
RECORDS RETENTION GUIDELINES

1) RECRUITMENT

- Job orders submitted by the employer to employment agencies, or labor organizations for recruitment of employees; help wanted ads, job advertisements, and notices to public or to employees regarding job openings, training programs, promotions, and opportunities for overtime.
 - *One year from date of personnel action; FEHA two years*
 - Age Discrimination in Employment Act (1967)
- Criteria for selection for apprenticeship programs in recognized trade or craft; chronological list of all applicants' names, addresses, dates of application, sex, minority group class (race or national original); and any test papers or interview records on which hiring decisions were made.
 - *(1) Two years or period of chosen applicant's apprenticeship, whichever is longer; or*
 - *(2) One year from date of report*
 - Civil Rights Act (1964)

2) EMPLOYEE SELECTION

- Written training agreements, summaries of applicants' qualifications, job criteria, interview records and identification of minority and female applicants.
 - *Duration of training program plus three years*
 - Civil Rights Act (1964), Fair Labor Standards Act (1938), National Labor Relations Act (1935)
- Test appears and results from employment test; results of physical examinations; promotion, demotion, transfer, selection for training, layoff, recall or discharge; hiring documents, including job applications, resumes, job inquiries, job references, and records of refusals to hire; job forms and other pre-employment records of applicants for temporary positions.
 - *One year from date of personnel action; FEHA two years*
 - Age Discrimination in Employment Act (1967)
- All employment records including application forms, resumes, other hiring records; records regarding promotion, demotion, transfer, layoff, discharge, pay rates, or other compensation terms.
 - *One year from date records made or personnel action taken, whichever is later*
 - Civil Rights Act (1964)
- I-9 Form (Employment Eligibility Verification Form).
 - *Three years after date of hire or one year after date of termination, whichever is later*
 - Immigration Reform and Control Act (1986)
- EEO-1 Form (Employers having 100 or more employees).
 - *Copy of most recent report for each reporting unit must always be retained*
 - Civil Rights Act (1964)
- Union contracts and individual employee contracts.
 - *Three years from the end of the contract*
 - Age Discrimination in Employment Act (1967)

3) EMPLOYEE COMPENSATION

- All payroll records, including individual employee wage records, name, employee number, address, age, sex, occupation, time and day work week begins, regular hourly rate, hours worked each day and total weekly hours daily or weekly straight-time earnings, weekly overtime earnings, deductions from or additions to wages, wages paid each pay period, date of payment and period covered by payment, piece rates.
 - *Three years*
 - Fair Labor Standards Act (1938) and National Labor Relations Act (1935)
- Basic records including employment and earnings records, time cards, wage and rate tables utilized to calculate straight time and overtime work schedules; shift and/or work-time schedules; hours and days of individual employees; records of additions to, or deductions from wages paid; merit, incentive, and/or seniority system records; and records explaining basis for payment of any wage differential to employees of the opposite sex.
 - *Two years; three years in California*
 - Fair Labor Standards Act (1938), National Labor Relations Act (1935), Equal Pay Act (1963)
- Certificates of Age.
 - *Until termination of employment*
 - Fair Labor Standards Act (1938) and National Labor Relations Act (1935)
- Payroll or other records containing name, address, birth date, occupation, hours worked, pay rate and weekly compensation.
 - *Three years*
 - Age Discrimination in Employment Act (1967)
- Child Labor certificates and notices.
 - *Three years*
 - Fair Labor Standards Act (1938)
- Tax and Social Security records such as income tax withholding (W-4 Form), Social Security, unemployment compensation, and advanced date earned income credit payments.
 - *Four years from date of filing*
 - Internal Revenue Code

4) EMPLOYEE BENEFIT PLANS

- Records related to employee benefit plans (e.g., pension or insurance plans); seniority and merit systems which are in writing.
 - *Duration of plan and for at least one year after the plan's termination*
 - Age Discrimination in Employment Act (1967)
- Basic information supporting plan descriptions including vouchers, worksheets, receipts, applicable resolutions and participants' elections and deferrals.
 - *Six years after filing date of documents*
 - Employee Retirement Income Security Act (1974)
- Retain signed and dated notation documenting: (a) the dates on which the employee was given each required reporting and disclosure document relating to an employer-sponsored benefit plan (b) the manner of delivery (keep in a master file instead of in each employee file); and (c) any correspondence, inquiries or notes relating to individual eligibility determinations.
 - *Indefinitely*
 - Employee Retirement Income Security Act (1974)
- Beneficiary designation and distribution election forms for retirement plans.
 - *Participants, three years following distribution; for distribution to a beneficiary, indefinitely*
 - Employee Retirement Income Security Act (1974)

