



OBERLIN COLLEGE EMPLOYMENT RECORD RETENTION GUIDE

Summer 2017

The most recent version of the statute/regulation should always be consulted as the law may have been amended or repealed.

**NOTE* It is advisable to NOT maintain original employee records outside of an employee's official personnel file archived in Human Resources. Any pertinent documents must be sent to Human Resources.*

I. <u>Employment Taxes</u>		
<ul style="list-style-type: none"> Federal Employment Taxes (including FICA, FUTA, withholding returns, employee withholding election forms and documents, and W-2s) 	<p><u>4 years</u> after due date of such tax for the return period to which the records relate, or the date such tax is paid, whichever is later.</p>	26 C.F.R. § 31.6001-1(e)(2) (IRS)
<ul style="list-style-type: none"> Ohio Employment Taxes (including withholding returns, employee withholding election forms, W-2s, unemployment compensation returns, workers compensation, certificates of payment, and payroll reports) 	<p><u>4 years</u>, unless the tax commissioner permits destruction or orders that the records be kept longer.</p>	Ohio Rev. Code § 5747.17
II. <u>Personnel Files</u>		
<ul style="list-style-type: none"> Payroll or other records which contain employee's name, address, date of birth, occupation, rate of pay, and compensation earned each week 	<p><u>3 years</u> after termination.</p>	Age Discrimination in Employment Act (ADEA) of 1967 at 29 C.F.R. §1627.3(a)
<ul style="list-style-type: none"> Records relating to job applications, including resumes and records pertaining to refusal or failure to hire, promotion or discharge, transfer, selection for training, layoff, recall, job orders for recruitment of personnel, test papers related to employment, results of relevant physical exams, advertisements or notices for job openings, training programs or opportunities for overtime work 	<p><u>1 year</u> from the date of the personnel action to which any record relates.</p> <p>If an enforcement action is commenced under the ADEA, any records pertaining to the action must be kept until the final disposition of the action.</p>	ADEA at 29 C.F.R. § 1627.3(b)(1)
<ul style="list-style-type: none"> Personnel and employment records, including records relating to requests for reasonable accommodations, hiring, promotion, tenure, demotion, transfer, lay-off or termination, rates of pay, other terms of compensation, and selection for training; employee performance evaluations 	<p><u>2 years</u> from date records are made or the date of the personnel action, whichever is later.</p> <p>If an employee is involuntary terminated, the personnel records of the individual terminated shall be kept for a period of <u>2 years</u> from the date of termination.</p> <p>If an enforcement action under Title VII, the ADA, or GINA is commenced or charges are filed, all personnel records relevant to the action must be kept until the final disposition of the action.</p>	29 C.F.R. § 1602.49(a) – Note that § 1602.49 covers the preservation of personnel records by institutions of higher education. § 1602.14 covers the preservation of personnel records by other employers and requires retention for one year.
<ul style="list-style-type: none"> Employee benefits plans (such as pension & insurance) and copies of any seniority or merit 	<p>Records must be kept for the full period the plan is in effect and at least <u>1 year</u> after termination of plan. The ADEA regulations require that if the</p>	ADEA at 29 C.F.R. § 1627.3(b)(2)

<p>systems that are in writing</p>	<p>plan or system is not in writing, a memorandum fully outlining the terms of such plan or system and the manner in which it has been communicated to the affected employees, together with notations relating to any changes or revisions thereto, be kept on file for this period.</p> <p>If an enforcement action is commenced under the ADEA, any records pertaining to the action must be kept until the action has been disposed.</p>	
<p>III. Payroll Records</p>		
<ul style="list-style-type: none"> (Federal law) Every employer must keep a record that contains each employee's: (1) name; (2) address; (3) date of birth; (4) occupation; (5) rate of pay; and (6) compensation earned each week 	<p><u>3 years</u> from last date of entry</p>	<p>Fair Labor Standards Act (FLSA) at 29 C.F.R. § 516.5(a); 29 C.F.R. § 1627.3(a)</p>
<ul style="list-style-type: none"> Supplemental payroll records including but not limited to basic employment and earnings records; time cards; 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 the same establishment 	<p><u>2 years</u></p>	<p>Equal Pay Act at 29 C.F.R. § 1620.32; FLSA at 29 C.F.R. § 516.6</p>
<ul style="list-style-type: none"> Records relating to payment of wages, wage rates, job evaluations, job descriptions, merit systems, seniority systems, collective bargaining agreements, and description of practices of any wage differential of employees of the opposite sex in the same establishment Records used by the employer in determining the original cost, operating and maintenance cost, and depreciation and interest charges, if such costs and charges are involved in additions to or deductions 	<p><u>2 years</u></p> <p><u>2 years</u></p>	<p>Equal Pay Act at 29 C.F.R. § 1620.32</p> <p>FLSA at 29 C.F.R. § 516.6(c)(2)</p>

