# Retention of Employee Records

**Federal Requirements**

*Applicable to all states*

*(\*See* ***California State Requirements below****)*

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| **Statute/Regulation** | **Types of Records** | **Time for Retention** |
| Fair Labor Standards Act - Equal Pay Act (FLSA)  29 USC §211(c); 29 CFR §516.2-.10 | Equal Pay Payroll Records | 3 Years |
| Non-Exempt Employees            (paid by the hour) | Payroll records; collective bargaining agreements; employment agreements; business volume records.  Time cards/sheets; invoices/orders; wage schedules; wage differentials. | 3 years  2 years |
| Exempt Employees            (paid salary, not eligible for  overtime pay) | Payroll records. | 3 years |
| Federal Unemployment Tax Act (FUTA)  26 USC §§3301-3311 | Total remuneration; taxable wages; Unemployment Fund contributions. | 4 years |
| Labor Management Reporting and Disclosure Act (LMRDA)  29 USC §433-436; 29 CFR §405.9 | Records to verify Labor-Management/Welfare-Pension reports. | 5 years |
| Federal Insurance Contributions Act (FICA)  26 USC §3101-26, 6001 | Returns concerning tax records of remuneration paid to employees regarding tax. | 4 years |
| Employee Retirement Income and Security Act (ERISA)  29 USC §§1001-1381 | Records regarding employee benefits. | 6 years for background records, similar state statutes depending on case |
| Walsh Healy Act  41 USC 35-45; 41CFR §50-201.50 | Basic employee information, wage hour records.  Time cards/wage schedules. | 3 years  2 years |
| Immigration Reform and Control Act  Civil Rights Act - Title VII  29 USC §§2000e et seq; 29 CFR §§1602 et seq | Employment Eligibility Form I-9  Employee records concerning personnel actions.  Apprenticeship information/data.  When discrimination complaint is filed. | The later of 3 years from hire date or year after Term.  1 year  2 years  Final disposition of case |
| Executive Order No. 11246  41 CFR §60 | Affirmative Action Plans | 3 years |
| Executive Order No. 11701  38 FR 2675 | Veterans hiring information; reports to EDD; complaints. | 1 year |
| Rehabilitation Act  29 USC §701-7961; E.O. No. 11758; 41 CFR §60-741.52 | Records of complaints; employment records required by the OFCCP. | 1 year |
| Age Discrimination in Employment Act (ADEA)  29 USC §621-634; 29 USC §211(c); 29 CFR §1627 et seq. | Payroll records.  Personnel records for various personnel actions.  Employee benefit plans; merit systems - when complaint filed. | 3 years  1 year; 90 days for temporary positions  Final disposition |
| Wage Withholding Tax  26 USC §3402 | Remuneration records relating to W-4 withholding. | 4 years |
| OSHA  29 USC §651; 29 CFR 1904 | Log and supplementary record.  Employee exposure and medical records. | 5 years  30 years |
| FMLA Records | Date and Hours of leave    Employee Notices and  Benefits relating to leave  Documents pertaining to  medical certification  Records relating to any  dispute regarding designation of leave | 3 Years |

**\* California State Requirements**

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| **Statute/Regulation** | **Types of Records** | **Time for Retention** |
| Fair Employment and Housing Act (FEHA)  GC §§12900-12996 | Applications; employment records; applicant resumes identification records CEIR or EEO-1. | 2 years or until final disposition if complaint filed |
| Equal Pay  LC §1197.5 | Records concerning wages; wage rates; terms. | 3 years |
| Gratuities  LC §353 | Tip records. | Unspecified |
| CalOSHA  LC §6410; 8 Cal. Admin. C. §§14301-14307 | Log and supplementary record; annual summary. | 5 years |
| Basic Record keeping Duties  LC §1174 | Payroll, hours worked, names/addresses/ages  hourly rate overtime  pay dates and period | 2 years |
| Personnel Files  LC §1198.5 | Personnel files. | Employers Group recommends a minimum of seven years from termination date |
| Payroll Records  UI §§1085; 22 Cal.Admin. C. §1085.2; LC 226 | Payroll records.  Records of deductions from wages in cash. | 3 years  3 years |
| Public Works Contracts  LC §§1776, 1812 | Payroll records, hours worked. | Unspecified |
| Employment of Minors  LC §1299; EdC §49161 | Work permits/certificates. | Term of employment |
| California Code Title 8 sec 3203 Injury Illness Prevention | Scheduled Inspection  Person Conducting inspections  Action taken to correct unsafe condition  Unsafe conditions and work practices that have been identified | 1 year. Employers with fewer than (10) employees need only maintain the inspection records until the hazard is corrected. |

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| **Statute/Regulation** | **Types of Records** | **Time for Retention** |
| Paid Sick Leave | Number of hours that the employee worked  Paid sick days accrued  Paid sick days used by an employee | 3 years |
| Workers Compensation | Date-stamped copy of claim forms, report of occupational injury or illness, letter of denial of benefits to employee, all reports to the Division of Workers’ Compensation, records of benefits paid, estimate of future benefits, applications to the Workers’ Compensation Appeals Board, Orders & Awards of Workers’ Compensation Appeals Board, and all notices sent to the injured employee.  Closed workers’ compensation claims | 5 years after the date of injury, whether the claim is still active or closed  2 years from the date the claim closed. For open claims, the employer should keep the listed records for five years from the date of injury or last date for benefit payment, whichever is later. |

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