



**EMPLOYMENT RECORDS RETENTION  
REQUIREMENT SUMMARY GUIDE**  
(Updated July 2010)



**I. Documents Relating to Recruitment, Selection, Retention, and Termination of Employees**

| <b>Type of Record</b>                                                                                                                              | <b>Retention Period</b>                | <b>Statute and/or Regulation</b>                                                                                 | <b>Who is Covered?</b>                                                                                                      |
|----------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|
| Job orders submitted by employer to employment agencies or labor organization for recruitment of personnel for job openings                        | One year from date of personnel action | <a href="#">29 C.F.R. § 1627.3</a><br>(Age Discrimination in Employment Act (ADEA) - <i>see</i> 29 U.S.C. § 626) | Employers that are engaged in an industry affecting interstate commerce and have at least 20 employees.<br>29 U.S.C. § 630. |
| Job advertisements and notices to the public or to employees regarding job openings, training programs, promotions, and opportunities for overtime | One year from date of personnel action | <a href="#">29 C.F.R. § 1627.3</a><br>(ADEA - <i>see</i> 29 U.S.C. § 626)                                        | Employers that are engaged in an industry affecting interstate commerce and have at least 20 employees.<br>29 U.S.C. § 630. |
| Employment test papers which disclose results                                                                                                      | One year from date of personnel action | <a href="#">29 C.F.R. § 1627.3</a><br>(ADEA - <i>see</i> 29 U.S.C. § 626)                                        | Employers that are engaged in an industry affecting interstate commerce and have at least 20 employees.<br>29 U.S.C. § 630. |
| Results of physical examinations used in connection with a personnel action                                                                        | One year from date of personnel action | <a href="#">29 C.F.R. § 1627.3</a><br>(ADEA - <i>see</i> 29 U.S.C. § 626)                                        | Employers that are engaged in an industry affecting interstate commerce and have at least 20 employees.<br>29 U.S.C. § 630. |
| Promotion, demotion, transfer, selection for training, layoff, recall, or discharge                                                                | One year from date of personnel action | <a href="#">29 C.F.R. § 1627.3</a><br>(ADEA - <i>see</i> 29 U.S.C. § 626)                                        | Employers that are engaged in an industry affecting interstate commerce and have at least 20 employees.<br>29 U.S.C. § 630. |
| Hiring documents, including job applications, resumes, job inquiries, and records of refusals to hire                                              | One year from date of personnel action | <a href="#">29 C.F.R. § 1627.3</a><br>(ADEA - <i>see</i> 29 U.S.C. § 626)                                        | Employers that are engaged in an industry affecting interstate commerce and have at least 20 employees.<br>29 U.S.C. § 630. |



|                                                                   |                                                                                          |                                                                       |                                                                                                                     |
|-------------------------------------------------------------------|------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|
| <a href="#">Form I-9 Employment Eligibility Verification Form</a> | Three years after date of hire or one year after date of termination, whichever is later | <a href="#">8 U.S.C. § 1324a</a><br>(Immigration and Nationality Act) | Any entity hiring, recruiting, or referring an individual for employment in the United States.<br>8 U.S.C. § 1324a. |
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## II. Documents Related to Compensation of Employees

