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***CONFIDENTIAL ATTORNEY-CLIENT  
PRIVILEGED MEMORANDUM***

**DATE:** October 23, 2013

**TO:** Hotel Association of New York City, Inc.  
Labor Relations Members  
General Managers, Human Resources Directors and Controllers

**FROM:** Kane Kessler, P.C.  
Labor and Employment Law Department

**RE:** New York State, New Jersey and Federal Labor Relations Posting,  
Notification, and Record Retention, and Record Destruction Requirements

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Several years ago, we prepared a Memorandum setting forth the posting and record retention requirements under New York State and Federal labor relations laws. This Memorandum reiterates the current posting, notification and retention requirements for Employers<sup>1</sup>, provides guidance regarding proper document destruction for paper and electronic files, and extends such guidance for New Jersey Employers.

## **Posting Requirements**

New York State, New Jersey, and Federal laws require Employers to display various posters in a conspicuous location in the workplace. The specific posting requirements as well as links to the websites where the posters can be found are outlined below.

### **Federal Posting Requirements**

Employers are required to post the following posters under Federal law, all of which are available on the Department of Labor's web-site ([www.dol.gov](http://www.dol.gov)):

1. Fair Labor Standards Act (FLSA)

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<sup>1</sup> Please note that the requirements described in this memorandum only apply to private sector Employers; additional requirements for the public sector, federal contractors, and construction industry are not included (e.g. Executive Order 11246, Rehabilitation Act, Vietnam Era Veterans' Readjustment Assistance Act). Additionally, this memorandum only sets forth obligations for Employers; additional obligations may exist for third parties and third-party administrators (e.g. Health Benefit Plan administrator).

2. Family and Medical Leave Act (FMLA)
3. Employee Polygraph Protection Act (EPPA)
4. Job Safety and Health Protection
5. Equal Employment Opportunity Act
6. Notice to Workers with Disabilities
7. Uniformed Services Employment and Reemployment Rights Act

### **New York State Posting Requirements**

New York State requires Employers to post the following posters, most of which are available on the NYS Department of Labor's web-site ([www.labor.state.ny.us](http://www.labor.state.ny.us)):

1. New York State Human Rights Law
2. New York State Labor Law, Sections 193 and 196-d
3. New York State Labor Law, Job Safety and Health Protection: "You have a right to know."
4. New York State Labor Law, Criminal Convictions Records
5. New York State Unemployment Insurance Law
6. New York State Workers' Compensation Law
7. New York State Clean Indoor Air Act: Smoking policy must be posted and "Smoking" and "No Smoking" signs or the international "No Smoking" symbol must be permanently placed where smoking is prohibited or restricted under the act.
8. New York State Child Labor Law: The Employer must post, in a visible location, a schedule showing start and end time and allotted meal periods for all minors.
9. New York State Election Law: At least ten days before every Federal, state and local election, Employers must post a notice informing employees that they may be able to take time off to vote. (notice can be found at: <http://www.elections.ny.gov/NYSBOE/elections/AttentionEmployees.pdf>) For more information about Employer obligations under this law, please refer to the Labor & Employment Department's previously administered memorandum on the Election Law, dated October 16, 2012. This memorandum can be accessed via the following link: [http://www.kanekessler.com/files/New\\_York\\_State\\_Election\\_Day\\_Law\\_-\\_Memo\\_10-16-12.pdf](http://www.kanekessler.com/files/New_York_State_Election_Day_Law_-_Memo_10-16-12.pdf).

