

# RECORD RETENTION REQUIREMENTS SUMMARY GUIDE

**Jennifer L. Suich**  
Lindquist & Vennum P.L.L.P.  
(612) 371-2435  
*jsuich@lindquist.com*

## I. Documents Related to Recruitment

<b>Type of Record</b>	<b>Retention Period</b>	<b>Statute</b>
Job orders submitted by the employer to employment agencies, or labor organizations for recruitment of employees	One year from date of personnel action	29 U.S.C. §626;29 C.F.R. §1627.3 (Age Discrimination in Employment Act)
Job advertisements and notices to public or to employees regarding job openings, training programs, promotions, and opportunities for overtime	One year from date of personnel action	29 U.S.C. §626;29 C.F.R. §1627.3 (Age Discrimination in Employment Act)
Criteria for selection for apprenticeship programs in recognized trade or craft; chronological list of all applicant's names, addresses, dates of application, sex, minority group class (race or national original); and any test papers or interview records on which hiring decisions were made	(1) Two years or period of chosen applicant's apprenticeship, whichever is longer; or (2) One year from date of report	42 U.S.C. §2000e8c; 29 CFR §1602 (Title VII of the Civil Rights Act of 1964)

## II. Documents Related to Employee Selection

<b>Type of Records</b>	<b>Retention Period</b>	<b>Statute</b>
Written training agreements, summaries of applicants' qualifications, job criteria, interview records and identification of minority and female applicants	Duration of training program plus three years	29 U.S.C. §206(d)(1); 29 U.S.C. §211; 29 C.F.R. §516.5 (Fair Labor Standards Act and National Labor Relations Act)
Test appears and results from employment test	One year from date of personnel action	29 U.S.C. §626;29 C.F.R. §1627.3 (Age Discrimination in Employment Act)

Results in physical examinations	One year from date of personnel action	29 U.S.C. §626; 29 C.F.R. §1627.3 (Age Discrimination in Employment Act)
Promotion, demotion, transfer, selection for training, layoff, recall or discharge	One year from date of personnel action	29 U.S.C. §626;29 C.F.R. §1627.3 (Age Discrimination in Employment Act)
Hiring documents, including job applications, resumes, job inquiries, and records of refusals to hire	One year form date of personnel action	29 U.S.C. §62;29 C.F.R. §1627.3 (Age Discrimination in Employment Act)
Application forms and other preemployment records of applicants for temporary positions	One year after personnel action	29 U.S.C. §626;29 C.F.R. §1627.3 9Age Discrimination in Employment Act)
All personnel or employment records including application forms, resumes, other hiring records; records regarding promotion, demotion, transfer, layoff, discharge, pay rates, or other compensation terms	One year from date records made or personnel action taken, whichever is later	42 U.S.C. §2000e8c; 29 C.F.R. §1602.14 (Title VII of the Civil Rights Act of 1964)
INS form I-9 Employment Eligibility Verification Form	Three years after date of hire or one year after date of termination, which is later	8 U.S.C. §1324a (Immigration and Nationality Act).
Employers having 100 or more employees, EEO-I Form	Copy of most recent report for each reporting unit must always be retained.	42 U.S.C. §2000e8c; 29 C.F.R. §1602 (Title VII of the Civil Rights Act of 1964)
Written affirmative action program with supporting documents, including evaluations, documents regarding compliance with EEO antidiscrimination and affirmative action regulations, test records and results. (Government contractors with 150 or more employees and contractors of \$150,000 or more)	Retention period not specified. It is nonetheless suggested that these records be retained for at least five years  (Under MN law, these records must be submitted every 2 years for renewal)	Executive Order No. 11246 41 C.F.R. §60-1.4(a)  Minn. Stat. §363.073(1)