| Type of Record                                                                                                                                                                                                                                                                                                                                                                                                              | Retention Period                                          | Statute and/or Regulation                                                                                        | Who is Covered?                                                                                                                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Payroll records, collective bargaining agreements – including any changes, individual contracts, written agreements under the FLSA, and memoranda summarizing oral agreements – sales and purchase records, and certificates and notices of the Wage and Hour Administrator                                                                                                                                                 | Three years                                               | <a href="#">29 C.F.R. § 516.5</a><br>(Fair Labor Standards Act (FLSA) – <i>see</i> 29 U.S.C. §§ 206(d)(1) & 211) | Employers of employees engaged in commerce or in the production of goods for commerce, or employed in an enterprise engaged in commerce or in the production of goods for commerce.<br>29 U.S.C. § 206. |
| 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                                                 | <a href="#">29 C.F.R. §§ 516.6 &amp; 1620.32</a><br>(FLSA - <i>see</i> 29 U.S.C. §§ 206(d)(1) & 211)             | Employers of employees engaged in commerce or in the production of goods for commerce, or employed in an enterprise engaged in commerce or in the production of goods for commerce.<br>29 U.S.C. § 206. |
| Certificates of age                                                                                                                                                                                                                                                                                                                                                                                                         | Until termination of employment                           | <a href="#">29 C.F.R. § 570.6</a><br>(FLSA - <i>see</i> 29 U.S.C. §§ 206(d)(1) & 211)                            | Employers of employees engaged in commerce or in the production of goods for commerce, or employed in an enterprise engaged in commerce or in the production of goods for commerce.<br>29 U.S.C. § 206. |
| <b>New! Effective July 19, 2010</b><br><br>Work-Study Program (WSP) written participation agreements                                                                                                                                                                                                                                                                                                                        | Three years from the date of the student's WSP enrollment | <a href="#">29 C.F.R. § 570.37</a><br>(FLSA, as amended - Child Labor Regulations)                               | Both the employer and the school supervising and administering the work-study program.<br>29 C.F.R. § 570.37(b)(4)(ii).                                                                                 |
| Payroll and other records containing name, address, date of birth, occupation, pay rate, and weekly compensation                                                                                                                                                                                                                                                                                                            | Three years                                               | <a href="#">29 C.F.R. § 1627.3</a><br>(ADEA - <i>see</i> 29 U.S.C. § 626)                                        | Employers that are engaged in an industry affecting interstate commerce and have at least 20 employees.<br>29 U.S.C. § 630.                                                                             |



|                        |                                                                                                                                                  |                                                                                                |                                                                                                                                                                                                                                  |
|------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Employment tax records | At least four years after the tax's due date for the return period to which the records relate, or the date such tax is paid, whichever is later | <a href="#">26 C.F.R. § 31.6001-1</a><br>(Internal Revenue Code – <i>see</i> 26 U.S.C. § 6001) | FICA: All U.S. employers, including schools, for all employees except those that are also students in the school.<br>26 U.S.C. § 3121(b).<br>FUTA: any employer who pays wages of \$1,500 or more per year.<br>26 U.S.C. § 3306. |
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### III. Documents Related to Employee Benefit Plans

| Type of Record                                                                                                                                                                                                                                                     | Retention Period                                                                                                                     | Statute and/or Regulation                                                                                                                          | Who is Covered?                                                                                                                                                                                                                                                                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Employee benefit plans (such as pension or insurance plans); seniority and merit systems which are in writing; memoranda fully outlining those systems not in writing                                                                                              | Duration of plan and for at least one year after the plan's termination                                                              | <a href="#">29 C.F.R. § 1627.3</a> (ADEA – <i>see</i> 29 U.S.C. § 626)                                                                             | Employers that are engaged in an industry affecting interstate commerce and have at least 20 employees. 29 U.S.C. § 630.                                                                                                                                                                       |
| Copies of notices required by COBRA; documentation that the notices were received; documentation of any circumstances in which COBRA continuation is not offered due to gross misconduct, Medicare entitlement, late notification, etc.; any related communication | Not specified by COBRA; COBRA amended ERISA, so it is recommended that ERISA requirements be followed: six years from date of record | ERISA recordkeeping requirements: <a href="#">29 U.S.C. § 1027</a> ; COBRA: 42 U.S.C. §§ 300bb-1 to -8; <i>see</i> 29 U.S.C. § 1161 <i>et seq.</i> | States that receive funds under the Public Health Service Act, and all political subdivisions, agencies, and instrumentalities of such states. 42 U.S.C. § 300bb-1.                                                                                                                            |
| Records of HIPAA/HITECH-compliance policies and procedures                                                                                                                                                                                                         | Six years from the date of record's creation or date it was last in effect, whichever is later                                       | <a href="#">45 C.F.R. §164.316(b)</a> & <a href="#">.530(j)</a> (HIPAA – <i>see</i> 42 U.S.C. § 1320d-1) (HITECH – <i>see</i> 42 USC §17938)       | A health care provider that conducts certain transactions in electronic form; a health care clearinghouse; a health plan; and business associates (BAs) under the HITECH Act. 42 U.S.C. § 1320d-1; 45 C.F.R. § 164.501. (Definition of a BA – <i>see</i> <a href="#">45 C.F.R. §160.103</a> ). |



