

Fact Sheet #21: Recordkeeping Requirements under the Fair Labor Standards Act (FLSA)

This fact sheet provides a summary of the FLSA's recordkeeping regulations, [29 CFR Part 516](#).

Records To Be Kept By Employers

Highlights: The [FLSA](#) sets [minimum wage](#), [overtime pay](#), recordkeeping, and [youth employment standards](#) for employment subject to its provisions. Unless exempt, covered employees must be paid at least the [minimum wage](#) and not less than one and one-half times their regular rates of pay for [overtime](#) hours worked.

Posting: Employers must display an official poster outlining the provisions of the Act, available at no cost from local offices of the Wage and Hour Division and toll-free, by calling 1-866-4USWage (1-866-487-9243). This poster is also available electronically for downloading and printing at <http://www.dol.gov/osbp/sbrefa/poster/main.htm>.

What Records Are Required: Every covered employer must keep certain records for each non-exempt worker. The Act requires no particular form for the records, but does require that the records include certain identifying information about the employee and data about the hours worked and the wages earned. The law requires this information to be accurate. The following is a listing of the basic records that an employer must maintain:

1. Employee's full name and social security number.
2. Address, including zip code.
3. Birth date, if younger than 19.
4. Sex and occupation.
5. Time and day of week when employee's workweek begins.
6. Hours worked each day.
7. Total hours worked each workweek.
8. Basis on which employee's wages are paid (e.g., "\$9 per hour", "\$440 a week", "piecework")
9. Regular hourly pay rate.
10. Total daily or weekly straight-time earnings.
11. Total overtime earnings for the workweek.
12. All additions to or deductions from the employee's wages.
13. Total wages paid each pay period.
14. Date of payment and the pay period covered by the payment.

How Long Should Records Be Retained: Each employer shall preserve for at least three years payroll records, collective bargaining agreements, sales and purchase records. Records on which wage computations are based should be retained for two years, i.e., time cards and piece work tickets, wage rate tables, work and time schedules, and records of additions to or deductions from wages. These records must be open for inspection by the Division's representatives, who may ask the employer to make extensions, computations, or transcriptions. The records may be kept at the place of employment or in a central records office.

What About Timekeeping: Employers may use any timekeeping method they choose. For example, they may use a time clock, have a timekeeper keep track of employee's work hours, or tell their workers to write their own times on the records. Any timekeeping plan is acceptable as long as it is complete and accurate.

The following is a sample timekeeping format employers may follow but are not required to do so:

DAY	DATE	IN	OUT	TOTAL HOURS
Sunday	6/3/07	-----	-----	-----
Monday	6/4/07	8:00am	12:02pm	
		1:00pm	5:03pm	8
Tuesday	6/5/07	7:57am	11:58am	
		1:00pm	5:00pm	8
Wednesday	6/6/07	8:02am	12:10pm	
		1:06pm	5:05pm	8
Thursday	6/7/07	-----	-----	-----
Friday	6/8/07	-----	-----	-----
Saturday	6/9/07	-----	-----	-----
Total Workweek Hours:				24

Employees on Fixed Schedules: Many employees work on a fixed schedule from which they seldom vary. The employer may keep a record showing the exact schedule of daily and weekly hours and merely indicate that the worker did follow the schedule. When a worker is on a job for a longer or shorter period of time than the schedule shows, the employer must record the number of hours the worker actually worked, on an exception basis.

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

U.S. Department of Labor
 Frances Perkins Building
 200 Constitution Avenue, NW
 Washington, DC 20210

1-866-4-USWAGE
 TTY: 1-866-487-9243
[Contact Us](#)

Federal Record Retention Requirements

There is often confusion among employers concerning the legal requirements for recordkeeping and retention of employee files and other employment-related records. Not only are there federal recordkeeping requirements, but individual states also have requirements that must be followed. Some requirements apply to most or all employers, while others apply primarily to government contractors and subcontractors. Many of these requirements are dependent on the particular law which applies to the type of record and the number of employees.

This chart may also be helpful when combined with the [state recordkeeping laws](#) chart.

Generally an employer could establish the following retention periods for both electronic and paper-based records:

- Personnel: 7 years after termination.
- Medical/benefits: 6 years after plan year. *
- I-9 forms: Not more than 3 years after termination.
- Hiring Records: 2 years after hiring decision.

(* an exception would be to maintain employee exposure records for at least 30 years, under the requirements of [29 CFR 1910.1020](#)).

If the employer is involved in an employment-related dispute with a terminated employee and this dispute has not yet been reconciled, retain all documents relating to that employee.

Once the required retention time frames have been met be sure to create a destruction log and destroy records by shredding to ensure that no confidential employee information is inadvertently released.