### III. Documents Related to Compensation of Employees

Type of Records	Retention Period	Statute
Payroll records, collective bargaining agreements, including any changes, individual contracts, written agreements under the FLSA, sales and purchase records, and certificates and notices of the Wage and Hour Administrator	Three years	29 U.S.C. §206(d)(1); 29 U.S.C. §211; 29 C.F.R. §516.5 (Fair Labor Standards Act and National Labor Relations Act)
Supplementary basic records including basic employment and earnings records; wage and rate tables utilized to calculate straight time and overtime work schedules; work-time schedules; order, shipping and billing records; records of additions to, or deductions from wages paid; records used for determining costs; and records explaining basis for payment of any wage differential to employees of the opposite sex	Two years	29 U.S.C. §206(d)(1); 29 U.S.C. §211; 29 C.F.R. §§516.6 and 1620.32 (Fair Labor Standards Act and National Labor Relations Act)
Certificates of Age	Until termination of employment	29 U.S.C. §206(d)(1); 29 U.S.C. §211; 29 C.F.R. §570.6 (Fair Labor Standards Act and National Labor Relations Act)
Payroll or other records containing name, address, birthdate, occupation, pay rate and weekly compensation	Three years	29 U.S.C. §626; 29 C.F.R. §1627.3 (Age Discrimination in Employment Act)
Payroll records including name, address, job category, pay rate, weekly number of hours worked, deductions made, and wages paid	Three years from completion of contract	40 U.S.C. §276a; 29 C.F.R. §5.5 (Davis-Bacon Act)
Name, address, and occupation of each employee	Three years	Minn. Stat. 177.30(1) (Minnesota Fair Labor Standards Act)
Rate of pay and amount paid each pay period to each employee	Three years	Minn. Stat. 177.30(2) (Minnesota Fair Labor Standards Act)
Hours worked each day and each work week for each employee	Three years	Minn. Stat. 177.30(3) (Minnesota Fair Labor Standards Act)

#### IV. Documents Related to Employee Benefit Plans

Type of Records	Retention Period	Statute
Employee benefit plans (such as pension or insurance plans); seniority and merit systems which are in writing	Duration of plan and for at least one year after plans' termination	29 U.S.C. §626;29 C.F.R. §1627.3 (Age Discrimination in Employment Act)
Basic information supporting plan descriptions including vouchers, worksheets, receipts, applicable resolutions and participants' elections and deferrals	Six years after filing date of documents	Employee Retirement Income Security Act of 1974 §107
Retain a signed and dated notation in each employee file (a) documenting the dates on which the employee was given each required reporting and disclosure document relating to an employer-sponsored benefit plan; and (b) the manner of deliver. Keep in a master file (instead of in each employee file).	Indefinitely	Employee Retirement Income Security Act of 1974 §209
Beneficiary designation and distribution election forms for retirement plans.	For distribution to participants, three years following distribution. For distribution to a beneficiary, indefinitely.	Employee Retirement Income Security Act of 1974
Any correspondence, inquiries or notes relating to individual eligibility determinations	Indefinitely	Employee Retirement Income Security Act of 1974 §209
Wage and hour records for the purpose of determining retirement benefits.	Indefinitely; alternatively six years following date of lump sum distribution.	Employee Retirement Income Security Act of 1974 and the Fair Labor Standards Act
Copies of each document for referral purposes. examples of reporting and disclosure documents are COBRA notices, summary plan descriptions and summary annual reports.	Indefinitely	Employee Retirement Income Security Act of 1974

#### V. Documents Relating to Employee Exposure to Toxic Substances

Type of Records	Retention Period	Statute
Log and summary of occupational injuries and illnesses (OSHA form No. 200)	Five years following end of year to which records relate	29 U.S.C. §657; 29 C.F.R. §1904.2 (Occupational Safety and Health Act)

Supplemental record for each occupational injury or illness (OSHA form No. 101)	Five years	29 U.S.C. §657; 29 C.F.R. §1904.4 (Occupational Safety and Health Act)
Annual summary of occupational injuries and illnesses	Five years	29 U.S.C. §657; 29 C.F.R. §1904.5 (Occupational Safety and Health Act)
Records of medical examinations required by law	Duration of employment plus thirty years, unless OSHA requirements provide otherwise	29 U.S.C. §657; 29 C.F.R. §1910.1020 (Occupational Safety and Health Act)
Records of monitoring exposure to hazardous materials	Thirty years	29 U.S.C. §657; 29 C.F.R. §1910.1020 (Occupational Safety and Health Act)
Manufacturers, processors, or distributors of any chemical substance must retain records of employees' "significant adverse reactions" to health or the environment.	Thirty years from date such adverse reaction first reported to or known by person maintaining record	15 U.S.C. §2607 (Toxic Substances Control Act)
Any other records of such adverse reactions	Five years from date first reported to or known by person maintaining the record	15 U.S.C. §2607 (Toxic Substances Control Act)
Consumer allegations of personal injury or harm to health, reports of occupational disease or injury and reports or complaints of injury to the environment submitted to the manufacturer, processor, or distributor from any source	Thirty years for employee claims of occupational disease or occupational health problems	15 U.S.C. §2607 (Toxic Substances Control Act)

