

Federal EEO Record-Keeping Requirements

Record-keeping requirements are imposed on employers under several federal laws. The following table summarizes the requirements of Title VII, Executive Order 11246, the Age Discrimination in Employment Act, the Immigration Reform and Control Act, the Fair Labor Standards Act, the Rehabilitation Act of 1973, the Vietnam Era Veterans' Readjustment Assistance Act and the Americans with Disabilities Act.

STATUTE	RECORDS TO BE RETAINED	PERIOD OF RETENTION	FORM OF RETENTION
<p>1. Title VII, Civil Rights Act of 1964</p>	<p>a. Any personnel or employment record made or kept by employer, including application forms and records concerning hiring, promotion, demotion, transfer, layoff or termination, rates of pay or other terms of compensation and selection for training or apprenticeship (application forms and other pre-employment records need not be retained for positions that applicants know to be of temporary or seasonal nature) 29 CFR 1602.14)</p> <p>b. Personnel records relevant to bias or action brought against employer, including, for example, records related to charging party and to all other employees holding similar positions, or application forms or test papers completed by unsuccessful applicants and by all other candidates for the same position (29 CFR 1602.14)</p> <p>c. Apprenticeship</p>	<p>a. 1 year from date record made or personnel action taken, whichever is later.</p> <p>b. Until final disposition of charge or action. (Title VII cont.)</p> <p>c. (1) Two years from</p>	

	<p>programs: (1) chronological list of names and addresses of all applicants, dates of application, sex and minority group identification, or file of written applications containing same information; and other records pertaining to apprenticeship applicants; (2) any other record made solely for completing EEO-2 or similar reports (29 CFR 1602.20(b)).</p> <p>d. Employers with 100 or more employees: Copy of EEO-1, Employer Information Report (29) CFR 1602.7)</p>	<p>date application received, or period of successful applicant's apprenticeship, whichever is longer; (2) one year from date of report.</p> <p>d. Copy of most recent report filed for each reporting unit must always be retained at each such unit or at company or divisional headquarters.</p>	
<p>2. Executive Order 11246</p>	<p>Federal contractors, subcontractors: Written affirmative action programs and supporting documentation, including required work force analysis and utilization evaluation; other records and documents relating to compliance with applicable EEO nondiscrimination and affirmative action requirements, including records and documents on nature and use of tests, validations of tests, and test results as required; records pertaining to construction industry EEO plans and requirements (41 CFR 60-1.7)</p>	<p>Not specified</p>	<p>No particular form specified</p>

STATUTE	RECORDS TO BE RETAINED	PERIOD OF RETENTION	FORM OF RETENTION
<p>3. Age Discrimination in Employment Act of 1967</p>	<p>a. Payroll or other records containing each employee's name, address, date of birth, occupation, rate of pay and compensation earned per week.</p> <p>b. Personnel or employment records relating to (1) job applications, resumes or other replies to job advertisements, including applications for temporary positions and records pertaining to failure or refusal to hire; (2) promotion, demotion, transfer, selection for training, layoff, recall or discharge; (3) job orders submitted to employment agencies or union; (4) test papers in connection with employer-administered aptitude or other employment tests; (5) physical.</p> <p>c. examination results considered in connection with personnel actions; (6) job advertisements or notices to public or employees regarding openings, promotions, training programs or opportunities for overtime work (29 CFR 1626.3)</p> <p>d. Employee benefit plans, written seniority or merit rating systems (29 CFR 1627.3)</p>	<p>a. Three years</p> <p>b. One year from date of personnel action to which record relates, except 90 days for application forms and other pre-employment records of applicants for temporary jobs.</p> <p>d. Full period that plan or system is in effect, plus one year after termination.</p>	<p>a. and b. No particular form specified.</p> <p>d. If plan or system not in writing, summary memorandum to be kept.</p>

