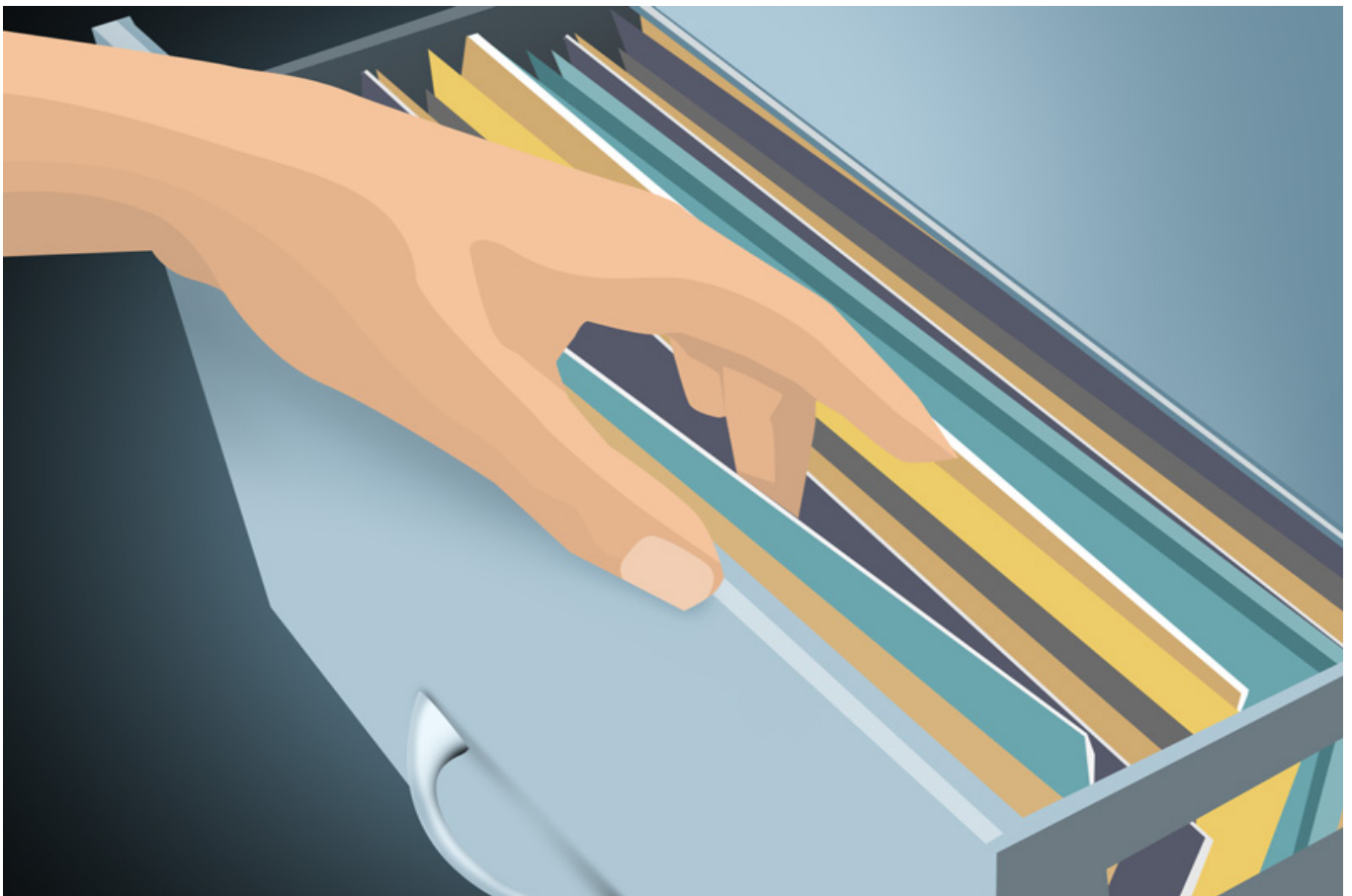


Human Resources Series



Employer Recordkeeping Guide



Employer Recordkeeping Guide

The following chart provides a basic overview of the major employer recordkeeping requirements under federal law. To review the requirements in detail, please click on the links included in the chart. **Be sure to also comply with any applicable state-specific requirements related to employer recordkeeping.**

