more employees** to provide eligible employees unpaid leave of up to 12 work weeks during any 12 month period for particular family or medical circumstances.

HOMEWORKER REGULATIONS

Recordkeeping requirements for employees working at home from the Fair Labor Standards Act.

IMMIGRATION REFORM AND CONTROL ACT of 1986 (IRCA)

All employers must verify the identity and authorization to work in United States of *all* employees upon hiring.

INTERNAL REVENUE CODE

The Internal Revenue Service governs all tax obligations to the U.S. Federal Government. To determine the total extent of tax requirements for your organizations, consult an attorney who specializes in tax law.

LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT of 1959 (LANDRUM-GRIFFIN ACT)

Covers reporting requirements for employers and labor organizations.

OCCUPATIONAL SAFETY and HEALTH ACT (OSHA)

Poster Required (OSHA Publication 2203: "OSHA Job Safety and Health Protection")

While OSHA provisions apply to *all private employers with one or more employees*, recordkeeping requirements cover employers with more than ten employees. Employers with ten or less employees must report only accidents resulting in one or more deaths or in hospitalization of five or more employees. Also, employers in low-hazard industries in retail trade, finance, insurance, real estate and services may be exempt from OSHA recordkeeping.

OLDER WORKERS BENEFIT PROTECTION ACT

An act to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans.

OMNIBUS TRANSPORTATION EMPLOYEE TESTING ACT of 1991

Provides for testing to detect abuse of alcohol or illegal use of drugs by persons in safety-sensitive positions in the *air, rail, trucking and mass transit industries*. The testing provisions, included in the Department of Transportation and Related Agencies Appropriations Act of 1992, are designed to enhance aviation, motor carrier, and mass transportation safety. In addition to

Federal Laws

requirements for rehabilitation, the law mandates the incorporation of Department of Health and Human Services guidelines for laboratory controlled substances testing.

REHABILITATION ACT of 1973

EEOC Poster Required (GPO: 19840-438-915: "Equal Employment Opportunity Is the Law.")
Covers employers having **any contract or sub-contract in excess of \$10,000 with any federal department or agency** for the procurement of personal property and non-personal services (including construction) for the United States. This act also covers recipients of federal grants.

SERVICE CONTRACT ACT

Covers employment on **federal contracts exceeding \$2,500** for services to federal agencies such as painting, decorating, telephone, cable, and public utilities. Requires employer to pay "prevailing" rate of pay.

TOXIC SUBSTANCES CONTROL ACT

From the Environmental Protection Agency - applies primarily to **chemical manufacturers**.

UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT of 1994

Clarified and strengthened the right of **members of the uniformed services** to reemployment without loss of seniority, status or pay.

VIETNAM ERA VETERANS READJUSTMENT ASSISTANCE ACT of 1974

EEOC Poster Required (GPO: 19840-438-915: "Equal Employment Opportunity Is the Law.")
Federal contractors or sub-contractors with contracts of \$10,000 or more must take affirmative action to hire and promote disabled and Vietnam-era veterans. Employers covered by the Act must list all job vacancies with a local federal/state employment service, which will give priority referrals to veterans.

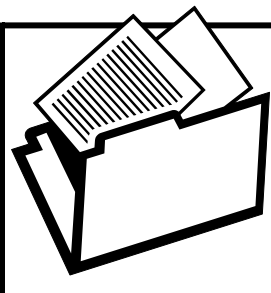
WALSH-HEALEY ACT

Poster Required (W-H Publication 1313: US Dept. of Labor; "Notice to Employees Working on Government Contracts")
Covers employers holding **federal contracts exceeding \$10,000** for the manufacture or furnishing of materials, supplies, articles, and equipment.

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT (WARN)

Requires advance notification of plant closing or significant downsizing. Applies to private sector employers with **100 or more employees**.





RECORDS

RECORD	PERIOD OF RETENTION	STATUTES
Advertisements Regarding Job Openings, Promotions, Training Programs or Overtime Work	One Year	Age Discrimination in Employment Act 29 CFR 1627.3
Affirmative Action Programs		
For federal contractors and sub-contractors with at least 50 employees <i>and</i> \$50,000 in federal contracts. Written affirmative action programs, including required workforce analysis and utilization evaluation. Plus, <i>any</i> personnel or employment record kept by the contractor.	One Year - However, when the Labor Department's Office of Federal Compliance Programs audits contractors, they may request <i>any</i> or <i>all</i> records from the current and previous year.	Rehabilitation Act of 1973 41 CFR 60-741.80 Executive Order 11246 41 CFR 60-1.12 Vietnam Era Veterans Readjustment Assistance Act 41 CFR 60-250.80
For contractors with 150 or more employees <i>or</i> a government contract of \$150,000 or more	Two Years	
For additional recordkeeping requirements under Affirmative Action Programs, See Executive Order 11246 in the Index.		
Age Records		
Date of Birth, if under 19	Three Years	Fair Labor Standards Act 29 CFR 516.2
Date of Birth, if under 16	Three Years	Walsh-Healey Act 41 CFR 50.201
Date of Birth	Three Years	Age Discrimination in Employment Act 29 CFR 1627.3