Type of Record	Relevant Law	Years to be Kept	Records Covered
Selection, Hiring & Employment Records	Age Discrimination in Employment Act (20 or more employees)	1 year after creation of the document or the hire/no hire decision whichever is later. (3 years for federal contractors)	Job applications, resumes, job ads, screening tools/tests, interview notes and other records related to hire/no hire decisions.
	Americans with Disabilities Act (15 or more employees)		Records related to promotions, demotions, transfers, performance appraisals, terminations,
	Civil Rights Act of 1964 (Title VII) (15 or more employees)		

	<p>Section 503 of the Rehabilitation Act of 1973 (federal contractors)</p> <p>Vietnam Era Veterans Readjustment Assistance Act (federal contractors)</p> <p>Executive Order 11246 (applies to federal contractors)</p> <p>Service Contract Act, Davis-Bacon Act, Walsh-Healey Act (apply to federal contractors)</p>		<p>reasonable accommodations and/or requests, training records, incentive plans, merit systems, and seniority systems.</p> <p>AAP records relating to hiring benchmarks and utilization goal analyses; hiring metrics analyses; and self-identification records for veterans and individuals with disabilities.</p> <p>Copy of EEO-1 survey and intake forms if applicable.</p>
Payroll Records, Time Sheets/Cards	<p>Age Discrimination in Employment Act (20 or more employees)</p> <p>Fair Labor Standards Act (1 or more employee)</p> <p>Equal Pay Act (1 or more employee)</p> <p>Lilly Ledbetter (1 or more employee)</p> <p>Service Contract Act, Davis-Bacon Act, Walsh-Healey Act (apply to federal contractors)</p> <p>Family Medical Leave Act (50 or more employees)</p>	3 years (There are no retention requirements under Lilly Ledbetter, however it is recommended that employers retain records for length of employment, plus an additional 5 years)	<p>Basic employee data: name, address, Social Security number, gender, date of birth, occupation and job classification.</p> <p>Compensation records:</p> <p>Amounts and dates of actual payment.</p> <p>Time and day of week when employee's workweek begins.</p> <p>Total hours worked each day and workweek. employee's Basis and rate which wages are hour", paid (e.g., "\$9 per "\$455 a week", "piecework").</p> <p>Straight time and overtime hours/pay.</p> <p>All additions to or deductions from the employee's wages.</p> <p>Total wages paid each</p>

			<p>pay period.</p> <p>Date of payment and the pay period covered by the payment.</p> <p>Records explaining any sex-based pay differences.</p> <p>Annuity and pension payments.</p> <p>Fringe benefits paid.</p>
Form I-9	Immigration Reform and Control Act (1 or more employee)	3 years after date of hire or one year after date of termination, whichever is later	
Employment Benefits	Employee Retirement Income Security Act	6 years	<p>Except for specific exemptions, ERISA's reporting and disclosure requirements apply to all pension and welfare plans, including: Summary plan description (updated with changes and modifications), annual reports, notice or reportable events (such as plan amendments that may decrease benefits, a substantial decrease in the number of plan participants, etc.), plan termination.</p>
Tax Records	<p>Federal Insurance Contribution Act (all employers)</p> <p>Federal Unemployment Tax Act (all employers)</p> <p>Federal Income Tax Withholding (all employers)</p>	4 years from date tax is due or paid	<p>Amounts of wages subject to withholding.</p> <p>Agreements with employee to withhold additional tax.</p> <p>Actual taxes withheld and dates withheld.</p> <p>Reason for any difference between total tax payments and actual tax payments.</p> <p>Withholding forms</p>

			(W-4, W4-E).
Safety Data	Occupational Health & Safety Act (10 or more employees) Walsh-Healy Act (federal contractors)	5 years following the year records pertain to (*Medical exams, material safety data sheets and exposure to toxic substances records retained for the duration of employee's job tenure plus 30 years)	Log of occupational injuries and illnesses. Records of injuries and illnesses. Summary of injuries and illnesses. Records of exposure to toxic substances for each employee.
Family Medical Leave Records	Family Medical Leave Act (50 or more employees)	3 years	Basic employee data, including name, address, occupation, rate of pay, terms of compensation, daily and weekly hours worked per pay period, additions to/deductions from wages and total compensation. Dates of leave taken by eligible employees. Leave must be designated as the FMLA leave. For intermittent leave taken, the hours of leave. Copies of employee notices and documents describing employee benefits or policies and practices regarding paid and unpaid leave. Records of premium payments of employee benefits. Records of any dispute regarding the designation of leave.
Health Care Continuation	Consolidated Omnibus Budget Reconciliation Act (20 or more employees)	There are no recordkeeping requirements under COBRA. However, many experts	Provide written notice to employees and their dependents of their option to continue group health

		recommend that records be maintained for 6 years from the date of the record to remain consistent with ERISA requirements.	plan coverage following certain qualifying events, such as the employee's termination, layoff or reduction in working hours, entitlement to Medicare, or the death or divorce of the employee (that would cause dependents to lose coverage under the employer's plan).
Polygraph Test Records	Employee Polygraph Protection Act (1 or more employee)	3 years	Polygraph test result(s) and the reason for administering.
Affirmative Action Plan/Data	Executive Order 11246 (applies to federal contractors) The Uniform Guidelines on Employee Selection Procedures (100 or more employees)	2 years	Applications and other personnel records that support employment decisions (e.g., hires, promotions, terminations) are considered "support data" and must be maintained for the AAP.
Credit Reports	Fair and Accurate Credit Transactions (1 or more employee)	No retention requirement. Law requires shredding of all documents containing information derived from a credit report. Don't discard for at least one year though (see Selection, Hiring & Employment Records)	
Drug Test Records	Department of Transportation (DOT) covered safety-sensitive transportation	1 year from test date (up to 5 years for records relating to drug testing for DOT positions,	

	positions; aviation, trucking, railroads, mass transit and pipelines.	see § 382.401 for specific DOT retention requirements)	
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