Please Note: In addition to specifying the kinds of records employers are required to maintain, in many instances the law imposes strict requirements on what information is required to be kept in confidential files, as well as places restrictions on who may be granted access to those records—especially with regard to medical information. **If you have any questions regarding the confidentiality of a particular record or form, please contact your state's [labor department](#) or a knowledgeable employment law attorney.**

Compensation and Benefits			
Federal Law	Who Must Comply	Types of Records Required	How Long to Keep
Fair Labor Standards Act (FLSA)	All employers	Basic payroll records must include accurate information about each non-exempt employee and data about the hours worked and wages earned, including: <ul style="list-style-type: none"> Employee's full name and Social Security number. Address, including zip code. Birth date, if younger than 19. Sex and occupation. Time and day of week when employee's workweek begins. Hours worked each day and total hours worked each workweek. Basis on which employee's wages are paid (e.g., "\$9 per hour," "\$440 a week," "piecework"). Regular hourly pay rate. Total daily or weekly straight-time earnings. Total overtime earnings for the workweek. All additions to or deductions from wages. Total wages paid each pay period. Date of payment and the pay period covered. 	Preserve payroll records, collective bargaining agreements, and sales and purchase records for at least three years . Records on which wage computations are based should be retained for two years . These include time cards and piecework tickets, wage rate tables, work and time schedules, and records of additions to or deductions from wages.

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Compensation and Benefits (cont'd)			
Federal Law	Who Must Comply	Types of Records Required	How Long to Keep
Family and Medical Leave Act (FMLA)	Employers employing 50 or more employees for at least 20 workweeks in the current or preceding calendar year who have eligible employees	In addition to records required by the FLSA, covered employers who have eligible employees must maintain records that disclose the following: <ul style="list-style-type: none"> • Basic payroll and identifying employee data, including 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; and total compensation paid. • Dates FMLA leave is taken (e.g., from time records, requests for leave, etc., if so designated). Leave must be designated in records as FMLA leave. • If FMLA leave is taken in increments of less than one full day, the hours of the leave. • Copies of employee notices of leave furnished to the employer under FMLA, if in writing, and copies of all written notices given to employees as required under FMLA. • Any documents (including electronic) describing employee benefits or employer policies and practices regarding taking 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 the designation and disagreement. 	Employers must keep the specified records for no less than three years .
Employee Retirement Income Security Act (ERISA)	Employers who sponsor an employee benefit plan governed by ERISA	Employers are required to maintain records containing the basic information and data necessary to support various reports and other disclosure materials (such as summary plan descriptions or SPDs and annual reports) that the employer is required to file under ERISA, or that the employer would be required to file except that an exemption or simplified reporting requirement applies. <p>Employers also must maintain records with respect to each employee sufficient to determine the benefits due or which may become due to the employee under a pension benefit plan.</p>	Records containing supportive data and information must be kept for a period of not less than six years after the filing date of the particular report or disclosure. <p>Keep records for determining benefits due for as long as relevant.</p>

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Compensation and Benefits (cont'd)			
Federal Law	Who Must Comply	Types of Records Required	How Long to Keep
Employment Taxes	All employers	<p>Records should include:</p> <ul style="list-style-type: none"> • Employer's 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 to the employer as undeliverable. • Dates of employment. • Periods for which employees and recipients were paid while absent due to sickness or injury and the amount and weekly rate of payments the employer or third-party payers made to them. • 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 made. • Copies of returns filed. • Records of allocated tips. • Records of fringe benefits provided, including substantiation. 	Employers must keep all records of employment taxes for at least four years after filing the 4th quarter for the year.
Employment Matters			
Federal Law	Who Must Comply	Types of Records Required	How Long to Keep
Immigration Reform and Control Act (IRCA)	All employers	Form I-9, Employment Eligibility Verification Form, signed by the employer and the individual hired. If copies of documents presented by employees are made, those too should be kept with the I-9 forms.	Keep for three years after the date of hire or one year after the date employment terminates, whichever is later.
Employee Polygraph Protection Act (EPPA)	All employers	<p>Each employer who, relying on an exemption, requests or administers a polygraph test to an employee or applicant must maintain records setting forth:</p> <ul style="list-style-type: none"> • The specific activity or incident which is the basis of the testing; • Notices setting forth the time and place of the testing and the employee's rights; and • Copies of reports and other documents provided by the examiner. 	A minimum of three years from the date the exam is conducted (or from the date the polygraph is requested if no examination is conducted).

