

HR Document Retention Requirement Checklist



KPA

HR Management

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The following chart highlights key HR recordkeeping requirements under federal law. The requirements set forth in the statutes are the federal minimum requirements and employers may want to retain records for longer (5 years past termination date in most cases) or consult their legal counsel for specific state or industry requirements. Additional requirements apply to federal and state contractors and public employers.

Regulation	Covered Employers	Required Records	Retained For	After Action Started
Age Discrimination in Employment Act (ADEA)	Any employer with more than 20 employees	Payroll records, job applications, promotions, transfer, selection for overtime, layoffs, recalls, tests, physical exams, job postings, benefit plans	3 years or 1 year from date of action or after termination of benefit plan	Until final disposition of the matter
Older Workers Benefit Protection Act (OWBPA)	Any employer with more than 20 employees	Payroll records and it is recommended to also keep settlement and severance agreements	3 years or 1 year from termination	Until final disposition of the matter
Civil Rights Act of 1964/ Amended in 1991	Any employer with more than 15 employers	Applications, interview notes, reference checks and background checks, job postings and advertisements, hiring, promotion, demotion, payroll records, ADA requests, selection for training or apprenticeship	1 year from making the record or taking the action	Until final disposition of the matter
COBRA	Any employer with more than 20 employees	Not specified. Recommended that copies of all notices, list of all covered employees and qualified events be maintained	3 years	Until final disposition of the matter
Davis Bacon Act	Federal contractors or sub contractors	Payroll records (including employees date of birth, gender occupation and job classification	3 years from completion of contract	N/A
Employee Polygraph Protection Act	All employers	Copy of test for each employee required to submit to a test, statement provided to employee, nature of loss or investigation, access to person or property being investigated, any questions, list or reports.	3 years from date of test	Until final disposition of the matter + 3 years

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Employee Retirement Income Security Act (ERISA)	All employers who maintain benefit plans subject to ERISA	Annual reports, summary plan description, change notices, amendments and termination of plans and supporting data for summary plan description.	6 years	N/A
Equal Pay Act (EPA)	All employers	Payroll records that include gender, race and date of birth, job title. Job evaluations, job descriptions, descriptions of merit or seniority systems.	3 years	Until final disposition of the matter
Equal Employment Opportunity Form (EEO-1)	Employers with more than 100 employees and federal contractors with more than 50 employees	Form EEO-1 for each location, filed annually.	Current EEO-1 Report	Until final disposition of the matter
Executive Order 11246	Federal contractors or subcontractors	All records related to hiring, promotions, demotions, pay rates, wage increases and other compensation records, ADA requests, physical exams, job posting and advertisements, applications, tests and test results, interview notes plus affirmative action plans	Affirmative Action Plans must be updated annually and retained for 2 years	Until final disposition of the matter
Fair Labor Standards Act (FLSA)	All Employers	Employee information including name, address, occupation, date of birth and gender; complete payroll records, certifications, union agreements, written training agreements, sales and purchase records and certification of age for any employee under the age of 18	3 years	Until final disposition of the matter
Fair Labor Standards Act (FLSA)	All Employers	Wage rate tables, ² actual work hours/work	2 years	Until final disposition of the matter

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Fair Labor Standards Act (FLSA)	All Employers	Wage rate tables, actual work hours/work completed, wage differential payment, evaluations , job descriptions and merit or seniority systems	2 years	Until final disposition of the matter
Family and Medical Leave Act	Employers with more than 50 employees as defined by FMLA	Payroll records and employee identification records; leave requests and leave take by employee, copies of all notices and documents describing FMLA provided to employees, premium payments made for employees during FMLA, any disputes on covered FMLA leave	3 years	Until final disposition of the matter
Federal Unemployment Tax (FUTA)	All employers	Employee data and detailed payroll data including copies of W-4, amounts paid to state unemployment fund and experience rating	4 years after tax is due of paid	Until final disposition of the matter

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Health Information Privacy (HIPAA)	All employers with group health plans except self insured plans with 50 or fewer participants	All medical records. Employees must be provided copies of records and also notices on their right to access and to privacy of data	No specific requirement	Until final disposition of the matter
Immigration Reform and Control Act (IRCA)	All employers	I-9 forms must be completed within 3 days of hiring. Additional copy may be kept in a general I-9 file since Department of Labor or Immigration may request to inspect at any time	3 years after employee is hired or 1 year after termination	N/A
IRS Regulations	All employers	W-4 plus basic employee and detailed payroll data, state unemployment fund data and experience rating	4 years after tax payment paid or return is filed	Retention can be extended by IRS as long as records are considered material to a tax filing.
Occupational Health and Safety Administration (OSHA)	Employers with 10 or more employees, however certain industries may be exempt.	Form 301 (injury and illness report) Form 300A (annual report)	5 years or 30 years related to exposure to toxic or hazardous agents	
Personal Responsibility and Work Opportunity Reconciliation Act of 1996	All employers	Employers must report the hiring and rehiring of all employee to state directory within 20 days of hiring	Not specified	
Social Security Act (FICA)	All employers	Employee data and payroll records including tips reports and employer filing records	4 years	

About KPA



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