

## **Retaining Employment Records in Pennsylvania**

(Source: *HR.BLR – January 2013*)

The information provided here highlights some of the more important recordkeeping requirements that apply to most employers in Pennsylvania, regardless of industry. There may be other state recordkeeping requirements that are specific to certain businesses or industries. In addition, there are many federal statutes that require employers to keep certain records related to employment. More information on federal recordkeeping requirements is available.

Employers should keep in mind that the time period for retaining records set forth in the various statutes are minimums. Since these records are critical to the employer if its compliance with federal or state law is questioned or if it must defend itself against employment-related litigation, employers may want to retain employment-related records for longer periods. Moreover, the penalties for not keeping required records may be severe.

### **Child Labor**

**Covered employers.** All employers with employees under the age of 18 are subject to the recordkeeping requirements.

**Required.** Employers must keep work permits for each minor employee and keep a record of the issuing school district, the minor's birth date, the date the permit was issued, the permit number, and the minor's occupation (*PA Stat. Tit. 43 Sec. 68, Sec. 58.1*).

### **Equal Pay**

**Covered employers.** All employers are subject to the recordkeeping requirements.

**Required.** Employers must make and keep records of employee wages and wage rates, job classifications, and other terms and conditions of employment (*PA Stat. Tit. 43 Sec. 336.6*).

**To be retained.** Employers must retain these records for 1 year unless an action is pending in which the records are relevant (*PA Admin. Code Tit. 34 Sec. 9.62*).

### **Health and Safety**

**Covered employers.** All employers are subject to the recordkeeping requirements.

**Required.** Employers must have a safety data sheet (SDS) readily available in the workplace for each hazardous substance to which employees may be exposed. Employees have a right to access their own exposure and medical records (*PA Stat. Tit. 35 Sec. 7305, Sec. 7309*).

**To be retained.** Employees' exposure records must be retained for 30 years.

### **Homeworkers**

**Covered employers.** All employers are subject to the recordkeeping requirements.

**Required.** Employers must keep records of all homeworkers, including the place where they work, articles or materials furnished by the employer, goods manufactured by homeworkers, the net cash wages received, and the Social Security number and certificate number of each homeworker (*PA Stat. Tit. 43 Sec. 491-12*).

### **Apprenticeship**

**Covered employers.** All employers that sponsor apprenticeship programs are subject to the recordkeeping requirements.

**Required.** Sponsors of apprenticeship programs must keep records of each applicant's qualifications, the basis for selection or rejection of each applicant, interview notes, information regarding the applicant's race and gender, the original application for the apprenticeship program, and all information related to the operation of the apprenticeship program. In addition, employers must maintain a copy of the Affirmative Action Plan at the worksite.

**To be retained.** Records must be retained for a minimum of 5 years (*PA Admin. Code Ch. 34 Sec. 81.51 to Sec. 81.55*).

## Public Contracts

**Covered employers.** All contractors or subcontractors working on a public works project are subject to the recordkeeping requirements.

**Required.** Employers must keep records of each employee's name, craft, and hourly rate of pay.

**To be retained.** Records must be retained for a minimum of 2 years (*PA Stat. Tit. 43 Sec. 165-6*).

## Unemployment Compensation

**Covered employers.** All employers are subject to the recordkeeping requirements.

**Required.** Employers must keep records of each employee's name and Social Security number, wage rate, total remuneration for each pay period, location of employment, full-time scheduled hours, daily attendance records, and the date and reason for separation, if applicable.

**To be retained.** Records must be retained for a minimum of 4 years, except that daily attendance records need not be retained for more than 2 years (*PA Stat. Tit. 43 Sec. 766; PA Admin. Code Ch. 34 Sec. 63.64*).

## Wage and Hour

**Covered employers.** All employers are subject to the recordkeeping requirements.

**Required.** Employers must keep records of each employee's name, address, ZIP code, hourly rate of pay, occupation, starting and ending work times, daily and weekly hours worked, daily straight-time and overtime wages, total overtime compensation, additions to or deductions from wages, total wages paid, and the dates of each pay period. Employers must also keep special records for tipped employees, students, and learners.

**To be retained.** Records must be retained for a minimum of 3 years (*PA Admin. Code Ch. 34 Sec. 231.31; PA Stat. Tit. 43 Sec. 333.108*).

## Workers' Compensation

**Covered employers.** All employers are subject to the recordkeeping requirements.

**Required.** Employers must report all deaths within 48 hours and all injuries resulting in disability of 1 day or more within 7 days. Employers are also required to keep a record of all injuries. The record must contain a description of each accident and injury and the number of days lost as a result (*PA Stat. Tit. 77 Sec. 1et seq.*).

## Employee Access to Records

Employers must, at reasonable times and upon request of an employee, permit the employee to inspect his or her own personnel files used to determine his or her own qualifications for employment, promotion, additional compensation, termination, or disciplinary action. The employer must make these records available during the regular business hours at the office where these records are usually and ordinarily maintained, when sufficient time is available during the course of a regular business day, to inspect them. The employer may require the requesting employee to inspect such records during free time. At the employer's discretion, the employee may be required to file a written form to request access to the personnel file or files or to indicate a designation of agency for the purpose of file access and inspection. An employee may also authorize someone else, in writing, to inspect his or her file.

**Exceptions.** Employers are not required to let an employee inspect records relating to an investigation of a criminal offense; letters of recommendation; documents prepared for use in court or in grievance procedures; medical records; materials used by the employer to plan future operations, or information available to an employee under the Fair Credit Reporting Act (*PA Stat. Tit. 43 Sec. 1322*).