



SECTIONS LABOR AND EMPLOYMENT LAW

Chart of Recordkeeping Requirements

The following chart outlines some of the more common records and the current federal and New York State requirements for retaining them. The chart is not all inclusive. In addition, the statute of limitations of an employee's claims may exceed the stated retention period, and therefore relevant records should be kept until the limitations period has expired.

The left column states the number of years that certain types of documents must be retained under statute; the right column lists the types of records to which the time period applies.

Years	Type of Records
1	<p>Personnel records relating to:</p> <ul style="list-style-type: none">• job applications and records relating to promotion, demotion, transfer, layoff, recall or termination, or selection for training• resumes and employment inquiries (submitted in response to advertisements or notices of job opening), and records about failure or refusal to hire• job orders submitted to an employment agency or labor organization for recruitment of personnel for job openings• test papers relating to employer-administered aptitude or employment tests• results of physical examinations considered by the employer in connection with any personnel action• advertisements or notices relating to job openings, promotions, training programs or opportunities for overtime [29 C.F.R. §1627.3(b)(1)(i)-(v)]• Requests for reasonable accommodation, application forms, records of hiring, promotion, demotion, transfer, lay-off or termination, rates of pay or other terms of compensation, selection for training or apprenticeship [29 C.F.R. §1602.14] <p>Employee benefits plans, such as pension and insurance plans, including copies of any seniority and merit systems [29 C.F.R. §1627.3(b)(2)]</p> <p>Records made solely for the purpose of completing Report EEO-2, or other reports calling for information about the operation of an apprenticeship program similar to that required on Report EEO-2 -- from the due date of the report [29 C.F.R. §1602.21(a)]</p> <p>Form I-9--after termination of employment but not less than 3 years from date of hire [8 U.S.C.A. §1324a(b)(3)]</p>

Years	Type of Records
2	<p>Records explaining the basis for the payment of any wage differential to employees of the opposite sex in the same establishment [29 C.F.R. §1620.32(c)]</p> <p>Lists of applications or application forms relating to apprenticeship programs [29 C.F.R. §1602.21(a)]</p> <p>Supplementary basic records including employment and earning records, wage rate tables, order, shipping and billing records, and records of additions to or deductions from wages paid [29 C.F.R. §516.6]</p>
3	<p>Payroll records showing each employee's name, address, occupation, rate of pay, and compensation earned each week [29 C.F.R. §1627.3]</p> <p>Employment contracts and collective bargaining agreements--from termination [29 C.F.R. §516.5]</p> <p>Form I-9--from date of hire or 1 year after termination, whichever is later [8 U.S.C.A. §1324a(b)(3)]</p> <p>All opinions, reports, charts, written questions, lists and other records relating to polygraph tests conducted by an employer [29 U.S.C.A. §2007(c)(2)(B)]</p> <p>Training records related to programs under OSHA's bloodborne pathogen rules [29 C.F.R. §1910.1030(h)(2)(ii)]</p>
5	<p>OSHA 300 Log, privacy case list (if one exists), annual summary, and OSHA 301 Incident Report forms [29 U.S.C.A. §1904.33]</p> <p>NY State DOL SH 900 Log, privacy case list (if one exists), annual summary, and SH 900.2 Incident Report forms, and C2 forms [12 NYCRR §§ 801.33, 801.44]</p>

Years	Type of Records
6	<p>Contemporaneous, true, and accurate payroll records showing for each week worked the hours worked; the rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; gross wages; deductions; allowances, if any, claimed as part of the minimum wage; and net wages for each employee. For all employees who are not exempt from overtime compensation as established in the commissioner's minimum wage orders or otherwise provided by New York state law or regulation, the payroll records shall include the regular hourly rate or rates of pay, the overtime rate or rates of pay, the number of regular hours worked, and the number of overtime hours worked. For all employees paid a piece rate, the payroll records shall include the applicable piece rate or rates of pay and number of pieces completed at each piece rate</p> <p>[N.Y. Labor Law 195[4]]; written acknowledgements from employees of receipt of notices containing the rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; allowances, if any, claimed as part of the minimum wage, including tip, meal, or lodging allowances; the regular pay day designated by the employer in accordance with section one hundred ninety-one of this article; the name of the employer; any "doing business as" names used by the employer; the physical address of the employer's main office or principal place of business, and a mailing address if different; the telephone number of the employer; plus such other information as the commissioner deems material and necessary [N.Y. Labor Law 195[1](a)]</p> <p>Payroll or other records for each employee containing the employee's name, address, social security number, occupation, hours worked, gross wages, deductions, allowances, student classification and net wages event to which they refer [12 NYCRR §§137-2.1, 141-2.1, 142-2.6]</p>
30	<p>Employee medical records required by OSHA must be maintained at least the duration of employment plus thirty (30) years [29 C.F.R. §1910.1020(d)(1)(i)]</p> <p>Most employee exposure records and analyses using exposure or medical records [29 C.F.R. §1910.1020(d)(1)(iii)]</p> <p>Material safety data sheets (MSDS's) or some record of the identity of the substance or agent and where and when it was used [29 C.F.R. §1910.1020(d)(1)(ii)(B)]</p>

Years	Type of Records
40	Name, address and social security number of every employee who handles or uses substances included in §1910(z) of the OSHA regulations and which substance or substances was or were handled or used by which employee [N.Y. Lab. Law 879]
Employment Plus 30 Years	Blood-borne pathogens rules, keep following confidential records: employee's name, social security number, hepatitis B vaccination status (including dates), the results of any examinations, medical testing and follow-up procedures, a copy of the written opinion of the health care professional evaluating the employee and a copy of the information provided to the health care professional [29 C.F.R. §§1910.1030(h)(1)(ii)(A), (B), (C), (D), (E), (h)(1)(iv)]
Other Periods	Applications and employment records that pertain to the following events, and relate to unfair employment practices that result in a Title VII claim, must be maintained for the duration of the claim: <ul style="list-style-type: none"> • applicant flow • hires • rates of pay • promotions • demotions • terminations • selection for training or apprenticeship [42 U.S.C.A. §2000e-8; 29 C.F.R. §§1602.12, 1607.4, 1607.15]

The links to various websites that would have information relevant to record-keeping are:

- New York State Department of Labor – www.labor.ny.gov/home
- United States Department of Labor – www.dol.gov
- Equal Employment Opportunity Commission – www.eeoc.gov
- New York State Division of Human Rights – www.dhr.ny.gov
- United States Department of Health and Human Services – www.hhs.gov
- New York State Department of Health – www.health.ny.gov