### **New Jersey Posting Requirements**

New Jersey requires Employers to post the following posters, most of which are available on the New Jersey Department of Labor and Workforce Development website:

<http://lwd.dol.state.nj.us/labor/wnjpin/employer/content/employerpacketforms.html>)

1. The New Jersey State Law Against Discrimination
2. Wage & Hour Law Abstract
3. Child Labor Laws
4. Reporting and Recordkeeping Requirements Under State Wage, Benefit, and Tax Laws
5. Payment of Wages
6. Schedule of Minors' Hours
7. Family Leave Insurance
8. Unemployment Insurance and Disability Insurance Law
9. New Jersey Conscientious Employee Act (Whistleblower)
10. New Jersey Safe Act
11. New Jersey Smoke-Free Air Act: "No Smoking" sign be prominently posted at every public entrance and properly maintained where smoking is prohibited.
12. New Jersey Equal Pay Act: This posting requirement will be effective sometime in the future. The Department has not yet published the poster, but when it does it will be available on the website listed above.

## **Notification Requirements:**

In addition to the posting requirements mentioned above, Employers are also required to notify employees of their rights under various federal and state laws. These notification requirements are described below.

### **Federal Notification Requirements**

1. Affordable Care Act: Employers must provide each employee at the time of hiring (or with respect to current employees, not later than March 1, 2013) a written notice informing employees of their health coverage options. Sample notices can be found at <http://www.dol.gov/ebsa/healthreform/>.
2. Family Medical Leave Act: In addition to the poster that must be displayed in the workplace, Employers must also provide employees with the same information contained in the poster either in its employee handbook or other written material about leave and benefits, or by distributing the notice to employees upon hire. Employers may duplicate the language found in the poster to fulfill this requirement.
3. Consolidated Omnibus Budget Reconciliation Act ("COBRA"): Employers are required to notify their Group Health Plan whenever a qualifying event occurs. Qualifying events include: termination or reduction in hours of employment of a covered employee, death of a covered employee, or a covered employee becoming entitled to Medicare. The Group Health Plan will then notify the employee of his or her rights to continuation coverage.

## **New York State Notification Requirements**

1. **Wage Theft Protection Act:** Employers must provide written notice of employee wage rates and other wage related information to each new hire, to all employees by February 1 of each year, and whenever wage rates change. Model notices can be found at: <http://www.labor.ny.gov/formsdocs/wp/ellsformsandpublications.shtm> . For more information about Employer obligations under this law, please refer to the Labor & Employment Department's previously administered memorandum on the Wage Theft Protection Act, dated December 20, 2011. This memorandum can be accessed via the following link: [http://www.kanekessler.com/files/Wage\\_Theft\\_Protection\\_Act\\_Memo\\_12-20-21.pdf](http://www.kanekessler.com/files/Wage_Theft_Protection_Act_Memo_12-20-21.pdf).
  
2. **New York Labor Law: Blood Donation Leave:** New York Labor Law requires Employers to provide leave time to employees for the purpose of donating blood. Under New York Labor Law § 202-j, Employers must notify employees in writing of their right to take blood donation leave either by posting the information in a prominent spot in the workplace; including the notice with employees' paychecks, mailings; or including the information in employee handbooks.
  
3. **New York Labor Law: Notice of Fringe Benefits and Hours:** New York Labor Law §195.5 requires Employers to notify its employees of the Employer's policy on sick leave, vacation, personal leave, holidays and hours. This can be done by distributing a notice describing the aforementioned policies; or by posting a notice in a conspicuous location that describes where on the Employer's premises employees may go to find written information about such policies (ex. union contract, employee handbook, personnel manual).
  
4. **New York Labor Law: Rights of Nursing Mothers:** New York Labor Law requires all public and private Employers, regardless of size, to provide reasonable unpaid break time for nursing mothers to express breast milk. Employers must provide notification of employees' rights under this section either by giving notice individually to affected employees, by including such information in the employee handbook, or by posting a notice in a central location in the workplace.
  
5. **New York Labor Law: Notice of Termination:** New York Labor Law § 195.6 requires Employers to provide terminated employees with written notification including the exact date of termination and the exact date of cancellation of employee benefits. This notice must be provided no more than five working days after the date of the employee's termination.