RECORD**PERIOD OF RETENTION****STATUTES**

Applicant Identification / Flow Logs

For federal contractors and sub-contractors. According to the Office of Federal Contract Compliance Programs (OFCCP), an internal audit and reporting system designed to monitor the progress of an *affirmative action program* should include applicant flow records. Such a record should contain the name of the applicant, date of application, race, sex, referral source, job applied for, interview information, and disposition of the application (hired, rejected and on what basis, no openings, and so forth). Such records must be kept separate from the files or records used by the employer in making hiring decisions.

One Year

Executive Order 11246
41 CFR 60-1.12

For Contractors with at least 50 employees *and* \$50,000 in federal contracts.

One Year - However, when the Labor Department's Office of Federal Compliance Programs audits contractors, they may request *any* or *all* records from the current and previous year.

For contractors with 150 or more employees *or* a government contract of \$150,000 or more.

Two Years

Applications, Resumes or Other Replies to Job Advertisements

For all Employers for every employee including temporary employees.

One Year

Age Discrimination in
Employment Act
29 CFR 1627.3

One Year from date record was made or human resource action was taken, whichever is later.

Title VII and Americans
with Disabilities Act
29 CFR 1602.14

For federal contractors and sub-contractors with at least 50 employees *and* \$50,000 in federal contracts.

One Year - However, when the Labor Department's Office of Federal Compliance Programs audits contractors, they may request *any* or *all* records from the current and previous year.

Rehabilitation Act of 1973
41 CFR 60-741.80Executive Order 11246
41 CFR 60-1.12

For contractors with 150 or more employees *or* a government contract of \$150,000 or more

Two Years

Vietnam Era Veterans
Readjustment Assistance Act
41 CFR 60-250.80

RECORD**PERIOD OF RETENTION****STATUTES**

Apprenticeship Selection and Programs

For apprenticeship programs:

- ◆ chronological list of names and addresses of all applicants, dates of application, sex and minority-group identification, or file of written applications containing same information; other records pertaining to apprenticeship applicants, e.g. test papers, interview records, and

- ◆ any other records made solely for completing report EEO-2 or similar reports.

Two years from date application was received or period of successful applicant's apprenticeship, whichever is later.

One year from the due date of the report.

Title VII and Americans with Disabilities Act
29 CFR 1602.20

Title VII and Americans with Disabilities Act
29 CFR 1602.20

Bloodborne Pathogens/ Infectious Material Standard

Protects employees who may be occupationally exposed to blood or other infectious materials.

- ◆ Written exposure control plan.

- ◆ Medical records.

- ◆ Training records.

Not specified. Must be available to workers and kept current.

Duration of employment + thirty years.

Three years

Occupational Safety and Health Act
29 CFR 1910.1030

Child Labor Provisions-Age Certificates

Employers may protect themselves from unintentional violation of the child labor provisions by keeping on file an employment or age certificate for each minor to show that the minor is the minimum age for the job. Certificates issued under most State laws are acceptable for purposes of the Act.

Fair Labor Standards Act
29 CFR 570.5

Citizenship or Authorization to Work

Immigration and Naturalization Services Form I-9 (Employment Eligibility Verification Form) for all employees hired after November 6, 1986.

Three years from date of hire or one year after separation, whichever is later. (Minimum of three years.)

Immigration Reform Control Act
8 CFR 274a.2



RECORD	PERIOD OF RETENTION	STATUTES
Collective Bargaining Agreements	Three Years	Fair Labor Standards Act 29 CFR 516.5
Demotion Records	One Year	Age Discrimination in Employment Act 29 CFR 1627.3 Title VII and Americans with Disabilities Act 29 CFR 16902.14
Discrimination Charges or Enforcement Action		
<ul style="list-style-type: none"> ◆ All personnel records relevant to charge of discrimination or enforcement action against employer, including records relating to charging party and to all other employees holding positions similar or sought after, such as application forms, test papers or performance documentation. <p>Note: Following the federal laws in this guide and their record retention requirements is helpful in defending discrimination or enforcement charges.</p>	Until final disposition of charge or action	Age Discrimination in Employment Act 29 CFR 1627.3 Title VII and Americans with Disabilities Act 29 CFR 1602.14 Executive Order 11246 41 CFR 60-1.12
<ul style="list-style-type: none"> ◆ Minimum Wage and Overtime Charges 	Two year minimum.	Fair Labor Standards Act 29 CFR 516.6
Drug Free Awareness Program		
All federal contractors and sub-contractors must inform employees about the dangers of drug abuse at work, the drug free workplace policy, the available employee assistance programs, if any, and the penalties that may be imposed for drug abuse violations.	Not specified.	Drug Free Workplace Act 41 USC 701a
Drug Free Workplace Act - Notice to Contracting Agency		
(Federal contractors, sub-contractors) Notice to contracting agency of any employee drug conviction occurring in the workplace.	Not specified.	Drug Free Workplace Act 41 USC 701a



