# Records Retention Requirements



A variety of federal regulations – most notably those designed to combat discrimination and other unfair labor practices – require record retention as a condition of compliance. Below is an overview of the responsibility to retain a variety of employee-related records pursuant to these laws.

### EEOC

EEOC Regulations require that employers keep all personnel or employment records for one year. If an employee is involuntarily terminated, his/her personnel records must be retained for one year from the date of termination.

### ADEA

Under ADEA record-keeping requirements, employers must also keep all payroll records for three years.

### FLSA

Under Fair Labor Standards Act (FLSA) record-keeping requirements applicable to the EPA, employers must keep payroll records for at least three years. In addition, employers must keep for at least two years all records (including wage rates, job evaluations, seniority and merit systems, and collective bargaining agreements) that explain the basis for paying different wages to employees of opposite sexes in the same establishment.

These requirements apply to all employers covered by Federal anti-discrimination laws, regardless of whether a charge has been filed against the employer.

### JOB ADVERTISEMENTS AND POSTINGS

Pursuant to the Americans with Disabilities Act (ADA), Age Discrimination in Employment Act (ADEA), and Fair Labor Standards Act (FLSA), job advertisements and internal postings should be retained for a minimum of one year.

### RESUMES AND APPLICATIONS

The ADA, Rehabilitation Act, Title VII of the Civil Rights Act, and ADEA require employers to keep all resumes and job applications on file for one year. Because the ADEA further stipulates a two-year retention period for paperwork for individuals over the age of 40 (something that may be difficult to determine and is, of course, illegal to ask), consider making it your policy to hold onto all resumes and applications for that long.

# EMPLOYMENT ACTION RECORDS

Records relating to promotions, demotions, transfers, and terminations must be retained for one year according to the ADA, ADEA, and Title VII. While training records, in general, should also be kept on file for one year, those related to safety and health must be retained for three years in accordance with the Occupational Safety and Health Act (OSHA).

## LEAVE RECORDS

Information relating to leaves of absence under the Family Medical Leave Act (FMLA), such as time off and medical certification must be retained for three years.

## I-9 FORMS

Under the Immigration Reform and Control Act of 1986 (IRCA), I-9 forms must be retained for three years after employment begins or one year following termination (whichever is later).

## JOB-RELATED ILLNESS AND INJURY RECORDS

OSHA requires that information pertaining to job-related illness and injury be kept on file for five years. In cases of exposure to toxic substances or blood-borne pathogens, medical exam results must be retained for 30 years after the employee’s termination.