## **New York City Notification Requirements**

1. **New York City Pregnant Workers Fairness Act:** On October 2, 2013, Mayor Bloomberg signed a bill prohibiting discrimination against pregnant employees or employees who have delivered a child, and requiring Employers to provide reasonable accommodations for pregnant employees. Employers will be required to notify employees of their rights under this law, but information regarding notification form and content are not yet available. We will advise when the New York City Human Rights Commission promulgates additional information about Employer obligations under the Pregnant Workers Fairness Act. For further information about this law, please see our memorandum dated October 7, 2013, an electronic version of which is

available through the following link:

[http://www.kanekessler.com/files/New\\_York\\_City\\_Pregnant\\_Workers\\_Fairness\\_Act\\_Memo.pdf](http://www.kanekessler.com/files/New_York_City_Pregnant_Workers_Fairness_Act_Memo.pdf)

### **New Jersey Notification Requirements**

1. New Jersey Equal Pay Act: In November 2012, New Jersey enacted a law which sought to eliminate pay inequality based on sex. The Act sets forth a notification and posting requirement which will become effective once the Department administers regulations. The Department of Labor and Workforce Development has not provided information as to when the regulations can be expected, but New Jersey Employers should be aware that this requirement will take effect sometime in the future. We will notify New Jersey Employers once the Department promulgates more information on this requirement.

### **Record Retention Requirements:**

Employers are required to maintain certain records for specified time periods under various federal and state laws. Outlined below are Federal, New York State, and New Jersey laws with specific record retention requirements (see Appendix A for a chart summarizing these requirements). Please note that we generally recommend that records be maintained for one year beyond the statutorily required minimum retention periods.

### **Federal Record Retention Requirements**

The following records must be retained for a minimum of one year:

1. Title VII of the Civil Rights Act of 1964 (“Title VII”): Employers with 15 or more employees must retain all personnel records for one year from the date of entry or the personnel action involved, whichever is later, including personnel records pertaining to job applications, hiring, promotion, demotion, transfer, layoff, compensation and termination.<sup>2</sup> Employers with 100 or more employees must keep the latest annual Standard Form 100 (EEO-1), which must also be filed with the EEOC each year by September 30<sup>th</sup>. Exception: Employers must retain all personnel records that are relevant to a charge of discrimination until the matter is fully concluded.
2. The Americans with Disabilities Act (“ADA”): Employers with 15 or more employees have the same record-keeping obligations as those required by Title VII, above.
3. Genetic Information Nondiscrimination Act (“GINA”): Employers with 15 or more employees have the same record-keeping obligations as those required by Title VII and ADA, above.
4. The Age Discrimination in Employment Act (“ADEA”): Employers with 20 or more employees must retain employment records such as those required under Title VII, as well as records of tests, physical examinations and advertisements or notices regarding employment opportunities, written employee benefit plans and seniority or merit systems during their

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<sup>2</sup> Though not explicitly required by the discrimination laws, we recommend maintaining such files for the duration of the State and City statute of limitations periods for filing a civil action; thus, these records should be maintained for at least three years for terminated employees. Such records should be retained for current employees for the duration of each employee’s employment.

effective period and one year after termination of the plan or system, and all personnel records that are relevant to a charge of discrimination until the matter is fully concluded.<sup>3</sup>

The following records must be retained for a minimum of two years:

1. The Equal Pay Act: All Employers engaged in commerce or in the production of goods for commerce must retain records regarding payment of wages, wage rates, job evaluations and job descriptions, merit and seniority systems, collective bargaining agreements, pay practices or other records that describe the basis for wage differentials to employees of the opposite sex within the same business establishment.<sup>4</sup>
2. Fair Labor Standards Act: Employers with employees who are engaged in commerce or the production of goods for commerce must retain wage rate tables, work time schedules, time cards or sheets, records of amount of work produced by each employee, order, shipping, and billing records, and records of additions to or deductions from wages paid.