RECORD	PERIOD OF RETENTION	STATUTES
Drug Free Workplace Act - Notice to Employer From Employee (Federal contractors, sub-contractors) Notice to employer from employee of any criminal drug conviction for a violation in the workplace.	Not specified.	Drug Free Workplace Act 41 USC 701a
Drug Free Workplace Act Statement to Employees (Federal contractors, sub-contractors) Published statement to all employees prohibiting unlawful controlled substances.	Not specified.	Drug Free Workplace Act 41 USC 701a
Drug Testing Records (Required by Department of Transportation for Air, Rail, Trucking and Mass Transit Industries) <ul style="list-style-type: none"> ◆ Breath alcohol test with results of .02 or higher ◆ Positive controlled substances tests ◆ Documentation of refusals to test ◆ Calibration documentation ◆ Evaluation and referrals ◆ Copy of calendar year summary ◆ Information on the alcohol and controlled substances collection process ◆ Information on training ◆ Negative and cancelled controlled substances test results ◆ Alcohol test results of less than .02 alcohol concentration 	Five Years Five Years Five Years Five Years Five Years Two Years Two Years One Year One Year	Omnibus Transportation Employee Testing Act of 1991, administered by the following agencies: <ul style="list-style-type: none"> ◆ Federal Aviation Administration (FAA) 14 CFR Part 121 (Appendix to Subpart J) ◆ Federal Highway Administration (FHWA) 49 CFR 382.401 ◆ Federal Railroad Administration (FRA) 49 CFR Part 219.901 (Appendix to Subpart J) ◆ Federal Transit Administration (FTA) 49 CFR 653.71 ◆ Research and Special Programs Admin. (RSPA) 49 CFR 199.23
Earnings Per Week	Three Years	Age Discrimination in Employment Act 29 CFR 1627.3 Fair Labor Standards Act 29 CFR 516.2



RECORD	PERIOD OF RETENTION	STATUTES
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EEO Reports - EEO-1

All employers with 100 or more employees, a copy of the EEO-1 Form (Employer Information Report) must be kept.

A copy of the most current report filed for each reporting unit must always be kept at each unit or at company or divisional headquarters.

Title VII and Americans with Disabilities Act
29 CFR 1602.7, 12 and 14

All federal contractors and sub-contractors with 50 employees and \$50,000 in contracts.

Three Years

OFCCP will request 3 years of data during audits.

EEO Reports - EEO-4

All public employers (government) with 15+ employees must keep employment record including, but not limited to: records having to do with hiring, promotion, demotion, transfer, layoff, termination, rates of pay or other terms of compensation, selection for training or apprenticeship or requests for reasonable accommodation.

Three years from the date of the making of the record or the personnel action involved, whichever occurs later. With involuntary termination of an employee, keep the records two years from the date of termination.

Title VII and Americans with Disabilities Act
29 CFR 1602.30-31

EEO Reports - EEO-5

All public elementary and secondary school systems, including every separately administered district within a system with 15+ employees must keep employment records including, but not limited to: records having to do with hiring, promotion, demotion, transfer, layoff, termination, rates of pay or other terms of compensation, selection for training or apprenticeship and requests for reasonable accommodation.

Three years from the date of the making of the record or the personnel action involved, whichever occurs later. With involuntary termination of an employee, keep the records two years from the date of termination.

Title VII and Americans with Disabilities Act
29 CFR 1602.39-40

EEO Reports EEO-6

All public and private institutions of higher education with 15+ employees must keep employment records including, but not limited to: records having to do with hiring, promotion, demotion, transfer, layoff, termination, rates of pay or other terms of compensation, selection for training or apprenticeship or requests for reasonable accommodation.

Three years from the date of the making of the record or the personnel action involved, whichever occurs later. With involuntary termination of an employee, keep the records two years from the date of termination.

