State Record Retention Requirements – NY



NEW YORK

Wage and Hour:

- Payroll records: 3 years' retention requirements for all payroll records including; each employee's hours' worked, gross wages, deductions, and net wages. Effective April 12, 2011, The New York Wage Theft Prevention Act increases this retention requirement to 6 years.
- Minimum wage: 6 years' retention requirement for records of hours worked by each employee covered by a minimum wage rate, wages paid to all employees, and such other information as the commissioner deems material and necessary. To guarantee at least 1 day off in every 7, employers must keep a time book indicating the name and addresses of each employee and the hours worked by them each day.
- Prevailing wages and benefits records: Employers that have been awarded public construction or building service contracts must retain original payrolls or transcripts evidencing the payment of prevailing wages and benefits to employees who performed work subject to prevailing wages and benefits for three years from the date of completion of the work on the awarded contract.

Worker Injuries, Health, and Safety:

- Under New York's "Right to Know" Law, employers must maintain for 40 years records of the names, addresses and social security numbers of all employees who work with substances listed in Subpart Z of § 1910 of the Federal Occupational Safety and Health Regulations.
- Records concerning workplace injuries: 18 years retention requirement of mandatory documents recording injuries or illnesses suffered by employees in the course of employment. Records should include the employee's name and occupation, the time, place, and date of the injury, and an explanation of how the injury occurred. Employees covered by the Workers' Compensation Law must retain for 4 years accurate payroll records specifying the number of employees working and the wages paid to them.

Other Employment Records;

- EEO/Affirmative Action: No specific requirement under New York State Human Rights law.
- New York City Human Rights Law: Once the New York City Commission on Human Rights (NYCCHR) initiates its own investigation, or commences one in response to a filed complaint, it has the power to demand that employers

continues to make and preserve records they make and keep in the ordinary course of business during the preceding year. Demands of this nature are effective immediately upon their service and remain in effect until all proceedings relating to a filing complaint are terminated or a civil action is commenced. If no charge is filed, or if not civil action is commenced, the demand expires 2 years from the date it was served. The NYCCHR also has the authority to subpoena all records that relate to an investigation into an unlawful discriminatory practice.

- New York Education Law: Employers are required to maintain at their place of business the certificates of those minors required by law to have work certificates. No specific retention time period is established in the law. However, certificates shall be returned to the minor upon termination of employment.

Does your state give employees a legal right to examine their own personnel files?

Employees' Rights:

No statutory right, but case law exists to support the right of a public employee to be given notice of adverse material contained in his or her personnel file and the opportunity to submit a written response prior to a determination of sanction.

Former Employees' Rights:

No statutory right

Covered Employers

Public employers

Citation to Authority – Click link to view statute:

NY Labor Law §195 (4) Payroll records

NY Labor Law § 661 Employer records

NY Labor Law § 161 (4) One day rest in 7 – time book

NY Labor Law § 220 (3–a)(a) Hours, wages and supplements

NY Labor Law § 233(4) Record-keeping

NY Labor Law § 879 Right to know – records

NY Work. Comp. Law § 110 Record/report of injuries

NY Work. Comp. Law § 131 Payroll records

NYC Admin Code, § 8 CRR–NY App. J Investigative record-keeping

NY Educational Law § 3223 Certificates – minors

Case Law:

Bigelow v. Board of Trustees, 63 NY.2d 470, 472 NE.2d 1001, 483 NYS.2d 173 (1984)