The following records must be retained for a minimum of three years:

1. The Age Discrimination in Employment Act: Employers with 20 or more employees must maintain payroll records for three years from the last date of entry.
2. Fair Labor Standards Act: Employers with employees who are engaged in commerce or the production of goods for commerce must retain payroll records for three years from the last date of entry, and collective bargaining agreements and employment contracts for three years from the last effective date.
3. The Equal Pay Act: All Employers engaged in commerce or in the production of goods for commerce must retain payroll records for three years from the last date of entry, and collective bargaining agreements and employment contracts for three years from the last effective date.
4. Family Medical Leave Act: Employers with 50 or more employees must keep FMLA-related records for three years, including: dates of FMLA leave taken by employees, hours of FMLA leave (if leave is less than a full day), copies of employee notification to the Employer of the need for leave, copies of Employer notices regarding employees' rights and obligations when taking FMLA leave, copies of Employer policies and practices describing benefits and leaves, premium payments for employee benefits, and records relating to disputes about the designation of leave as FMLA leave. NOTE: All medical information must be maintained in separate, confidential medical files.
5. The Employee Polygraph Protection Act: Employers engaged in or affecting commerce that request polygraph examinations in connection with an ongoing investigation involving economic loss must retain a copy of the statement that describes the specific incident or activity under investigation and the basis for the testing. Employers who request a polygraph examination must retain a copy of the written statement that shows the time and place of the

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<sup>3</sup> See footnote 2, above.

<sup>4</sup> See footnote 2, above.

examination and the examinee's right to consult with legal counsel, a copy of the written statement to the polygraph examiner identifying the persons to be examined, and copies of all opinions, reports, or other records provided to the Employer by the examiner relating to the examination.

6. The Immigration Reform and Control Act: All Employers must retain each employee's Form I-9 for three years from the date of hire or one year from the employee's termination, whichever is later.

The following records must be retained for a minimum of four years:

1. The Federal Insurance Contribution Act ("FICA"): All Employers must retain records of all wages paid to their employees for at least four years from the date the tax was due or the date the tax was paid, whichever is later. These records should include the employee's name, social security number, address, total amount of wages paid in each pay period, the period of service covered by each pay period, date of each payment, portion of the payment subject to FICA taxation, the amount of the employee's tax contribution and the date it was withheld, and any explanation for any difference between the amount of tax collected and the amount owed.

2. The Federal Unemployment Tax Act ("FUTA"): Employers with one or more employees or that have a payroll of \$1,500 or more in a calendar quarter must maintain records of wage payments to each employee for at least four years from the date the tax was due or the date the tax was paid, whichever is later. These records should include the total amount of wage payments to each employee, including the amount of tax withheld, the amount of the payments taxable under FUTA, the amount contribute to state unemployment insurance funds, including amounts deducted from the employee's pay, all information required on the prescribed tax return and the extent of tax liability, any difference between total wage payments to an employee and wage payments taxable under FUTA, and if material to tax liability, dates of services and amount of cash paid for services not in the course of the employee's trade or business.

The following records must be retained for a minimum of five years:

1. The Occupational Safety and Health Act ("OSHA"): Employers with ten or more employees must maintain records of reports of employee job-related illnesses and injuries resulting in medical treatment (other than basic first-aid), loss of consciousness, restriction of movement, lost workdays, transfer, restriction of work, termination, or fatalities (OSHA Form 200), and supplementary records with additional, detailed information concerning the reported illnesses and injuries (OSHA Form 101) for five years following the end of the year to which they relate.

The following records must be retained for a minimum of six years:

1. The Employee Retirement Income Security Act ("ERISA"): Employers whose benefit plans are regulated by ERISA must keep records supporting and verifying any plan descriptions, annual reports, summary plan description, and any material modifications of the plan that they must file with the Department of Labor. Employers must also keep records that identify current employees who participate in the plan, and terminated employees who should receive benefits

under the plan, including the names and ages of participating current and terminated employees, marital status, length of service, and amount of pay.

The following records must be retained for a minimum of thirty years:

1. The Occupational Safety and Health Act: Employers with ten or more employees must retain medical records of employees exposed to toxic substances, all other records required by OSHA regarding employee exposure, and analyses using exposure or medical records for at least the duration of employment plus thirty years.