Title VII and Americans with Disabilities Act
29 CFR 1602.48-49



RECORD**PERIOD OF RETENTION****STATUTES**

Employment Contracts

Individual Employment Contracts (where contracts or agreements are not in writing, a written memorandum summarizing the terms) include collective bargaining agreements, plans and trusts.

Three Years

Fair Labor Standards Act
29 CFR 516.5

Employment Tax Records

The Internal Revenue Service governs all tax obligations to the U.S. Federal Government. To determine the total extent of tax requirements for your organizations, consult an attorney who specializes in tax law.

Four Years after the due date of the tax return or the date paid, whichever is later.

Internal Revenue Code
26 CFR 31.6001-1

Fair Credit Reporting Act Records

These are the records involved in reports and investigations gathered by consumer reporting agencies to help employers make hiring or employment-related decisions. They include:

- ◆ Consumer report disclosure to employee
- ◆ Consumer report authorizations from employees
- ◆ Employer certifications to credit reporting agencies
- ◆ Actual reports from the reporting agency
- ◆ Summary of rights

The FCRA does not address recordkeeping requirements of employers. Individuals may bring claims under the FCRA for two years after the violation of the act. Thus, employers should retain records of the disclosures they made and the notices they sent to employees or applicants for at least two years. Financial institutions, however, should retain their records for at least 25 months.

Fair Credit Reporting Act
16 CFR Appendix to Part 600

Family And Medical Leave Act (FMLA)**Exempt Employees**

If employees are not subject to FLSA's record-keeping regulations for purposes of minimum wage or overtime compliance, an employer need not keep a record of actual hours worked provided that:

- ◆ Eligibility for FMLA leave is presumed for any employee who has been employed for at least 12 months.
- ◆ A written record is maintained as to the agreement between the employer and employee regarding reduced or intermittent leave and the employee's normal schedule or average hours.

Three Years

Family and Medical
Leave Act
29 CFR 825.110
29 CFR 825.206
29 CFR 825.500



RECORD**PERIOD OF RETENTION****STATUTES****Family and Medical Leave Act (FMLA)****Non-exempt Employees**

Employers shall keep records pertaining to their obligations under the Act in accordance with the recordkeeping requirement of the Fair Labor Standard Act (FLSA). Records kept must disclose the following:

- ◆ Basic payroll identifying employee data (name, address, and occupation), rate or basis of pay and terms of compensation, daily and weekly hours worked per pay period, additions to or deductions from wages, total compensation paid.
- ◆ Dates FMLA leave is taken.
- ◆ Hours of the leave if FMLA is taken in increments.
- ◆ Copies of employee notices of leave furnished to the employer and copies of all general and specific notices given to employees.
- ◆ Documents describing employee benefits or employer policies and practices regarding the taking of paid and unpaid leaves.
- ◆ Premium payments of employee benefits.
- ◆ Records of any dispute between the employer and an employee regarding designation of leave as FMLA leave.

Three Years

Family and Medical Leave Act
29 CFR 825.500
29 CFR 825.110

Fair Labor Standards Act
29 CFR 516.2

Garnishment Documents

Note: Some state garnishment laws are more protective of the employee than the provisions of the federal law. The more protective provisions apply.

Three Years - Refer to Payroll Records - Additions or Deductions from Wages Paid.

Fair Labor Standards Act
29 CFR 516.2

Group Health Insurance Coverage**After Certain Qualifying Events**

Employers need records showing covered employees, their spouses and dependents have received written notice of continuing group health insurance and COBRA rights, and whether the covered employees, spouses and dependents elected or rejected coverage.

Not specified.

While COBRA does not explain how long records must be kept, private employers subject to ERISA can look to general ERISA recordkeeping for some guidance. ERISA generally requires six years record retention.

Internal Revenue Code
26 CFR 4980 B (f)(6)

Consolidated Omnibus Budget Reconciliation Act
29 USC 1166

Employer Retirement Income Security Act
29 USC 1027
29 CFR 2520



RECORD**PERIOD OF RETENTION****STATUTES**

Hazardous Materials Exposure

Records of any personal or environmental monitoring of exposure to hazardous materials.

Thirty Years

Occupational Safety and Health Act
29 CFR 1910.1020

Records of “significant adverse reactions” to health or the environment that may indicate “long-lasting or irreversible damage,” “partial or complete impairment of bodily functions,” “impairment of normal activities which is experienced by all or most of the persons exposed at one time,” and “impairment of normal activities which is experienced each time an individual is exposed.” Records must contain original allegation: abstract of allegation, including name and address of plant site that received allegation, date allegation received, implicated substance, description of alleged health effects, results of any self-initiated investigation of allegation, and copies of any other required reports or records relating to allegation.