## IV. Documents Related to Employee Exposure to Toxic Substances

| Type of Record                                                                                                                                                                                                        | Retention Period                                                                                   | Statute and/or Regulation                                                                                         | Who is Covered?                                                                                                                                                                                                                                            |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Records of medical examinations required by law                                                                                                                                                                       | Duration of employment plus thirty years, with exceptions for certain records                      | <a href="#">29 C.F.R. § 1910.1020</a><br>(Occupational Safety and Health Act (OSHA) – <i>see</i> 29 U.S.C. § 657) | “Federal OSHA standards do not apply to public sector employees, but the 24 states and two territories that operate OSHA-approved state plans are required to enforce an ‘at least as effective’ standard in the public sector.”<br><a href="#">Source</a> |
| Records of monitoring exposure to hazardous materials                                                                                                                                                                 | Thirty years                                                                                       | <a href="#">29 C.F.R. § 1910.1020</a><br>(OSHA– <i>see</i> 29 U.S.C. § 657)                                       | “Federal OSHA standards do not apply to public sector employees, but the 24 states and two territories that operate OSHA-approved state plans are required to enforce an ‘at least as effective’ standard in the public sector.”<br><a href="#">Source</a> |
| Records of “significant adverse reactions” to the health of employees                                                                                                                                                 | Thirty years from date of adverse reaction first reported to or known by person maintaining record | <a href="#">15 U.S.C. § 2607</a><br>(Toxic Substances Control Act (TSCA))                                         | Manufacturers, processors, or distributors of any chemical substance.<br>See also: <a href="#">PCBs</a>                                                                                                                                                    |
| Any other records of “significant adverse reactions” to health or the environment                                                                                                                                     | Five years from date of adverse reaction first reported to or known by person maintaining record   | <a href="#">15 U.S.C. § 2607</a><br>(TSCA)                                                                        | Manufacturers, processors, or distributors of any chemical substance.<br>See also: <a href="#">PCBs</a>                                                                                                                                                    |
| A copy of reports submitted under the TSCA, materials and documents sufficient to verify or reconstruct the report, a copy of notices sent to customers, and return receipts signed by customers who received notices | Three years following creation or compilation of the record                                        | <a href="#">40 C.F.R. § 704.11</a><br>(TSCA – <i>see</i> 15 U.S.C. § 2607)                                        | Manufacturers, processors, or distributors of any chemical substance.<br>See also: <a href="#">PCBs</a>                                                                                                                                                    |



## V. Documents Related to Drug and Alcohol Testing

| Type of Record                                                                                                                                                                                                                                                    | Retention Period                                                                                                                  | Statute and/or Regulation                                                                                                                       | Who is Covered?                                                                                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| 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                                                                                                                        | <a href="#">49 C.F.R. § 382.401</a> ; <i>see also</i> <a href="#">49 C.F.R. § 40.333</a><br>(Controlled Substances and Alcohol Use and Testing) | Employers of drivers of commercial motor vehicles, including school bus drivers.<br><a href="#">49 C.F.R. § 382.103.</a> |
| Equipment calibration documentation, records related to administration of alcohol and controlled substances testing programs, copy of annual calendar year summary                                                                                                | Five years                                                                                                                        | <a href="#">49 C.F.R. § 382.401</a> ; <i>see also</i> <a href="#">49 C.F.R. § 40.333</a><br>(Controlled Substances and Alcohol Use and Testing) | Employers of drivers of commercial motor vehicles, including school bus drivers.<br><a href="#">49 C.F.R. § 382.103.</a> |
| Records related to the collection process, including collection logbooks; documents relating to the random selection process, reasonable suspicion testing, and post-accident testing; and documents verifying employee's inability to provide breath for testing | Two years                                                                                                                         | <a href="#">49 C.F.R. § 382.401</a> ; <i>see also</i> <a href="#">49 C.F.R. § 40.333</a><br>(Controlled Substances and Alcohol Use and Testing) | Employers of drivers of commercial motor vehicles, including school bus drivers.<br><a href="#">49 C.F.R. § 382.103.</a> |
| Records related to negative and cancelled test results                                                                                                                                                                                                            | One year                                                                                                                          | <a href="#">49 C.F.R. § 382.401</a><br>(Controlled Substances and Alcohol Use and Testing)                                                      | Employers of drivers of commercial motor vehicles, including school bus drivers.<br><a href="#">49 C.F.R. § 382.103.</a> |
| Records related to the training of individuals for breath-alcohol testing                                                                                                                                                                                         | While the individual performs the functions which require the training and for two years after ceasing to perform those functions | <a href="#">49 C.F.R. § 382.401</a><br>(Controlled Substances and Alcohol Use and Testing)                                                      | Employers of drivers of commercial motor vehicles, including school bus drivers.<br><a href="#">49 C.F.R. § 382.103.</a> |