### **New York State Record Retention Requirements**

In addition to the foregoing, New York State also sets forth the following record retention requirements:

The following records must be retained for a minimum of four years:

1. New York State Tax Law: Employers should maintain tax records including names and social security numbers of employees; and beginning and ending dates, days the employee worked and earnings for each day, and all other payments made to the employee, including vacation pay, bonuses, dismissal pay, tips, the reasonable value of board and lodging, and other forms of compensation for each payroll period.

The following records must be retained for a minimum of six years:

1. Wage Theft Protection Act: Employers must retain payroll records and all acknowledgment notices obtained by Employer under the WTPA's notice provisions for six years.
2. Hospitality Wage Order: Employers who operate tip sharing or tip pooling system must maintain the following records for six (6) years: (i) a daily log of the tips collected by each employee on each shift, whether by cash or credit card; (ii) a list of occupations that the Employer deems eligible to collect tips via tip pooling or tip sharing; (iii) the share (%) of tips that each occupation is scheduled to receive from the tip pool to share; (iv) the amount in tips that each employee receives from the pool or share by date.

### **New Jersey Record Retention Requirements**

In addition to the previously cited Federal requirements, New Jersey also sets forth the following record retention requirements:

The following records must be retained for a minimum of four years:

1. Gross Income Tax Act: All pertinent tax records should be maintained for four years. Such records include: the amounts and dates of all wage payments subject to New Jersey Gross Income Tax; the names, addresses, and occupations of employees receiving such payments; the periods of employees' employment; employee social security numbers; employee withholding exemption certificates; Employer's New Jersey Taxpayer Identification number; records of

weekly, monthly, quarterly remittances and/or returns and annual returns filed; dates and amounts of payments made; and days worked inside and outside of New Jersey for all nonresident employees.

The following records must be retained for a minimum of five years:

1. Unemployment Compensation Law, Temporary Disability Benefits Law, Family Leave Insurance Benefits Law: Employers must maintain payroll records for the current calendar year, and the preceding four calendar years. Once an Employer becomes inactive, the Employer must maintain all records for the subsequent six quarters. The payroll records that must be maintained include: employee's full name, address, and social security number; total remuneration paid in each pay period; an entry under the heading "special payments" of the amount of any special payments (bonuses, gifts, etc.) paid during the pay period but which relate to employment in a prior period; date hired, rehired, and returned to work after temporary layoff; date separated from employment and reason for separation; such information as may be necessary to determine remuneration on a calendar week basis; and the number of base weeks and wages.

The following records must be retained for a minimum of six years:

1. Wage Payment Law and Wage and Hour Law: Employers must keep wage and hour records including: the name, address, and date of birth of the employee; total hours worked by the employee each day and each workweek (unless exempt); earnings of each employee, including the regular hourly wage, gross to net amounts with itemized deductions, and the basis on which wages are paid; regarding each employee who receives gratuities, the total gratuities received by the employee during the payroll week and daily or weekly reports completed by the employee containing the employee's name, address, social security number, name and address of the Employer, calendar day or week covered by the report, and total amount of gratuities received; and regarding each employee for whom the Employer claims credit for food or lodging as a cash substitute for the employee who receives food or lodging supplied by the Employer, information substantiating the cost of furnishing such food or lodgings.

## **Document Destruction Requirements:**

After the retention periods described above have passed, it is important to dispose of any documents containing sensitive information in a proper manner. The Federal Trade Commission's ("FTC") "Disposal Rule" requires all Employers, regardless of size, to shred or effectively destroy any document or other media containing personal information derived from a consumer report before discarding it. Identifying information could include such data as a person's name, social security number, driver's license number, phone number, physical address, and email address. Failure to comply with this regulation could result in civil liability of up to \$1,000 per employee, plus actual damages resulting from the Employer's failure to protect the information.