<p>from wages paid</p> <ul style="list-style-type: none"> Records relating to total additions to or deductions from wages paid each pay period including employee purchase orders or wage assignments and, in individual employee records, the dates, amounts, and nature of the items which make up the total additions and deductions 	<p><u>2 years</u></p>	<p>FLSA at 29 C.F.R. § 516.6(c)(1); 29 C.F.R. § 516.2(a)(10)</p>
<ul style="list-style-type: none"> (Ohio law) Permanent employment and payroll records reflecting employee's name and address; social security number; gross earnings before deductions; amount of wages paid; date or dates on which services were performed for the employer; dates of hire, rehire or return to work after temporary layoff; termination dates and cause of termination; time lost due to being unavailable for work; character of services performed by the individual; a division between covered and excluded employment, when both such services appear in the same pay period; or cash value of remuneration paid in lieu of cash wages 	<p><u>5 years</u> after calendar year in which remuneration with respect to such worker was paid.</p>	<p>Ohio Administrative Code § 4141-23-01; § 4141-23-02</p>
<ul style="list-style-type: none"> Time cards (or equivalent) if applicable 	<p><u>2 years from the last date of entry</u></p>	<p>FLSA at 29 C.F.R. § 516.6(a)(1)</p>
<ul style="list-style-type: none"> Wage rate tables 	<p><u>2 years from their last effective date</u></p>	<p>FLSA at 29 C.F.R. § 516.6(a)(2)</p>
<ul style="list-style-type: none"> Ordering, shipping and billing records 	<p><u>2 years from the last date of entry</u></p>	<p>FLSA at 29 C.F.R. § 516.6(b)</p>
<p>IV. <u>Collective Bargaining Agreements</u></p>	<p><u>3 years</u> from last effective dates Recommended in Ohio: 15 years</p>	<p>FLSA at 29 C.F.R. § 516.5(b)(1)-(2)</p>
<p>V. <u>Employment Contracts (including written summaries of oral agreements)</u></p>	<p><u>3 years</u> from last effective date Recommended in Ohio: 15 years</p>	<p>FLSA at 29 C.F.R. § 516.5(b)(3),(5)</p>
<p>VI. <u>Sales & Purchase Records</u></p> <ul style="list-style-type: none"> Records of total dollar volume of sales and goods received, in such form as the employer maintains in the ordinary course of business 	<p><u>3 years</u></p>	<p>FLSA at 29 C.F.R. § 516.5(c)</p>

<p>VII. OSHA Medical Records</p> <ul style="list-style-type: none"> Record of each fatality, injury, and illness that is: (1) work related; (2) a new case; and (3) meets one or more of the general recording criteria of 29 C.F.R. § 1904.7 or the application to specific cases of §1904.8 through §1904.12. (OSHA 301 form) 	<p>Must be <u>recorded within 7 days</u> of receipt of information and kept for <u>5 years</u> after end of calendar year the records cover.</p>	<p>Occupational Safety and Health Act (OSHA) at 29 C.F.R. § 1904.4, § 1904.29, § 1904.33(a).</p>
<ul style="list-style-type: none"> OSHA 300 Logs and privacy case list (if one exists) 	<p>Must be <u>recorded within 7 days</u> of receipt of information and kept for <u>5 years</u> after end of calendar year the records cover. 300 Log must be updated during the 5-year period.</p>	<p>OSHA at 29 C.F.R. § 1904.29, § 1904.33(a)</p>
<ul style="list-style-type: none"> OSHA 300-A Annual Summary of OSHA 300 log 	<p>Must be kept on a calendar year basis; must be retained for <u>5 years</u> after end of calendar year the records cover.</p>	<p>OSHA at 29 C.F.R. § 1904.29, § 1904.32(a), § 1904.33(a)</p>
<ul style="list-style-type: none"> Possible lead exposure 	<p>Written plan and records of employee surveillance must be kept for <u>40 years</u> or for the duration of employment plus <u>20 years</u>, whichever is longer.</p>	<p>OSHA at 29 C.F.R. § 1910.1025(d), § 1910.1025(n)(1)(iii), (2)(iv)</p>
<ul style="list-style-type: none"> Old OSHA forms (OSHA forms 200, 101) 	<p><u>5 years</u> following year to which document relates.</p>	<p>OSHA at 29 C.F.R. § 1904.44</p>
<ul style="list-style-type: none"> Toxic substance exposure records 	<p><u>For duration of employment plus 30 years.</u></p>	<p>OSHA at 29 C.F.R. § 1910.1020(d)(1)(ii)</p>
<ul style="list-style-type: none"> Medical records (under OSHA, not all medical records) 	<p><u>For duration of employment of the employee plus 30 years.</u></p>	<p>OSHA at 29 C.F.R. § 1910.1020(d)(1)(i)</p>
<ul style="list-style-type: none"> Analysis using medical or toxic substance exposure records 	<p><u>30 years</u></p>	<p>OSHA at 29 C.F.R. § 1910.1020(d)(1)(iii)</p>
<ul style="list-style-type: none"> Noise exposure standards 	<p><u>2 years.</u> Audiometric test records must be retained for the durations of the affected employee's employment.</p>	<p>OSHA at 29 C.F.R. § 1910.95(m)(3)(i)</p>