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Employment Matters (cont'd)			
Federal Law	Who Must Comply	Types of Records Required	How Long to Keep
Occupational Safety and Health Act (OSH Act)	<p>Injury and Illness Records: Employers with more than 10 employees (a partial exemption may apply for certain low-hazard industries in the retail, finance, insurance, real estate, and service sectors)</p> <p>Medical and Exposure Records: All employers</p>	<ul style="list-style-type: none"> Employers are required to use OSHA Form 300, <i>Log of Work-Related Injuries and Illnesses</i>, to classify work-related injuries and illnesses and to note the extent and severity of each case. Employers must record work related deaths, injuries, and illnesses other than minor injuries that require only first aid treatment and that do not involve medical treatment, loss of consciousness, restriction of work, or transfer to another job. From Feb. 1 to April 30 of each year, the employer must conspicuously post in the workplace an OSHA Form 300A, which includes a summary of the previous year's work-related injuries and illnesses. Employers must also record on OSHA Form 301 individual incident reports that provide more detail about each specific recordable injury or illness. <p>Note: <u>All</u> employers covered by the OSH Act are required to maintain certain employee medical records and exposure records of employees exposed to toxic substances or harmful physical agents.</p>	<p>Employers must save the OSHA 300 Log, the annual summary, and the 301 Incident Report forms for five years following the end of the calendar year to which the records apply.</p> <p>Required employee medical and exposure records generally must be maintained for at least the duration of employment plus thirty years.</p>
Equal Opportunity in Employment			
Federal Law	Who Must Comply	Types of Records Required	How Long to Keep
Americans with Disabilities Act (ADA) Civil Rights Act of 1964 (Title VII) Genetic Information Nondiscrimination Act (GINA)	Employers of 15 or more employees	<p>While there is generally no requirement that specific records be made or kept, any personnel or employment record that <u>is</u> made or kept by an employer must be preserved, including but not limited to the following types of records:</p> <ul style="list-style-type: none"> Requests for reasonable accommodation, Application forms submitted by applicants, and Other records having to do with hiring, promotion, demotion, transfer, lay-off or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship 	<p>One year from the date the record is made or the date of the personnel action involved, whichever is later.</p> <p>Personnel records of an individual who is involuntarily terminated shall be kept for a period of one year from the termination date.</p> <p>Note: Where a charge of discrimination or an action has been filed, all relevant personnel records must be preserved until final disposition of the charge or action.</p>

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Equal Opportunity in Employment (cont'd)			
Federal Law	Who Must Comply	Types of Records Required	How Long to Keep
Age Discrimination in Employment Act (ADEA)	Employers of 20 or more employees	<p>Payroll or other records for each employee containing:</p> <ul style="list-style-type: none"> • Name, address, and date of birth; • Occupation; and • Rate of pay and compensation earned each week. <p>Employers who in the regular course of business make, obtain or use personnel or employment records related to the following, must preserve such records:</p> <ul style="list-style-type: none"> • Job applications, resumes, or any other form of employment inquiry whenever submitted to the employer in response to an advertisement or other notice of existing or anticipated job openings, including records pertaining to the failure or refusal to hire any individual. • Promotion, demotion, transfer, selection for training, layoff, recall, or discharge of any employee. • Job orders submitted by the employer to an employment agency or labor organization for recruitment of personnel for job openings. • Test papers completed by applicants or candidates for any position which disclose the results of any employer-administered aptitude or other employment test considered by the employer in connection with any personnel action. • The results of any physical examination where such examination is considered by the employer in connection with any personnel action. • Any advertisements or notices to the public or to employees relating to job openings, promotions, training programs, or opportunities for overtime. <p>Employers must keep on file any employee benefit plans, such as pension and insurance plans, as well as copies of any seniority systems and merit systems which are in writing. If the plan or system is not in writing, a memorandum fully outlining the terms of such plan or system and the manner in which it has been communicated to the affected employees, together with notations relating to any changes or revisions thereto, must be kept on file.</p>	<p>Payroll or other records containing required employee information must be retained for three years.</p> <p>Personnel and employment records must be kept for a period of one year from the date of the personnel action to which any records relate.</p> <p>Employee benefit plans, seniority systems, and merit systems (or the required memoranda) must be retained for the full period the plan or system is in effect, and for at least one year after its termination.</p> <p><u>Note:</u> When an enforcement action is commenced under the ADEA, the employer must retain any required record relating to the action until final disposition of the matter.</p>

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