Similarly, New York State also requires businesses to dispose of records containing individuals' "personal identifying information" in a secure fashion under N.Y. Gen. Bus. L. 399-h. The "Disposal of Personal Records Law" requires all for-profit entities that have obtained personal identifying information, including social security numbers, driver's license numbers, mother's maiden names, account numbers and ATM access codes, to destroy such information

once it is no longer needed, in one of certain specified ways. Businesses may either shred such records, destroy the personal identifying information, modify the records to make the personal identifying information unreadable, or take other “actions consistent with commonly accepted industry practices” to ensure that no unauthorized person will have access to the information. Violations of the statute are punishable by fines up to \$5,000 per violation, as well as injunctive relief.

The laws mentioned above apply to physical records as well as electronic records. However, the applicable laws do not set forth any specific procedures for the destruction of electronic records; they simply require that appropriate actions are taken to ensure that no unauthorized person will have access to the information. Since electronic records have more permanence than physical records, ensuring proper disposal of electronic documents can be rather difficult. Looking to some other federal publications for guidance (specifically, the U.S. Department of Health and Human Services suggestions on how to properly dispose of electronic data for compliance with the Health Insurance Portability and Accountability Act (HIPAA), and the National Institute of Standards and Technology’s Guidelines for Media Sanitization) below are some suggestions as to how a Employers may properly dispose of electronic records:

- **Clearing:** using software or hardware products to overwrite media with non-sensitive data
- **Purging:** degaussing or exposing the media to a strong magnetic field in order to disrupt the recorded magnetic domains
- **Destroying the media:** disintegration, pulverization, melting, incinerating, or shredding

It should be noted that the methods mentioned above are merely suggestions and are not requirements. A disposal method meets the legal requirements as long as no unauthorized person can later access the personal information from the discarded documents.

If you have any questions regarding your obligations under these laws, do not hesitate to contact David R. Rothfeld, Judith A. Stoll, Niki J. Franzitta, Lois M. Traub, Alexander Soric, or Robert L. Sacks.

cc: Joseph E. Spinnato, Esq.  
Geoffrey Mills, Chairman

## APPENDIX A: CHART SUMMARIZING RECORD RETENTION REQUIREMENTS

Though not explicitly required by law, we recommend that personnel records and pay practice records be retained for the duration of the statute of limitations period for filing a civil action under State and City Human Rights laws. Additionally, we generally recommend that records be retained for one year beyond the legally required retention period.

Recommended Retention Period	Document(s)	Relevant Law(s)
4 years	<p><b><u>Personnel Records</u></b> Records relating to:</p> <ul style="list-style-type: none"> <li>• Job applications</li> <li>• Hiring</li> <li>• Promotion</li> <li>• Demotion</li> <li>• Transfer</li> <li>• Layoff</li> <li>• Compensation</li> <li>• Termination</li> <li>• Tests</li> <li>• Physical examinations</li> <li>• Advertisements or notices of employment opportunities</li> <li>• Written employee benefit plans</li> <li>• Seniority or merit systems</li> </ul>	<p>Title VII</p> <p>Americans with Disabilities Act</p> <p>Genetic Information Nondiscrimination Act</p> <p>Age Discrimination in Employment Act</p>
4 years	<p><b>Pay Practice Records:</b></p> <ul style="list-style-type: none"> <li>• Order, shipping, billing records</li> <li>• Job evaluations</li> <li>• Job descriptions</li> <li>• Merit and seniority systems</li> <li>• Pay practices</li> <li>• Other records that describe the basis for wage differentials to employees of the opposite sex within the same establishment</li> </ul>	<p>Equal Pay Act</p>
4 years	<p><b>FMLA Records:</b></p> <ul style="list-style-type: none"> <li>• Dates of FMLA leave taken by employees</li> <li>• Hours of FMLA leave</li> <li>• Copies of employee notification to the Employer of need for leave</li> <li>• Copies of Employer notices regarding employees' rights and obligations when taking FMLA leave</li> <li>• Copies of Employer policies and practices describing benefits and leaves</li> <li>• Premium payments for employee benefits</li> <li>• records relating to disputes about the designation of leave as FMLA leave</li> </ul> <p><b>NOTE: All medical information must be maintained in separate, confidential medical files.</b></p>	<p>Family Medical Leave Act</p>

