

# Carlton DiSante & Freudenberger LLP

ATTORNEYS

Counsel to California Employers<sup>SM</sup>

## Record Retention Guidelines

Records	Required Retention Period	Source
Fair Labor Standards Act (includes payroll records, employment contracts and employee notices)	3 years from date of last entry	29 CFR § 516.5
Fair Labor Standards Act supplemental records (includes time and earning cards, work schedules, records of additions to or deductions from wages)	2 years from date of last entry	29 CFR § 516.6
Ca. Labor Code and Wage Orders (Employee wage records in California, includes names/addresses of employees, ages of minor employees, daily hours worked, wages paid)	2 years	Labor Code §§ 1174, 1174.5
Unemployment insurance records (includes list of pay periods, names, social security numbers, dates of hire/rehire, places of work, remuneration paid to each worker, any other information necessary to enable the employer to determine the employees' total remuneration in each week)	The latter of 4 years from the date the contributions to which the records relate become due or the date the contributions are paid	Un. Ins. Code § 1085; 22 Cal. Code Regs. § 1085-2
Gratuities (records of all gratuities received by the employer, whether directly from employees or indirectly by means of deductions from wages)	Not specified (varies by applicable Wage Order) Recommended: At least 4 years	Labor Code § 353, 354
Documentation relating to minor employees (including permits and certificates)	Not specified Recommended: At least 4 years	Labor Code §§ 1285 - 1312; Educ. Code § 49161

<b>Records</b>	<b>Required Retention Period</b>	<b>Source</b>
Wage Order requirements (employee name, home address, occupation, social security number, time records, total wages paid each payroll period, total hours worked)	3 years	8 Cal. Code Regs. §§ 11010 - 11140
Deductions from cash payments of wages	3 years	Labor Code §§ 226, 226.3
Records of workers' compensation claims (claim files and claim logs)	5 years from the date of injury or date on which compensation benefits are last provided, whichever is later	8 Cal. Code Regs. §§ 10101.1, 10103.1
Records of Title VII actions (hiring, promotion, demotion, termination, rates of pay/compensation)	1 year from the date documents are made or from the date of the personnel action involved; if charged with discrimination, relevant personnel records must be retained until final disposition	29 CFR § 1602.14
ADEA (employee name, address, date of birth, occupation, rate of pay)	3 years from the last date of entry	29 CFR § 1627.3
ADEA supplemental records (personnel or employment records relating to hiring, promotion, etc., job descriptions, retirement, pension and insurance plans, all matters pertinent to a determination of whether an employee action is based on a factor other than age)	1 year from the date of any personnel action	29 CFR §§ 1627.2, 1627.6
ADA	1 year from the date documents are made or from the date of the personnel action involved; if charged with discrimination, personnel records must be retained until final disposition	29 CFR §§ 1602.12, 1602.14
FEHA (applications, personnel, membership, employment referral records and files)	2 years after creation/receipt or after an employment action regarding an applicant or terminated employee	Gov't Code § 12946.

<b>Records</b>	<b>Required Retention Period</b>	<b>Source</b>
Records for monitoring wage discrimination on the basis of gender (wages, wage rates, job classifications, other terms and conditions of employment)	2 years	Labor Code §§ 1197.5(d), 1199
FMLA (documents showing compliance with FMLA including basic payroll records, rate or basis of pay and terms of compensation, dates FMLA leave is taken, copies of FMLA notices, records of dispute between employer and employee regarding FMLA issues)	3 years	29 CFR § 825.500
CFRA (requests for leave under CFRA, including pregnancy disability leave requests)	2 years	Gov't Code § 12946
Federal income tax records	"For so long as the contents thereof may become material in the administration of any internal revenue law."  Recommended: At least 15 years	Treas. Reg. § 1.6001-1(e)
Form W-4	As long as the document is in effect, plus 4 years thereafter	IRC § 3402; Treas. Reg. § 31.6001-5
FICA contribution records (name, address, and social security numbers, total amount and date of each FICA payment, amount of employee tax collected, details of any adjustments)	6 years after the date the tax is due or paid, whichever is later	Treas. Reg. § 31.6001-2
California income tax records	6 years	Rev. & Tax Code § 19704
I-9 records	Letter of 3 years, or 1 year after termination of employment	8 USC § 1324a(b)(3)
ERISA benefits	6 years after documents are filed or would have been filed but for an exemption; records sufficient in	29 USC §§ 1027, 1059

Records	Required Retention Period	Source
	detail to determine benefits due, or that may become due, to employees must be held for an indefinite amount of time	
Fair & Accurate Credit Transactions Act of 2003	None – effective 6/1/05, employers must "take reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal"; accordingly, employers should destroy by shredding all personal information on its employees.	15 USC § 1681; 16 CFR § 682

**Disclaimer:** This chart is intended to provide general information regarding employer record retention requirements in California. There are numerous additional record-keeping requirements which may be applicable to a given employer including, but not limited to, federal and state OSHA, the Labor-Management Reporting and Disclosure Act, public works contractors, and specialized employers (i.e., care providers for elderly and chronically ill individuals). Any doubt regarding an obligation to retain information should be resolved in favor of retention until applicable legal requirements are ascertained. Please contact Carlton DiSante & Freudenberger LLP with any questions regarding retention obligations or any other employment matter.

If you have questions regarding the above, please contact your local Carlton DiSante & Freudenberger LLP office at:

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