



MICHIGAN STATE

U N I V E R S I T Y

Federal Employment Statutes Records Retention Guide

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Note: Several records are covered under more than one statute.

Pre-Employment Records

Types of Records	Period of Retention	Legislation
Applications, Resumes, Pre-Hire Information Collected on all Applicants including Selection Tests and Physical Exams *For Federal Contractors with more than 150 employees or a contract of at least \$150,000*	1 year *2 years*	- Age Discrimination in Employment Act (ADEA) - Americans with Disabilities Act (ADA) - Title VII of Civil Rights Act of 1964 *Rehabilitation Act of 1973, Executive Order 11246, and Vietnam Era Veterans Readjustment Assistance Act (VEVRAA)*
Job Advertisements and Postings, including Job Orders *For Federal Contractors with more than 150 employees or a contract of at least \$150,000*	1 year *2 years*	- ADEA * Rehabilitation Act of 1973, Executive Order 11246, and VEVRAA*
Pre-Employment Records for Temporary Positions	0 Days	- ADEA
Background Checks Credit reports, criminal history reports, driving records, consent forms, and any other background check reports created by a third party	1 year. Recommended 5 years after the date of the consumer report	- Civil Rights Act of 1964 (Title VII) - Fair Credit Reporting Act (FCRA)

Employment Actions

Types of Records	Period of Retention	Legislation
Tax Records: Employee records related to mandatory federal taxes (e.g. EID, amounts and dates of all payments of any kind, reported tips, W-2 forms, dates of employment, periods and payments for sick/injury leave, W-4 forms, fringe benefits)	4 years after filing the 4 th quarter for the year	- Federal Insurance Contribution Act - Federal Unemployment Tax Act - Regulations Requiring Withholding of Income Tax - Internal Revenue Code
All Payroll and Compensation Record Information: (e.g., timecards, wage rates, additions/deductions of wages, etc.)	3 years *Recommended length of employment plus an additional 5 years*	- Equal Pay Act - Fair Labor Standards Act (FLSA) - ADEA *Lily Ledbetter Fair Pay Act*
Certification of Age (Working Papers for Minors)	Until Termination of Employment	- Child Labor Provision of FLSA
Personnel Records: Relating to ANY employment decision (e.g., hires, tests, promotions, transfers, and terminations). *For Federal Contractors with more than 150 employees or a contract of at least \$150,000*	1 year from date of record or from making decision *2 years from date of record or the decision*	- Title VII - ADA - ADEA * Rehabilitation Act of 1973, Executive Order 11246, and VEVRAA*

Employee Data: - Demographic Information - Occupation - Job Classification	3 years	- ADEA - FLSA - Davis-Bacon Act - FMLA - Service Contract Act
Certificates, Agreements, Contracts, Plans, Sales and Expense Records	3 years	- FLSA
Wage Rates Tables for Piece Rates	2 years	- FLSA
Work Schedules - established hours and dates of employment	2 years	- FLSA
Order, Shipping, Billing, Delivery Records and Customer Orders and Billings	2 years	- FLSA
I-9 Authorization Form (Kept separate from personnel file)	3 years after date of hire OR 1 year from date of termination; whichever is longer	- Immigration Reform and Control Act - Immigration and Nationality Act
Written Training Agreements	Duration of Training	- FLSA
Polygraph Test Results (only in special cases if allowed by law)	3 years	- Employee Polygraph Protection Act

Any Employee Benefit Plan Information, Seniority System or Merit Plan	At least 1 year after termination of plan	- ADEA
Any Records Relating to Retirement Plans, Including: - Plan Description - Annual Reports - Reports of Plan Termination	6 years (Records used to determine benefits must be kept if plan is relevant)	- Employee Retirement Income Security Act
FMLA Leave Records: Payroll and demographic information of those invoking leave as well as other pertinent information such as hours and dates taken, copies of notices to employee.	3 years	- Family and Medical Leave Act
Health and Safety Records - Logs, records, and summaries of occupational injuries/illnesses - Records of exposure to toxic substances for each employee	5 years after date of record	- Occupational Safety and Health Act (OSHA) - Walsh-Healey Act (federal contractors)

Medical Exams and Medical Records (Kept Separate and Confidential)	30 years after the termination or departure of employee (Medical records of those who worked for <1 year do not need to be retained beyond employment if given to the employee upon the termination)	- OSHA - ADA - Walsh-Healey Act (federal contractors)
EEO-1 Employer Information Report (for employers with 100 or more employees)	Current Copy On File	- Title VII - EEOC
* For Federal Contractors * - Employee Demographic Information - Compensation Information	*3 years*	* Davis Bacon Act * * Service Contract Act * * Walsh-Healy Act *

*** Compliance Reports for Federal Contractors ***

Types of Records	Period of Retention	Legislation
<p>Annual Affirmative Action Plans (AAP) and Documentation of Good Faith Efforts</p> <p>Records pertaining to: Workforce analysis, job group analysis, availability analysis, placement goals, internal audit and reporting systems</p>	2 years for the current and preceding year	<ul style="list-style-type: none"> - Rehabilitation Act of 1973 - Executive Order 11246 - VEVRAA
<p>Support Data for Affirmative Action Plans: Data on Race, Sex, Veteran, Disabled Status (Kept separate from personnel file)</p>	<p>2 years</p> <p>OR</p> <p>1 year (if less than 150 employees or less than \$150,000 in contracts)</p>	<ul style="list-style-type: none"> - Recommended under Uniform Guidelines for Employee Selection Procedures
<p>Records of Complaints and Actions Taken</p>	1 year	<ul style="list-style-type: none"> - Rehabilitation Act of 1973 - Executive Order 11246 - VEVRAA
<p>EEO-1 Report (Contractors with 50 or more employees)</p>	Current Copy on file	<ul style="list-style-type: none"> - Title VII
<p>VETS-100 Report</p>	Current Copy on file	<ul style="list-style-type: none"> - VEVRAA

Notes:

In case legal action or investigation is being taken or conducted against firm on matters of employment, all relevant records should be kept until the issue is resolved.

The information contained in this presentation is for educational purposes and does not constitute legal advice.