Recommended Retention Period	Document(s)	Relevant Law(s)
4 years	<p><b>Polygraph Testing Records:</b></p> <ul style="list-style-type: none"> <li>• Copy of the statement that describes the specific incident or activity under investigation and the basis for the testing</li> <li>• Copy of the written statement that shows the time and place of the examination and the examinee’s right to consult with legal counsel</li> <li>• Copy of the written statement to the polygraph examiner identifying the persons to be examined</li> <li>• Copies of all opinions, reports, or other records provided to the Employer by the examiner relating to the examination</li> </ul>	Employee Polygraph Protection Act
4 years	<p><b>Immigration Records:</b></p> <ul style="list-style-type: none"> <li>• I-9 forms</li> </ul>	Immigration Reform and Control Act
5 years	<p><b>Records of Wages Paid/Tax Record Information:</b></p> <ul style="list-style-type: none"> <li>• Name</li> <li>• SSN</li> <li>• Address</li> <li>• Occupation</li> <li>• Periods of employees’ employment</li> <li>• Employee withholding exemption certificates</li> <li>• Employer’s state Taxpayer Identification number</li> <li>• Records of weekly, monthly, quarterly remittances and/or returns and annual returns filed</li> <li>• For each payroll period: <ul style="list-style-type: none"> <li>○ Total amount of wages paid in each pay period</li> <li>○ All other payments made to the employee, including: <ul style="list-style-type: none"> <li>▪ Vacation pay</li> <li>▪ Bonuses</li> <li>▪ Dismissal pay</li> <li>▪ Tips</li> <li>▪ Reasonable value of board and lodging</li> <li>▪ Other forms of compensation for each payroll period</li> </ul> </li> <li>○ Period of service covered by each pay period</li> <li>○ Days the employee worked and earnings for each day</li> <li>○ Date of each payment</li> <li>○ Portion of the payment subject to FICA taxation</li> <li>○ Amount of the employee’s tax contribution and the date it was withheld</li> <li>○ Any explanation for any difference between the amount of tax collected and the amount owed.</li> <li>○ Amount taxable under FUTA</li> <li>○ Amount contributed to state unemployment insurance funds, including amounts deducted from employee’s pay</li> <li>○ Any difference between total wage payments to an employee and wage payments taxable under FUTA</li> <li>○ Dates of services and amount of cash paid for services not in the course of the employee’s trade or business (if material to FUTA)</li> <li>○ Wage payments subject to NJ or NY state tax</li> <li>○ Days worked inside and outside of state for nonresident employees</li> </ul> </li> </ul>	<p>Federal Insurance Contribution Act</p> <p>Federal Unemployment Tax Act</p> <p>NYS Tax Law</p>