Thirty years for records of significant adverse reactions to employees’ health; five years for all other allegations, including environmental or consumer charges; thirty years for employee health-related allegations arising from any employment related exposure.

Toxic Substances Control Act from Environmental Protection Agency - applies primarily to chemical manufacturers.
15 USC 2622



RECORD**PERIOD OF RETENTION****STATUTES****Homeworker Programs**

Payroll or other record specifying date on which work given out to or begun by each industrial homeworker and amount of such work; date on which work turned in by worker, and amount of work; kind of articles worked on and operations performed; piece rates paid; hours worked on each lot of work turned in.

Not specified. (Upon request, all records must be made available for inspection and transcription by Wage-Hour Division administrators.)

Fair Labor Standards Act -
Homeworker Regulations
29 CFR 516.31

Name and address of each agent, distributor, or contractor through whom homework is distributed or collected, and name and address of each homeworker to whom homework is distributed or from whom homework is collected by the agent, distributor, or contractor.

Not specified. (Upon request, all records must be made available for inspection and transcription by Wage-Hour Division administrators.)

Fair Labor Standards Act -
Homeworker Regulations
29 CFR 516.31

Homeworker handbook in which each homeworker records daily and weekly hours worked, piece work information, and business-related expenses.

At least two years after the handbook is filled completely or the homeworker is terminated. Employers must keep and preserve handbook as submitted by each homeworker and, upon request, make the handbook available for inspection by the Wage-Hour Division of the Labor Department. The handbook must include a statement signed by the employer attesting to the accuracy of the entries.

Fair Labor Standards Act -
Homeworker Regulations
29 CFR 516.31

Insurance / Welfare and Pension / Retirement Plans

Benefit plan descriptions and/or summary benefit plan descriptions.

Full period that plan or system is in effect, plus one year after termination of the plan.

Age Discrimination in
Employment Act
29 CFR 1627.3

Records providing the basis for all required plan descriptions and reports necessary to certify the information including vouchers, worksheets, receipts, applicable resolutions.

Not less than six years after filing date of documents.

Employee Retirement
Income Security Act
29 USC 1027
29 CFR 2520

Job Orders Submitted to Employment Agency or Union

One Year

Age Discrimination in
Employment Act
29 CFR 1627.3



RECORD	PERIOD OF RETENTION	STATUTES
<p>Labor Organization and Employer Records Employers are subject to certain annual reporting requirements which include filed reports showing: any loans to a union/union official or representative; agreements with or payments to any labor relations consultant, worker or other individual for the purpose of persuading employees about their union sentiments; and any expenditures to obtain information about the activities of employees or a union in connection with a labor dispute.</p>	Documents to support the accuracy of required reports must be retained for at least five years from filing the report.	Labor Management Reporting and Disclosure Act of 1959 29 CFR 405.9
Layoff Selection	One Year	Age Discrimination in Employment Act 29 CFR 1627.3
	One year from date record made or personnel action taken, whichever is later.	Title VII and Americans with Disabilities Act 29 CFR 1602.14
Material Safety Data Sheets (MSDS)	Not specified. Must be maintained in a current fashion.	Occupational Safety and Health Act 29 CFR 1910.1200
Employer must keep records of chemicals used, where they were used and for how long.	Thirty years	Occupational Safety and Health Act
Occupational Injuries and Illnesses	Five years following the end of the year to which records relate.	Occupational Safety and Health Act 29 CFR 1904.2
<i>Log and Summary of Occupational Injuries and Illnesses</i> - OSHA Form 200. Job-related injuries and illnesses must be recorded within six days of their occurrence.		
<i>Supplementary Record of Occupational Injuries and Illnesses</i> - OSHA Form 101. Provides details on each recordable injury and illness.	Five Years following the end of the year to which records relate.	Occupational Safety and Health Act 29 CFR 1904.2



RECORD**PERIOD OF RETENTION****STATUTES****Order, Shipping, and Billing Records**

From the last date of entry, the originals or true copies of all customer orders or invoices received, incoming or outgoing shipping or delivery records, as well as all bills of lading and all billings to customers (not including individual sales slips, cash register tapes or the like) which the employer retains or makes in the usual course of business operations.

Two Years

Fair Labor Standards Act
29 CFR 516.6**Payroll Records -****Additions or Deductions from Wages Paid**

All records used by the employer in determining additions to or deductions from wages paid.

Three Years

Fair Labor Standards Act
29 CFR 516.2**Payroll Records -****Age Discrimination in Employment Act**

Payroll or other records containing each employee's name, address, date of birth, occupation, rate of pay, and compensation earned per week.

