

Record Requirements

What to Keep Following Employee Termination

By George Raymond and Tara Avery

Leaving an employee is something a company experiences more often than it would prefer. A termination, whether employer or employee initiated, involves many emotions and a variety of administrative work – including numerous record keeping requirements.

There are several requirements regarding how long a company must keep certain records pertaining to employment. The following, as identified in the Indiana Chamber's 2nd Edition of *The Indiana Guide to Hiring & Firing*, outlines the length of time and specific documents needed.

One year

- Employment applications, resumes, advertisements, records relating to failure to hire
- Promotion, demotion, transfer, selection for training, layoff, recall or discharge, pay rate and benefits
- Employer administered aptitude or other employment tests
- Job advertisements or notices concerning openings, advancements, training or opportunities for overtime work (ADEA, ADA, Title VII, Rehabilitation Act)
- Hiring requests to employment agencies

Two years

- Employment and wage records including pay scales, work schedules, time cards, shipping and billing records, performance evaluations, merit or seniority systems, documents detailing the basis for payment of any wage differentials to men and women in the same operation, or documents of any deductions from or additions to pay (FLSA, Walsh-Healey, Davis-Bacon)
- Reasonable accommodation requests (ADA)
- Apprenticeship application forms and/or lists should be kept for two years from date of application. When the EEOC requires such an annual report, such forms should be retained for two years or for the period of the applicant's apprenticeship, whichever is longer (Title VII, Executive Order)

Three years

- Payroll records including the employee's name, address, date of birth, position, rate of pay and weekly compensation (ADEA) Basic payroll records, individual employment contracts, collective bargaining agreements, certificates and notices of Wage-Hour

Administrator, and any relevant sales and purchase records. Also, injury frequency rates, sex and identifying contract number for Walsh-Healey (FLSA, Walsh-Healey, Davis-Bacon, ADEA)

- Discrimination charges and actions (Rehabilitation Act)
- Immigration documentation (Form I-9) (IRCA). I-9s must be kept until the later of (a) three years from employee's date of hire or (b) one year after the employee's termination
- Records detailing bloodborne pathogens training (OSHA)
- Polygraph tests and results (Employee Polygraph Protection Act)

Five years

- Log and Summary of Occupational Injuries and Illnesses, Form 101 and Form 200 (OSHA)
- Records pertaining to payments to union representatives and employees, payments for impeding employee rights and any agreements with labor consultants
- Personnel and pay records (Rules of Indiana Department of Employment and Training Services)

Six years

- ERISA plant disclosures and annual reports and summaries

Thirty years

- All employee medical surveillance records must be retained for the employee's entire employment plus 30 years
- Medical records for employees with job-related exposure to bloodborne pathogens (OSHA)

In addition to the retention of the aforementioned documents, personnel records relevant to discrimination charges against an employer must be retained until final disposition of charge or action.

There are several additional documents that do not have a specified time period. These documents include written affirmative action plans and EEO-1 reports (required of employers with 100 or more employees). In addition, documents relating to benefit plans and documented merit or seniority rating systems should be retained for as long as the system is in effect plus one year.

It is always safe to keep employment records as long as possible in case the employer ever needs to refer back to them. However, once the time period has expired,



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Helpline Offers Assistance

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However, if you are a member of the Indiana Chamber of Commerce, you may contact the Chamber's HRhelpline (317-264-6866) to discuss record requirements or other human resource issues.

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any potentially misleading or harmful documents should be discarded.

Another often-asked question regarding employee termination involves vacation pay. While there is no legal requirement that employees receive paid vacations, it is granted in nearly all cases. Unless stipulated otherwise, vacation pay is earned as the employee works, making it a termination issue.

We will look at the requirements and practices involved for vacation pay in the next issue of *BizVoice*.

INFORMATION LINK

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