## VI. Documents Related to Drug and Alcohol Testing

Type of Records	Retention Period	Statute
Records related to positive test results and/or refusals to take a required alcohol and/or controlled substances test; driver evaluation and referrals	Five years	49 C.F.R. §382.401 (Controlled Substances and Alcohol Use and Testing)
Equipment calibration documentation, records related to administration of alcohol and controlled substances testing programs, copy of annual calendar year summary	Five years	49 C.F.R. §382.401 (Controlled Substances and Alcohol Use and Testing)

Records related to the collection process, including collection logbooks; documents relating to the random selection process, reasonable suspicion testing, post-accident testing; documents verifying employee's inability to provide breath for testing	Two years	49 C.F.R. §382.401 (Controlled Substances and Alcohol Use and Testing)
Records related to negative and cancelled test results	One year	49 C.F.R. §382.401 (Controlled substances and Alcohol Use and Testing)
Records related to breath - alcohol testing related training	Two years	49 C.F.R. §382.401 (Controlled Substances and Alcohol Use and Testing)

## VII. Documents Related to Discrimination Charge

Type of Records	Retention Period	Statute
Personnel records concerning any discrimination charge brought by any agency or individual (e.g., records about charging party and all other employees holding similar positions, application forms, or test papers completed by all applicants for same position)	Until final disposition	42 U.S.C. §2000e8c; 29 C.F.R. §1602 (Title VII of the Civil Rights Act of 1964)
In action brought against employer, any personnel records concerning employee or applicant	Until final disposition	29 U.S.C. §626; 29 C.F.R. §1627.3 (Age Discrimination in Employment Act)

## VIII. Documents Related to Disability Discrimination Charges

Type of Records	Retention Period	Statute
Records concerning complaints of handicap discrimination, (in programs and activities receiving or benefitting from federal financial assistance) and relevant employment records of charging party and employees in similar positions.	Three years	29 U.S.C. §793 41 C.F.R. §60-741.81 (Rehabilitation Act of 1973)

Any personnel or employment record made or kept by an employer concerning an individual with a disability (e.g., request for reasonable accommodation, application forms, and other records having to do with hiring, promotion, demotion, transfer, layoff or termination, rates of pay or compensation, and selection for training or apprenticeship)	One year from the date the record is made or the personnel action involved is taken, whichever occurs later	29 C.F.R. §1602.14 (Americans with Disabilities Act)
Personnel records of an individual whose employment has been involuntarily terminated	One year from the date of the termination	29 C.F.R. §1602.14 (Americans with Disabilities Act)
Personnel records concerning a charge of discrimination filed or an action brought against an employer under Title VII or the ADA	Until final disposition of the charge or the action (the date of expiration of the statutory period within which the aggrieved person may bring an action in U.S. District Court or the date such litigation is terminated)	29 C.F.R. §1602.14 (Americans with Disabilities Act)

## IX. Documents Related to Employee Leaves of Absence

Type of Records	Retention Period	Statute
Basic payroll and identifying employee data, including name, address, occupation, rate of pay and terms of compensation, daily and weekly hours worked per pay period and additions or deductions from wages	Three years	29 U.S.C. §2616; 29 C.F.R. §825.500. (Family and Medical Leave Act of 1993)
All records pertaining to compliance with FMLA's leave requirements, including dates and hours (if less than a full day) of FMLA leave; copies of employer notices, documents describing premium payments and employee benefits and records of disputes with employees over FMLA benefits.	Three years	29 U.S.C. §2616; 29 C.F.R. §825.500. (Family and Medical Leave Act of 1993)
Documents describing FMLA notices and copies of employer's FMLA policy	Three years	29 U.S.C. §2616; 29 C.F.R. §825.500. (Family and Medical Leave Act of 1993)