Three Years

Age Discrimination in
Employment Act
29 CFR 1627.3**Payroll Records –****Basis on Which Wages Are Paid**

The basis on which wages are paid must be documented in sufficient detail to permit calculation for each pay period including benefits and prerequisites. The records may include payment of wages, wage rates, job evaluations, merit and incentive programs and seniority systems.

Two years

Equal Pay Act
29 CFR 1620.32Fair Labor Standards Act
29 CFR 516

The basic reason for these records is to give the Wage-Hour Division an indication on whether or not sex discrimination exists.

Although there is no specific form furnished by the Wage-Hour Division for calculation of the benefit costs, the data necessary to calculate these costs should be readily available to Wage-Hour audit personnel.



RECORD**PERIOD OF RETENTION****STATUTES**

Payroll Records - Davis-Bacon Act

(Federal contractors, sub-contractors) Payroll records signed by an agent of the company which list name, address, social security number, job classification, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid.

Three Years after completion of contract

Davis Bacon Act
29 CFR 5.1 and 5.5

**Payroll Records -
FLSA - Exempt Employees**

(Bona fide executive, administrative, professional and outside sales employees.)

- ◆ Name in full of employee (as used for social security record purposes) and identifying number or symbol, if such is used on payroll records.
- ◆ Home address, including zip code.
- ◆ Date of birth, if under 19 years of age.
- ◆ Sex and Occupation
- ◆ Time of day and day of week on which employee's workweek begins, if this varies between employees; otherwise a single notation for the entire establishment will suffice.
- ◆ Total wages paid each pay period, including benefits and prerequisites.
- ◆ Dates of payment and pay period covered.

Three Years

Fair Labor Standards Act
29 CFR 516.3

Note: Record of hours worked is recommended for Department of Labor Wage and Hour audits.



RECORD**PERIOD OF RETENTION****STATUTES**

Payroll Records -**FLSA - Non-Exempt Employees**

All required for Exempt Employees plus:

- ◆ Regular hourly rate of pay for any week when overtime is worked and overtime compensation is due. (May be in the form of vouchers or other payment data.)
- ◆ Daily hours worked and total hours worked each workweek. (Workday may be any consecutive 24-hour period and workweek is any fixed and regularly recurring period of seven consecutive days.)
- ◆ Total daily or weekly straight-time earnings or wages due for hours worked during the workday or workweek.
- ◆ Total premium pay for overtime hours. This amount excludes the straight-time earnings for overtime hours recorded under the above item.
- ◆ Total additions to or deductions from wages paid each pay period including employee purchase orders or wage assignments. Also, in individual employee records, the dates, amounts, and nature of the items which make up the total additions and deductions.

Three Years

Fair Labor Standards Act
29 CFR 516

Payroll Records - Service Contract Act

(Federal contractors, sub-contractors) Payroll records listing name, address, social security number, job classification, rate of pay, daily and weekly number of hours worked, deductions made, actual wages paid, and separate records of benefit payments.

Three Years after completion
of contract

Service Contract Act
29 CFR 4.6

**Payroll Records - Title VII and
Americans with Disabilities Act**

Rates of pay or other terms of compensation.

One year from date record
made or personnel action
taken, whichever is later.

Title VII and Americans
with Disabilities Act
29 CFR 1602.14



RECORD	PERIOD OF RETENTION	STATUTES
<p>Payroll Records - Walsh-Healey Act (Federal contractors, subcontractors) Basic employment and earning records, wage-rate tables, and work-time schedules.</p> <p>Employment records, including name, address, sex, occupation, date of birth of each employee under 16 years of age, wage-hour records, complete with identifying number of contract on which each employee is working.</p>	<p>Two years from date of last entry or last effective date, whichever is later.</p> <p>Three years from date of last entry.</p>	<p>Walsh-Healey Act 41 CFR 50.201</p> <p>Walsh Healey Act 41 CFR 50.201</p>
<p>Physical / Medical Records Under ADEA and ADA Results of physical examinations considered in connection with personnel action.</p>	<p>One Year</p>	<p>Age Discrimination in Employment Act 29 CFR 1627.3</p> <p>Americans with Disabilities Act 29 CFR 1630.14</p>
<p>Physical / Medical Records Under FMLA Records and documents including an FMLA leave request relating to medical certifications, recertification or medical histories of employees or employees' family members, shall be maintained in separate files/records and be treated as confidential medical records, except that:</p> <ul style="list-style-type: none"> ◆ Supervisors and managers may be informed regarding necessary restrictions and accommodations, not the nature of the condition. ◆ First aid and safety personnel may be informed (when appropriate) if the employee may/might require emergency treatment. ◆ Government officials investigating compliance with FMLA shall be provided relevant information. 	<p>Three Years</p>	<p>Family and Medical Leave Act 29 CFR 825.500</p>
<p>Physical / Medical Records Under OSHA Complete and accurate records of all medical examinations <i>required by OSHA law</i>. These records may be retained by the medical provider.</p>	<p>Duration of employment, plus 30 years unless a specific OSHA standard provides a different time period.</p>	<p>Occupational Safety and Health Act 29 CFR 1910.1020</p>



RECORD**PERIOD OF RETENTION****STATUTES**

Plant Closing or Mass Layoff Notice

A 60-day advance notice before a plant closing or mass layoff.