- Wage and hour records for the purpose of determining retirement benefits.
 - *Indefinitely; alternatively, six years following date of lump sum distribution.*
 - Employee Retirement Income Security Act (1974) and Fair Labor Standards Act (1938)
- Group health plans (includes summary plan descriptions and statements concerning COBRA and ERISA rights); certificates of prior group health plan coverage; health information concerning an employee's medical condition.
 - *Six years after date of its creation; six years from the date when plan ended, whichever is later*
 - Health Insurance Portability and Accountability Act (1996)
- 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, and related correspondence.
 - *Six years after filing date of documents*
 - Employee Retirement Income Security Act (1974) and Consolidated Omnibus Budget Reconciliation Act (1985)

5) EMPLOYEE SAFETY

- Records for all fatalities or job-related injuries causing loss of work time, OSHA Form 300, Form 300-A, and Form 301.
 - *Five years*
 - Occupational Safety and Health Act (1970)
- Documentation of safety and health training required for each employee, including employee name or other identifier, training dates, type and content of training, and training providers.
 - *No formally stated requirement; recommendation is duration of employee tenure*
 - Occupational Safety and Health Act (1970)
- Records of monitoring exposure to chemicals, hazardous materials, and toxic exposure.
 - *Duration of employee tenure plus thirty years*
 - Occupational Safety and Health Act (1970)

6) DRUG AND ALCOHOL TESTING

- Records of positive test results and/or refusal to take required alcohol and/or controlled substances test; driver evaluations; equipment calibration documentation, records related to administration of alcohol and controlled substances testing programs, copy of annual calendar year summary.
 - *Five years*
 - 49 C.F.R. §382.401 (Controlled Substances and Alcohol Use and Testing)
- Records related to the collection process, including collection logbooks; documents relating to the random selection process, reasonable suspicion testing, post-accident testing; documents verifying employee's inability to provide breath for testing.
 - *Two years*
 - 49 C.F.R. §382.401 (Controlled Substances and Alcohol Use and Testing)
- Records related to negative and cancelled test results.
 - *One year*
 - 49 C.F.R. §382.401 (Controlled substances and Alcohol Use and Testing)

7) EMPLOYEE PERSONNEL FILES

- Personnel records including: disciplinary notices, promotions, demotions, discharge, training, tests, physicals, transfer, layoff and recall, performance appraisals.
 - *One year; FEHA two years*
 - Civil Rights Act (1964)

8) EMPLOYEE DISCRIMINATION CHARGES

- Personnel records concerning any discrimination charge brought by any agency or individual (e.g., 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 of the charge or the action*
 - Civil Rights Act (1964) and Americans with Disabilities Act (1990)

9) DISABILITY DISCRIMINATION CHARGES

- Any personnel or employment record made or kept by an employer concerning an individual with a disability (e.g., request for reasonable accommodation, application forms, and other records having to do with hiring, promotion, demotion, transfer, layoff or termination, rates of pay or compensation, and selection for training or apprenticeship).
 - *One year from the date the record is made or when the personnel action taken, whichever is later*
 - Americans with Disabilities Act (1990)
- Personnel records of an individual whose employment has been involuntarily terminated.
 - *One year from the date of the termination*
 - Americans with Disabilities Act (1990)

10) EMPLOYEE LEAVES OF ABSENCE

- Basic payroll and identifying employee data, including name, address, occupation, rate of pay and terms of compensation, daily and weekly hours worked per pay period and additions or deductions from wages; all records pertaining to compliance with FMLA's leave requirements, including dates and hours (if less than a full day) of FMLA leave; copies of employer notices, documents describing premium payments and employee benefits and records of disputes with employees over FMLA benefits; documents describing FMLA notices and copies of employer's FMLA policy.
 - *Three years*
 - Family and Medical Leave Act (1993)
- Copies of Military Orders used to calculate military leave during state service; payroll/wage records; group health care documents.
 - *Two years*
 - Uniformed Services Employment and Re-employment Rights Act (1994)