Recommended Retention Period	Document(s)	Relevant Law(s)
6 years	<p><b>Injury/Illness Records:</b></p> <ul style="list-style-type: none"> <li>• Reports of employee job-related illnesses and injuries resulting in <ul style="list-style-type: none"> <li>○ Medical treatment</li> <li>○ Loss of consciousness</li> <li>○ Restriction of movement</li> <li>○ Lost work days</li> <li>○ Transfer</li> <li>○ Restriction of work</li> <li>○ Termination</li> <li>○ Fatalities</li> </ul> </li> <li>• Supplementary records with additional detailed information concerning the reported illnesses and injuries</li> </ul>	Occupational Safety and Health Act
7 years	<p><b>Benefit Plan Records:</b></p> <ul style="list-style-type: none"> <li>• Records supporting and verifying any plan descriptions</li> <li>• Annual reports</li> <li>• Summary plan description</li> <li>• Any material modifications of the plan that they must file with the Department of Labor</li> <li>• Records that identify current employees who participate in the plan <ul style="list-style-type: none"> <li>○ Names</li> <li>○ Ages</li> <li>○ Marital status</li> <li>○ Length of service</li> <li>○ Amount of pay</li> </ul> </li> <li>• Records that identify terminated employees who should receive benefits under the plan <ul style="list-style-type: none"> <li>○ Names</li> <li>○ Ages</li> <li>○ Marital status</li> <li>○ Length of service</li> <li>○ Amount of pay</li> </ul> </li> </ul>	Employee Retirement Income Security Act
7 years	<p><b>Wage Notices (<i>New York State Only</i>):</b></p> <ul style="list-style-type: none"> <li>• Employee acknowledgment notices obtained by Employer under WTPA notice provision</li> </ul>	New York Wage Theft Protection Act
7 years	<p><b>Tip Records</b></p> <p><i>New York State:</i></p> <ul style="list-style-type: none"> <li>• A daily log of the tips collected by each employee on each shift, whether by cash or credit card</li> <li>• A list of occupations that the Employer deems eligible to collect tips via tip pooling or tip sharing</li> <li>• The share (%) of tips that each occupation is scheduled to receive from the tip pool to share</li> <li>• The amount in tips that each employee receives from the pool or share by date.</li> </ul> <p><i>New Jersey:</i></p> <p>Regarding each employee who receives gratuities(New Jersey)</p> <ul style="list-style-type: none"> <li>• Total gratuities received by the employee during the payroll week</li> <li>• Daily or weekly reports completed by the employee containing the employee's <ul style="list-style-type: none"> <li>○ Name</li> <li>○ Address</li> <li>○ Social security number</li> <li>○ Name and address of the Employer</li> <li>○ Calendar day or week covered by the report</li> <li>○ Total amount of gratuities received</li> </ul> </li> </ul>	<p>NYS Hospitality Wage Order</p> <p>NJ Wage Payment Law</p> <p>NJ Wage and Hour Law</p>

<b>Recommended Retention Period</b>	<b>Document(s)</b>	<b>Relevant Law(s)</b>
<b>7 years</b>	<p><b>Payroll Records:</b></p> <ul style="list-style-type: none"> <li>• Employees’ <ul style="list-style-type: none"> <li>○ Name</li> <li>○ Address</li> <li>○ Date of birth</li> </ul> </li> <li>• Total hours worked by the employee each day and each workweek (unless exempt)</li> <li>• Earnings of each employee</li> <li>• Wage rates/ wage rate tables</li> <li>• Work time schedules</li> <li>• Time cards or sheets</li> <li>• Collective Bargaining Agreements</li> <li>• Records of amount of work produced by each employee</li> <li>• Records of additions to or deductions from wages paid</li> <li>• Regular hourly wage</li> <li>• Gross to net amounts with itemized deductions</li> <li>• Basis on which wages are paid</li> <li>• Regarding each employee for whom the Employer claims credit for food or lodging as a cash substitute for the employee who receives food or lodging supplied by the Employer, <ul style="list-style-type: none"> <li>○ Information substantiating the cost of furnishing such food or lodgings.</li> </ul> </li> </ul>	<p>Age Discrimination in Employment Act</p> <p>Fair Labor Standards Act</p> <p>Equal Pay Act</p> <p>NY Wage Theft Protection Act</p> <p>NJ Wage Payment Law</p> <p>NJ Wage and Hour Law</p> <p>NJ Unemployment Compensation Law</p> <p>NJ Temporary Disability Benefits Law</p> <p>NJ Family Leave Insurance Benefits Law</p>
<b>31 years</b>	<p><b>Toxic Substance Related Records:</b></p> <ul style="list-style-type: none"> <li>• Medical records of employees exposed to toxic substances</li> <li>• All other records required by OSHA regarding employee exposure</li> <li>• Analyses using exposure or medical records</li> </ul>	<p>Occupational Safety and Health Act</p>