

Record Retention Requirements for California Employers

Federal Requirement

California Requirement

RSJ/Swenson/ Best Practices

1

Wages, Hours, Working Conditions

<ul style="list-style-type: none"> • Payroll records • Name • Address • Social Security Number • Occupation • Hours worked each day & hours worked each week • Wages paid • Payday records • Straight time & overtime • Payroll deductions • Union collective bargaining agreements • Qualified benefit plans • Trust records • Employee notices • Sales & purchasing records 	<p>4 years from date of last entry (according to the IRS)</p>	<p>2 years</p> <p>4 years</p>	<p>Most reputable payroll providers save this information on your behalf. Make sure to ask your payroll rep about their records retention policy for you.</p>
<ul style="list-style-type: none"> • Basic time & earnings cards • Wage rate tables • Work time schedules • Order, shipping, billing records • Records of additions to or deductions from wages • Unemployment compensation contributions 	<p>2 years from date of last entry</p>	<p>4 years</p>	
<ul style="list-style-type: none"> • Any report required by the Secretary of Labor • All backup data required to prepare required reports (Includes: vouchers, work-sheets, receipts, dispute resolutions) 	<p>5 years after filing report based on records</p>		

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2 Occupational Safety & Health Records

- Log of occupational injuries or illnesses resulting in: Medical treatment (other than first aid); loss of consciousness or restriction of work or motion; transfer or termination of employment

5 years minimum following injury or illness

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- OSHA 300 Report posted each year from February 1 through April 30.
- Hazardous condition exposures
- medical tests & screening
- Employee medical records
- Allegations of employee exposure
- Heavy equipment operation records

5 years after year reported. Up to 30 years after employment ends

5 years after year reported.

30 years after employment ends

3 Non-Discrimination, EEO & Affirmative Action Records

- Employment records (hiring, promotion, demotion, transfer, layoff, termination, compensation changes, training selection)
- Payroll records (name, address, birth date, occupation, rate of pay, days worked each week, compensation earned each week)
- Job descriptions
- Union agreements & contracts
- Retirement, pension & insurance plans
- Seniority & merit system descriptions & records

1 year from date of personnel action - or - until any discrimination charge is resolved.

3 years for Affirmative Action employers unless employer has fewer than 150 employees or does not have a Government contract of at least \$150,000. Then the retention requirement is 2 years from the date of making the record or the personnel action taken.

2 years after records created or employment action taken

2 years for records related to wages, wage rates, job classifications, and other terms and conditions of employment

We suggest 4 years as statutes of limitations may apply here.

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3 Non-Discrimination, EEO & Affirmative Action Records

- Employment requisitions
- Job advertisements
- Job applications & testing documents
- Affirmative Action Plans and all supporting evidence of good faith efforts to implement the plans
- Standard Form 100 (EEO-1, EEO-4, etc.)

1 year - same as Title VII

3 years for Affirmative Action employers unless employer has fewer than 150 employees or does not have a Government contract of at least \$150,000. Then the retention requirement is 2 years from the date of making the record or the personnel action taken.

Whether the application/resume is solicited by you or not, make sure to keep it on file for one year.

- Interviewer records & notes
- Selection decisions
- Physical exam reports

3 years for Affirmative Action employers unless employer has fewer than 150 employees or does not have a Government contract of at least \$150,000. Then the retention requirement is 2 years from the date of making the record or the personnel action taken.

4 Workers' Compensation Benefits

- Date-stamped copy of claim, DWC Form 1
- Report of Occupational Injury or Illness, DLSR Form 5020/OSHA 101
- All reports to Division of Workers' Compensation, including DWC Form 500
- Letter of denial to employee
- Medical reports on claim
- Orders & awards of WC Appeals Board
- WC benefits payment record
- Estimate of future liability
- Applications to WC Appeals Board for adjudication of claims
- All notices sent to employee

Open Claims
5 years from date of injury or last date for benefit payment, whichever is later

Closed Claims
2 years after claim closed

All Claims
5 years after date of injury, whether claim is open or closed

Your Workers' Compensation carrier may also retain these records on your behalf.

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5 Family and Medical Leaves

- Basic payroll data showing additions/deductions from wages & total compensation paid
- Dates for FMLA leave
- Hours for FMLA leave
- Notices given to employees regarding FMLA
- Employee requests for FMLA leave
- All benefit documents and information about paid/unpaid leave status
- Benefit premium information
- Any dispute or complaint from employee about FMLA leave

3 years

2 years

6 Income Tax Records

- All payroll-related records (including general ledgers, cash, books, journals, voucher registers, etc.) May be retained in magnetic tapes, discs and other machine-readable data media used in accounting processing. Microfilm systems must be complete, used consistently in the business and properly indexed. Retrieved data must be legible, and taxpayer must provide IRS with written procedures governing the system and its operation.
- Name, address, account number, total amount and date of each payment
- Period of services covered by each payment
- Amount of wages subject to withholding
- Amount of tax collected
- Explanation for any discrepancy between total income and taxable income
- Fair market value and date of each non-cash payment
- Form W-4 for each employee
- All other supporting documents relating to each employee's individual tax status

15 years (Assessment period of 3 years + collection period of 10 years + 2 years for payment of refund)

W-4 should be kept for as long as in effect + 4 years

6 years

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7 Unemployment Tax

- Total pay, including amounts withheld for any reason
- Wages subject to tax
- Contributions to state unemployment funds

4 years after tax is due or paid

6 years

Payroll Provider should keep this information

8 Social Security and Medicare

- Name, address, and Social Security
- Number of all employees
- Total amount and date of each payment and period covered by payment
- Amount of total wages subject to tax
- Amount of employee tax collected for each pay period
- Explanation of any difference between total pay and taxable pay
- Details of adjustment or settlement of taxes
- Records of tips received by employees including statements of tips provided by employees
- All employer filing records

4 years after tax is due or paid, whichever is later

6 years

9 Work Authorization Records

- Form I-9 for each employee hired after November 6, 1986
- Student work permits

3 years from date of hire, or 1 year after termination of employment, whichever is later

I-9 forms should be kept in a file separate from other personnel records

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10 Polygraph Exams

- Statement of reasons for conducting the examination
- Copy of statement given to examinee about time and place of examination
- Copies of opinions, reports, etc. to employer from examiner

3 years after exam

Prior to implementing a polygraph program, please discuss with your RSJ/Swenson consultant.

11 Benefit and Pension Plans

- Records sufficient to determine benefits due to employees
- Welfare and Pension Records
- Supporting documents for ERISA filings

Permanent

5 years

6 years after filing

12 Other Personnel Records

- Some personnel records should be retained for even longer than required by individual laws. Here are our recommendations:
- Attendance records
- Employee training
- All verification of job applicant references
- Verification of previous employment requests
- HIPPA employee advisory record

3 years after termination

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12 Other Personnel Records

- Employee awards
- Employee commendations
- Disciplinary action records
- Requests for transfer

5 years after termination

- Job descriptions
- Performance evaluations
- Wage attachments or garnishment notices

6 years after termination or update

- Employer property records showing employee issue

Duration of employment

- Employment applications
- Job offer letters
- Records of pay changes since date of hire
- Benefits beneficiary designation or changes
- Benefits request form
- Performance evaluations
- Policy receipts with employee signatures
- All employee training logs
- Leaves of absence taken
- Notices of union membership/dues deduction
- Education records
- Termination records
- Exit interviews
- HIPAA

PERMANENT

(We think permanent is a bit much on this!)