Not specified. Enforcement action is through the courts.

Worker Adjustment and Retraining Notification Act
20 CFR 639.2-3

Polygraph Test

Polygraph investigation of a workplace theft or other incident or activity resulting in economic loss to the employer. A copy of statement provided to employees setting forth specific incident or activity under investigation and basis for testing.

Three years from date polygraph test is conducted or from date examination is requested, whichever is later.

Employee Polygraph Protection Act
29 CFR 801.30

Polygraph investigation of criminal or other misconduct involving, or potentially involving, loss or injury to the manufacture, distribution or dispensing of controlled substances. Records specifically identifying the loss or injury in question and the nature of the employee's access to person or property being investigated.

Copy of notice provided to polygraph examiner identifying persons to be examined.

Copies of all opinions, reports, charts, written questions, lists, and other records relating to employee polygraph tests (e.g., records of number of examinations conducted each day, records specifying duration of each test period) that have been furnished to the employer by the polygraph examiner.



RECORD	PERIOD OF RETENTION	STATUTES
<p>Promotion Records or Notices For all employers</p> <p>For federal contractors and sub-contractors with at least 50 employees <i>and</i> \$50,000 in federal contracts.</p> <p>For federal contractors and sub-contractors with 150 or more employees <i>and</i> a government contract of \$150,000 or more.</p>	<p>One year from date record made or personnel action taken, whichever is later.</p> <p>One Year</p> <p>One Year - However, when the Labor Department's Office of Federal Compliance Programs audits contractors, they may request <i>any</i> or <i>all</i> records from the current and previous year.</p> <p>Two Years</p>	<p>Title VII and Americans with Disabilities Act 29 CFR 1602.14</p> <p>Age Discrimination in Employment Act 29 CFR 1627.3</p> <p>Rehabilitation Act of 1973 41 CFR 60-741.80</p> <p>Executive Order 11246 41 CFR 60-1.12</p>
<p>Recall Selection</p>	<p>One Year</p>	<p>Age Discrimination in Employment Act 29 CFR 1627.3</p>
<p>Request for Reasonable Accommodation For all employers</p> <p>For federal contractors and sub-contractors with at least 50 employees <i>and</i> \$50,000 in federal contracts.</p> <p>For federal contractors and sub-contractors with 150 or more employees <i>and</i> a government contract of \$150,000 or more.</p>	<p>One year from date record made or personnel action taken, whichever is later.</p> <p>One Year - However, when the Labor Department's Office of Federal Compliance Programs audits contractors, they may request <i>any</i> or <i>all</i> records from the current and previous year.</p> <p>Two Years</p>	<p>Title VII and Americans with Disabilities Act 29 CFR 1602.14</p> <p>Rehabilitation Act of 1973 41 CFR 60-741.80</p> <p>Executive Order 11246 41 CFR 60-1.12</p>



RECORD**PERIOD OF RETENTION****STATUTES****Sales and Purchase Records**

A record of: (1) total dollar volume of sales or business, and (2) total volume of goods purchased or received during such periods (weekly, monthly, quarterly, etc.) and in such forms as the employer maintains in the ordinary course of business.

Three Years

Fair Labor Standards Act
29 CFR 516.5

Seniority or Merit Systems

For the full period the plan or system is in effect, plus one year.

Age Discrimination in
Employment Act
29 CFR 1627.3

Termination Records

All employers

One year from date record made or personnel action taken, whichever is later.

Title VII and Americans
with Disabilities Act
29 CFR 1602.14

One Year

Age Discrimination in
Employment Act
29 CFR 1627.3

For federal contractors and sub-contractors with at least 50 employees *and* \$50,000 in federal contracts.

One Year - However, when the Labor Department's Office of Federal Compliance Programs audits contractors, they may request *any* or *all* records from the current and previous year.

Rehabilitation Act of 1973
41 CFR 60-741.80

Executive Order 11246
41 CFR 60-1.12

For federal contractors and sub-contractors with 150 or more employees *or* a government contract of \$150,000 or more.