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Age Discrimination (cont)	e. Personnel records, including above, relevant to enforcement action brought against employer (29 CFR 1627.3).	e. Until final disposition of action.	e. No particular form specified.
4. Immigration Reform and Control Act of 1968	INS Form I-9, Employment Eligibility Verification Form (8 USC 1324A (b) (3)).	a. Three years after date of hire or one year after date of employee's termination, whichever is later.	INS Form I-9, signed by new-hire and employer, to be readily available upon request.
5. Fair Labor Standards Act (includes Equal Pay Act of 1963).	<p>a. Basic records containing employee information, payrolls, individual contracts or collective bargaining agreements, applicable certificates and notices of Wage-Hour administrator, sales and purchase records (29 CFR 516.29 CFR 1620.32).</p> <p>b. Supplementary basic records, including basic employment and earnings records; wage rate tables; work time schedules; order, shipping and billing records; records of additions to or deductions from wages paid; and documentation of basis for payment of any wage differential to employees of opposite sex in same establishment (29 CFR 1620.32)</p> <p>c. Certificates of age (29 CFR 516)</p> <p>d. Written training agreements (29 CFR 516).</p>	Until Termination of employment.	No particular form specified (<u>Microfilm</u>) permissible if employer is willing to provide adequate viewing facilities and make any extension, re-computation or transcript of film that may be requested. <u>Punched tape</u> is permissible if records can be readily converted to reviewable form).

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6. Rehabilitation Act of 1973	<p>a. Federal contractors and subcontractors: For handicapped applicants and employees, complete and accurate employment records required (DOL suggests requirement may be met by annotating the application or personnel form of handicapped employees or applicants to indicate each vacancy, promotion and training program for which they were considered, including statement of reasons for rejection that compares handicapped individual's qualifications to those of person selected, as well as accommodations considered (description of accommodations actually undertaken should be attached) (41 CFR 60-741.52)</p> <p>b. Records of complaints and actions taken under Act (41 CFR 60-741.52)</p>	a. and b. one year at minimum.	No particular form Specified.
7. Vietnam-Era Veteran's Readjustment Act of 1974	a. Federal contractors, sub-contractors with contracts of \$10,000 or more: Copies of reports made to state employment services on number of individuals hired during reporting period; number of Vietnam-era veterans, both disabled and non-disabled; total number of disable veterans hired; related	a. Not specified	No particular form specified (effective March 1988, companies with federal contracts or subcontracts of \$10,000 or more must file with EEOC an annual report (Form VETS-100) that lists, by job category and hiring location, the number of permanent full-time or part-time Vietnam-era and special disabled veterans hired

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Vietnam-era Veteran's Readjustment Act of 1974 (cont)	documentation, such as personnel records on job openings, recruitment and placement (38 USC 2012(d)). b. Records of complaints and actions taken under Act (41 CFR 60-741.52)		during a 12 month period.)
8. Americans with Disabilities Act of 1990		Same as a. and b. for Title VII	
Family and Medical Leave Act of 1993 (See Section 401) FMLA	Based on similar records required under FLSA, all records pertaining to compliance with FMLA's general requirements of leave. In addition to basic payroll data. ¹ The dates and hours (if less than full day) of FMLA leave taken, copies of employer notices, documents describing employee leave benefits and policies, premium payment of employee benefits, and records of disputes with employees over FMLA benefits.	Three years (same as for FLSA)	Employers to make, keep and preserve records in accordance with §11(c) of Fair Labor Standards Act and as specified in FMLA implementing regulation §825.500, and make records available for inspection, copying, and transcription. No particular form specified; ² may be maintained and preserve on microfilm or other basic source document of automated data processing memory, provided adequate projection or viewing equipment available, reproductions clear and identifiable, and transcriptions possible and available upon request.

1 If employee are not subject to FLSA record keeping requirements for purposes of minimum wage or overtime compliance (i.e., are not covered by or exempt from FLSA), employers need not keep a record of actual hours worked, so long as eligibility for FMLA leave is presumed for any employee who has been employed at least 12 months, and for an employee who takes FMLA leave intermittently or on a reduced leave schedule, the employer and employee must agree on the employee's normal schedule or average hours worked each week and reduce that agreement to written record that is maintained in accordance with FMLA requirements.

2. Under FMLA records and document relating to medical certifications, re-certifications, or medical histories of employees or their family members are to be maintained in separate files or records and be treated (with certain exceptions) as confidential medical records.

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