## VI. Documents Related to Discrimination

| Type of Record                                                                                                                                                                                                                                                                                                                          | Retention Period                                                                                                       | Statute and/or Regulation                                                                                                                                                                                                                                                                      | Who is Covered?                                                                                                                                                                                                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Personnel records concerning a discrimination charge or an action brought against a school (e.g., personnel or employment records relating to the charging party and to all other employees holding similar positions, application forms, or test papers completed by all applicants for the same position)                             | Until final disposition (the date of expiration of the statutory period or the date on which litigation is terminated) | <a href="#">29 C.F.R. § 1602.40</a><br>(Americans with Disabilities Act (ADA) – <i>see</i> 42 U.S.C. § 12112)<br>(Section 709 of Title VII of the Civil Rights Act – <i>see</i> 42 U.S.C. § 2000e)<br>(Genetic Information Nondiscrimination Act (GINA) – <i>see</i> 42 U.S.C. § 2000ff-5(a))* | Every public elementary and secondary school system or district, including every individually or separately administered district within a system, with 15 or more employees and every individual school, regardless of the size of the school.<br><a href="#">29 C.F.R. § 1602.39.</a> |
| Any personnel record made or kept by a school or district (including but not limited to requests for reasonable accommodation, application forms and records having to do with hiring, promotion, demotion, transfer, layoff or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship) | Two years from the date the record is made or the personnel action is taken, whichever occurs later                    | <a href="#">29 C.F.R. § 1602.40</a><br>(ADA – <i>see</i> 42 U.S.C. § 12112)<br>(Section 709 of Title VII of the Civil Rights Act – <i>see</i> 42 U.S.C. § 2000e)<br>(GINA – <i>see</i> 42 U.S.C. § 2000ff-5(a))                                                                                | Every public elementary and secondary school system or district, including every individually or separately administered district within a system, with 15 or more employees and every individual school, regardless of the size of the school.<br><a href="#">29 C.F.R. § 1602.39.</a> |
| Personnel records of an individual whose employment has been involuntarily terminated                                                                                                                                                                                                                                                   | Two years from the date of the termination                                                                             | <a href="#">29 C.F.R. § 1602.40</a><br>(ADA – <i>see</i> 42 U.S.C. § 12112)<br>(Section 709 of Title VII of the Civil Rights Act – <i>see</i> 42 U.S.C. § 2000e)<br>(GINA – <i>see</i> 42 U.S.C. § 2000ff-5(a))                                                                                | Every public elementary and secondary school system or district, including every individually or separately administered district within a system, with 15 or more employees and every individual school, regardless of the size of the school.<br><a href="#">29 C.F.R. § 1602.39.</a> |

\* Section 206 of GINA, 42 U.S.C. § 2000ff-5(a), requires employers who possess genetic information about an employee to maintain such information on separate forms and in separate medical files and to treat this information as a confidential medical record as described in section 102(d)(3)(B) of the Americans With Disabilities Act, 42 U.S.C. 12112(d)(3)(B).