Two Years



RECORD	PERIOD OF RETENTION	STATUTES
Test Records Tests used in connection with employer administered aptitude or other employment test.	One Year	Age Discrimination in Employment Act 29 CFR 1627.3 Title VII and Americans with Disabilities Act 29 CFR 1607.4
For Contractors with at least 50 employees <i>and</i> \$50,000 in federal contracts.	One Year - However, when the Labor Department's Office of Federal Compliance Programs audits contractors, they may request any or all records from the current and previous year.	Rehabilitation Act of 1973 41 CFR 60-741.80 Executive Order 11246 41 CFR 60-1.12
For contractors with 150 or more employees <i>or</i> a government contract of \$150,000 or more	Two Years	
Time Worked Records All basic time and earnings cards or sheets and work production sheets of individuals where all or part of the employee's earnings are determined.	At least two years.	Fair Labor Standards Act 29 CFR 516.6
Training Selection	One Year	Age Discrimination in Employment Act 29 CFR 1627.3
	One year from date record made or personnel action taken, whichever is later.	Title VII and Americans with Disabilities Act 29 CFR 1602.14



RECORD	PERIOD OF RETENTION	STATUTES
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Transfer Records

For all employers

One Year

Age Discrimination in Employment Act
29 CFR 1627.3

One year from date record made or personnel action taken, whichever is later.

Title VII and Americans with Disabilities Act
29 CFR 1602.14

Federal contractors and sub-contractors with at least 50 employees *and* \$50,000 in federal contracts.

One Year - However, when the Labor Department's Office of Federal Compliance Programs audits contractors, they may request *any* or *all* records from the current and previous year.

Rehabilitation Act of 1973
41 CFR 60-741.80

Executive Order 11246
41 CFR 60-1.12

Federal contractors and sub-contractors with 150 or more employees *or* a government contract of \$150,000 or more.

Two Years

Veterans - Hiring Records

Organizations with federal contracts or sub-contracts of \$25,000 or more must file an annual report - Form VETS-100 - that lists, by job category and hiring location, the number of Vietnam-era and disabled veterans hired during a 12-month period. The data are used to determine whether employers are fulfilling their affirmative action obligations, as well as the legal requirement to list job vacancies with the Job Service.

Not Specified

Vietnam Era Veterans Readjustment Assistance Act
41 CFR 61-250.10

Complaints and actions taken under the Act

One Year

Vietnam Era Veterans Readjustment Assistance Act
41 CFR 60-250.80

For federal contractors and sub-contractors with at least 50 employees *or* \$50,000 in federal contracts.

One Year - However, when the Labor Department's Office of Federal Compliance Programs audits contractors, they may request *any* or *all* records from the current and previous year.

Rehabilitation Act of 1973
41 CFR 60-741.80

Executive Order 11246
41 CFR 60-1.12

For federal contractors and sub-contractors with 150 or more employees *and* a government contract of \$150,000 or more

Two Years



RECORD**PERIOD OF RETENTION****STATUTES**

Veterans - Military Leave

Organizations must grant leaves of absence to perform military obligations. Service limits are set on the amount of time an employee may spend in active duty and still be eligible for re-employment. Employees are re-employed to their former position or a position of like status and pay with seniority and vacation as if they had not taken a military leave.

Not specified. The service limit on the time an employee may spend in active duty and still be eligible for reemployment can be up to five years.

Uniformed Services
Employment and
Reemployment Rights Act
38 USC 4311-4313

Wage-Rate Tables

All tables or schedules (from their last effective date) of the employer which provide the piece rates or other rates used in computing straight-time earnings, wages, or salary, or overtime pay computation.

Two Years. However, Department of Labor may request records back three years.

Fair Labor Standard Act
29 CFR 516.6

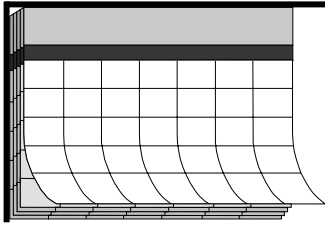
Waiver of Age Discrimination in Employment Act rights.

Not specified. Keeping waivers forever is considered a helpful defense against an ADEA waiver of rights discrimination charge.

Older Workers Benefit
Protection Act
29 USC 626

Age Discrimination in
Employment Act
29CFR 1627.3





PERIOD OF RETENTION / RECORD

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* Apprenticeship Selection and Programs..... 9

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Three Years

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Veterans - Military Leave	27

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Thirty Years

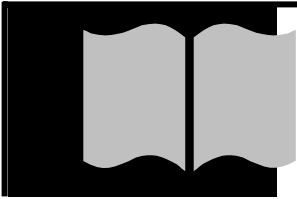
* Bloodborne Pathogens / Infectious Material Standard..... 9
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* This record has more than one period of retention.





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