VIII. <u>I-9 Report</u>	<u>3 years</u> after date of hire or <u>1 year</u> after termination of employment, whichever is later.	Immigration Reform and Control Act at 8 C.F.R. § 274a.2
IX. <u>Family and Medical Leave Act records</u>	<u>3 years</u> Note that records and documents relating to certifications, recertifications or medical histories of employees or employees' family members, created for purposes of FMLA, must be maintained as confidential medical records in separate files/records from the usual personnel files.	Family and Medical Leave Act at 29 C.F.R. § 825.500(b) 29 C.F.R. § 825.500(g)
X. <u>Pension records</u> <ul style="list-style-type: none"> • Reporting and disclosure records and supporting documents, including those containing information to verify, explain, clarify and check for accuracy or completeness. • Benefit determination records 	<u>6 years</u> after premium due date or filing of report. <u>Indefinitely</u> (as long as the possibility exists that they might be relevant to a determination of the benefits entitlements of a participant or beneficiary)	Pension Benefit Guarantee Corporation at 29 C.F.R. § 4007.10(a); ERISA at 29 U.S.C. § 1027 ERISA at 29 U.S.C. § 1059; 29 C.F.R. § 2530.209
XI. <u>EEO-1 Reports</u> (employers with 100 or more employees or federal contractors with 50 or more employees and contracts over \$50,000; higher education employers must file EEO-6 (IPEDS) report, discussed below)	Copy of most <u>recent report</u> filed for each reporting unit must be retained at each such unit or at the company or divisional headquarters.	29 C.F.R. § 1602.7
XII. <u>EEO-2, Apprentice Information Report</u> <ul style="list-style-type: none"> • Chronological list of names and addresses of all applicants, dates of application, sex and minority group identification; or file of written applications 	<u>2 years</u> or the period of a successful applicant's apprenticeship, whichever is longer.	29 C.F.R. § 1602.20; 29 C.F.R. § 1602.21

<p>containing same information</p> <ul style="list-style-type: none"> Other records relating to apprenticeship such as requests for reasonable accommodation, test papers completed by applicants for apprenticeship and records of interviews with applicants 	<p><u>2 years</u> from the date of the making of the record.</p> <p>If a charge of discrimination has been filed, or an action brought by the Commission or Attorney General, under Title VII, the ADA, or GINA, all personnel records relevant to the charge must be kept until the final disposition of the charge or action.</p>	<p>29 C.F.R. § 1602.21(b)</p>
<p>XIII. <u>EEO-6 Report (Now IPEDS Report)</u> (every institution of higher education, whether public or private, with 15 or more employees)</p> <ul style="list-style-type: none"> Most recent EEO-6 report and all records necessary for completion 	<p><u>3 years</u> at central administrative office.</p>	<p>29 C.F.R. § 1602.48, § 1602.50</p>
<p>XIV. <u>VETS-4212 Report</u> (Federal contractors, subcontractors with contracts of \$100,000 or more)</p>	<p>3 years</p>	<p>38 U.S.C. § 4212(a); 41 C.F.R. § 61-300</p>
<p>XV. <u>Polygraph records</u></p>	<p><u>3 years</u> from the date the polygraph examination is conducted, or from the date the examination is requested if no examination is conducted.</p>	<p>Employee Polygraph Protection Act of 1988 at 29 C.F.R. § 801.30</p>
<p>XVI. <u>Recipients Under the Workforce Reinvestment Act</u></p>	<p><u>3 years</u></p>	<p>Ohio Admin. Code 5101:9-31-01 (J)</p>
<p>XVII. <u>Employment of Minors</u></p> <ul style="list-style-type: none"> Records stating the name, address, and occupation of each minor employed, the number of hours worked by such minor on each day of the week, the hours of beginning and ending work, the hours of beginning and ending meal periods, and the amount of wages paid each pay period to each minor 	<p><u>2 years</u></p> <p>Records of minors that are also full-time students must be kept for <u>3 years</u>.</p>	<p>Ohio Rev. Code § 4109.11</p> <p>29 C.F.R. § 519.17(c)</p>