|                                                                                                                                                           |                                                                                                                                 |                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| All records and information which are necessary for the completion of report EEO-5 (regardless of whether or not a school is required to file the report) | Three years (at the central office of the school system or district, or at the individual school, whichever is more convenient) | <a href="#">29 C.F.R. § 1602.39</a><br>(ADA – <i>see</i> 42 U.S.C. § 12112)<br>(Section 710 of Title VII of the Civil Rights Act <i>see</i> 42 U.S.C. § 2000e)<br>(GINA – <i>see</i> 42 U.S.C. § 2000ff-5(a)) | Every public elementary and secondary school system or district, including every individually or separately administered district within a system, with 15 or more employees and every individual school, regardless of the size of the school.<br><a href="#">29 C.F.R. § 1602.39.</a> |
| A copy of the most recently filed report EEO-5 ( <a href="#">EEO-5 survey</a> ) <sup>†</sup>                                                              | Three years (at the central office of the school system or district)                                                            | <a href="#">29 C.F.R. § 1602.41</a><br>(Section 710 of Title VII of the Civil Rights Act – <i>see</i> 42 U.S.C. § 2000e)                                                                                      | The school systems and districts covered are:<br>(a) Every one of those which have 100 or more employees, and<br>(b) Every one of those others which have 15 or more employees from whom the Commission requests the filing of reports.<br><a href="#">29 C.F.R. § 1602.41</a>          |
| Any personnel records concerning an employee or applicant relative to an ADEA action brought against the employer                                         | Until final disposition                                                                                                         | <a href="#">29 C.F.R. § 1627.3</a><br>(ADEA - <i>see</i> 29 U.S.C. § 626)                                                                                                                                     | Employers that are engaged in an industry affecting interstate commerce and have at least 20 employees.<br>29 U.S.C. § 630.                                                                                                                                                             |

<sup>†</sup> A school system or district may apply for an exemption from these reporting requirements by submitting a specific proposal for an alternative reporting system.  
*See* [29 C.F.R. § 1602.44](#)



## VII. Documents Related to Employee Leave

| Type of Record                                                                                                                                                                                                                                                                                                                                                    | Retention Period | Statute and/or Regulation                                                                                       | Who is Covered?                                                                                       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|-----------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|
| 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      | <a href="#">29 C.F.R. § 825.500</a> (Family and Medical Leave Act of 1993 (FMLA) – <i>see</i> 29 U.S.C. § 2616) | Employers that are engaged in or affect commerce and have at least 50 employees.<br>29 U.S.C. § 2611. |
| 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. Documents describing FMLA notices and copies of employer’s FMLA policy | Three years      | <a href="#">29 C.F.R. § 825.500</a> (FMLA – <i>see</i> 29 U.S.C. § 2616)                                        | Employers that are engaged in or affect commerce and have at least 50 employees.<br>29 U.S.C. § 2611. |



## VIII. Documents Related to Employee Polygraph Testing

| Type of Record                                                                                                                                                                                                                 | Retention Period                                                                                                                | Statute and/or Regulation                                                                                      | Who is Covered?                                                                                             |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|
| Copy of statement that sets forth the specific incident or activity under investigation and the basis for testing that particular employee; records identifying any loss or injury in question and the employee's access to it | Three years from date polygraph examination is administered (or from the date the exam is requested if no exam is administered) | <a href="#">29 C.F.R. § 801.30</a><br>(Employee Polygraph Protection Act (EPPA) – <i>see</i> 29 U.S.C. § 2001) | Employers engaged in or affecting commerce or in the production of goods for commerce.<br>9 U.S.C. § 2002.  |
| Copy of the written statement that sets forth time and place of examination and examinee's right to consult with counsel                                                                                                       | Three years from date polygraph examination is administered (or from the date the exam is requested if no exam is administered) | <a href="#">29 C.F.R. § 801.30</a><br>(EPPA – <i>see</i> 29 U.S.C. § 2001)                                     | Employers engaged in or affecting commerce or in the production of goods for commerce.<br>29 U.S.C. § 2002. |
| Written notice to the examiner of the persons to be examined                                                                                                                                                                   | Three years from date polygraph examination is administered (or from the date the exam is requested if no exam is administered) | <a href="#">29 C.F.R. § 801.30</a><br>(EPPA – <i>see</i> 29 U.S.C. § 2001)                                     | Employers engaged in or affecting commerce or in the production of goods for commerce.<br>29 U.S.C. § 2002. |
| Copies of all opinions, reports, or other records furnished to employer by examiner relating to such examinations                                                                                                              | Three years from date polygraph examination is administered (or from the date the exam is requested if no exam is administered) | <a href="#">29 C.F.R. § 801.30</a><br>(EPPA – <i>see</i> 29 U.S.C. § 2001)                                     | Employers engaged in or affecting commerce or in the production of goods for commerce.<br>29 U.S.C. § 2002. |

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