XVIII. <u>Written Job Descriptions</u>	Should be updated once a year.	29 C.F.R. § 1630.2(n)(3)
XIX. <u>Affirmative Action Reports</u>	<u>1 year</u> (keep for current year and the year immediately preceding). Certain adverse impact information must be retained for two years after the elimination of the adverse impact.	29 C.F.R. § 1602.7; 41 C.F.R. § 60-1.12(b); 41 C.F.R. § 60-3.15(A)(2)(b).
XX. <u>State Unemployment Records</u> <ul style="list-style-type: none"> • Records showing employee’s name, address, social security number, dates of hire/separation/rehire, payment dates for cash and noncash wages, dates of hours worked, and wages paid to the employee 	[Not less than] <u>5 years</u> after the calendar year in which the remuneration was paid.	Ohio Rev. Code § 4141.18; Ohio Admin. Code § 4141-23-02
XXI. <u>Records Applicable to Federal Contractors</u> <ul style="list-style-type: none"> • Personnel and employment records, including records of applicants and employees with disabilities, including those involuntarily terminated, records including but not limited to, those relating to requests for reasonable accommodation, the results of any physical examination, job advertisements and postings, applications and resumés, tests and test results, interview notes, and other records having to do with hiring, assignment, promotion, demotion, transfer, lay-off or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship • Records of evaluations of outreach and recruitment efforts, data collection of comparisons regarding applicants and employees, and records related to the hiring benchmark requirement 	<p><u>2 years</u> from date record was made or the personnel action involved, whichever is later; except contractors with less than 150 employees or contracts less than \$150,000 for which retention period is <u>1 year</u>.</p> <p>If an employee is involuntary terminated, records must be retained for <u>2 years</u> from the date of termination; except contractors with less than 150 employees or contracts less than \$150,000 for which retention period is <u>1 year</u>.</p> <p>If a complaint, enforcement, or compliance action is commenced, all personnel records relevant to the complaint or action must be kept until the final disposition of the action. .</p> <p>3 years</p>	<p>41 C.F.R. §60-1.12(a); ; 41 C.F.R. § 60-300.80; 41 C.F.R. § 60-741.80(a)</p> <p>VEVRAA at 41 C.F.R. § 60-300.44; 41 C.F.R. § 60-300.45; 41 C.F.R. § 60-300.80</p>

XXII. <u>Worker's Compensation Records</u> <ul style="list-style-type: none"> Records showing in detail all expenditures for payroll and the various divisions and classifications of the employer's business; and all books, records, papers, and documents reflecting the amount and classification of the payroll expenditures 	<u>5 years</u>	Ohio's Workers' Compensation Act at Ohio Rev. Code § 4123.24
XXIII. <u>General Recommendations</u>		
<ul style="list-style-type: none"> Records on hiring, promotion, demotion, transfer, lay-off or termination, performance evaluations 	Recommended Ohio: 7 years after termination	
<ul style="list-style-type: none"> Exit interview records 	Recommended in Ohio: 7 years after termination	
<ul style="list-style-type: none"> Drug testing results 	Recommended in Ohio: 5 years after termination	
<ul style="list-style-type: none"> Garnishments 	Recommended in Ohio: 7 years after termination	
<ul style="list-style-type: none"> Test results (performance & other) 	Recommended in Ohio: 7 years after termination	
<ul style="list-style-type: none"> Individual contracts of employment 	Recommended in Ohio: 15 years after termination	