TAB A – DOCUMENT RETENTION REQUIREMENTS OF SPECIFIC FEDERAL AND MICHIGAN LABOR AND EMPLOYMENT LAWS

DOCUMENT RETENTION REQUIREMENTS OF FEDERAL AND MICHIGAN LABOR LAWS

ACT OR REGULATION	APPLICATION	REPORTING REQUIREMENTS	DOCUMENT RETENTION REQUIREMENTS	SANCTIONS FOR NON-COMPLIANCE
Fair Labor Standards Act of 1938	All industries engaged in commerce or production of goods, including domestic service employers	Employers making retroactive payments under supervision of Administrator of Wage and Hour Division must prepare a report of each payment on a form authorized by the Wage and Hour Division, one copy of which must be preserved in the employer's records, one copy of which must be delivered to the employee and the original of which must be filed with the Administrator or an authorized representative within ten days of payment Employment records must be kept safe and accessible at place of employment or a central recordkeeping office which allows for access to the records on seventy-two hours notice	Employers must maintain employment records for three years which must contain the following information: 1. Employee's name or other identifying mark 2. Address 3. Birthday (if younger than nineteen) 4. Sex 5. Occupation 6. Day that workweek begins 7. Length of work period 8. Rate of pay 9. Hours worked per day 10. Total hours per workweek (may be standardized in cases of fixed work schedule) 11. Total straight-time vs. overtime pay 12. Additions or deductions from wages for pay period 13. Total wages paid	

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			14. Date of payment 15. Collective bargaining agreements 16. Plans 17. Trusts 18. Employment contracts Employers must maintain the following types of records for two years: 1. Basic employment and earnings records (e.g., time cards) 2. Wage rate tables	
Equal Pay Act (Part of FLSA)	All industries engaged in commerce or production of goods, including domestic service employers	FLSA requirements apply	FLSA requirements also apply to Equal Pay Act In addition, employers must preserve for two years records that relate to: 1. Payment of wages 2. Wage rates 3. Job evaluations 4. Job descriptions 5. Merit systems 6. Seniority systems 7. Collective bargaining agreements 8. Documents relating to	

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			wage differential based on sex	
Title VII of the Civil Rights Act of 1964	All employers with fifteen or more employees	Employers with 100 or more employees must file an Employer Information Report (EEO-1) prior to September 30th of each year Certain joint labor-management apprenticeship committees must file an annual Apprenticeship Information Report (EEO-2)	Employer's most recently filed EEO-1 report must be retained indefinitely Test papers, interview records, requests for a reasonable accommodation and other records relating to apprenticeship applicants must be retained for two years or the period of the successful applicant's apprenticeship, whichever is longer Records created solely for the purpose of completing an EEO-2 report must be retained for one year after the date the report is due Personnel and employment records, including but not limited to requests for a reasonable accommodation, applications, records related to hiring, screening, promotion, demotion, transfer, layoff, termination,	

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			pay raises, compensation terms and selection for training programs must be retained for one year from the date of making the record or taking the personnel action, whichever is later In the case of involuntary termination of an employee, the personnel records of the individual terminated must be retained for one year from the date of termination. Personnel records relevant to a discrimination charge or action brought by the U.S. Attorney General must be retained until final disposition of the charge	
Federal Contractors – Executive Order No. 11,246	All federal contractors and federally-assisted construction contractors and subcontractors, who do over $10,000 in Government business in one year are prohibited from discriminating in employment decisions on the basis of race, color, religion,	Covered prime contractors and subcontractors must file complete and accurate affirmative action reports on form EEO-1 before March 31st of each year A covered contractor must file the EEO-1 affirmative action report within thirty	No specific retention period for employment records (one year is recommended)	Possible sanctions for non-compliance with affirmative action obligations include: 1. Suspension, cancellation or termination of the contract 2. Debarment of the

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	sex, or national origin under Executive Order No. 11,246 . In addition, all contractors or subcontractors (1) who employ fifty or more employees; (2) who are not exempt from the regulations pursuant to 41 CFR 60-1.5; (3) who are prime contractors or first-tier subcontractors; and (4) who have a contract, subcontract or purchase order of $50,000 or more must develop a written affirmative action program (AAP) for each of its establishments. A written affirmative action program helps the contractor identify and analyze potential problems in the participation and utilization of women and minorities in the contractor's workforce.	days after the award of a contract or subcontract if the contractor has not filed a report within the preceding twelve months Contractor must send notice to each labor organization with which it has a collective bargaining agreement or other contract confirming the contractor's compliance with Executive Order No. 11,246		contractor from bidding on future federal contracts
Federal Contractors – Rehabilitation Act of 1973	All federal government contracts and subcontracts over $10,000 for the purchase, sale or use of personal property or non-		Contractor must preserve personnel or employment records for two years from the date of the making of the record or the personnel	Possible sanctions include: 1. Withholding of progress payments

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	personal services (including construction)		action involved, whichever occurs later (one year retention period for employers with fewer than 150 employees or government contracts of less than $150,000). Examples include: 1. Records relating to requests for reasonable accommodation 2. Results of physical examinations 3. Job advertisements and postings 4. Applications and resumes 5. Tests and test results 6. Interview notes 7. Other records relating to hiring, assignment, promotion, demotion, transfer, layoff or termination, rates of pay or other terms of compensation and selection for training or apprenticeship Terminated employee's records must be retained for	2. Termination of the contract 3. Debarring of the contractor from receiving future contracts

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			two years after termination (one year for employers with fewer than 150 employee or government contracts of less than $150,000) Documents relating to discrimination complaints must be maintained until final disposition of the complaint Medical records must be segregated and treated as confidential	
Federal Contractors – Vietnam Veteran's Era Readjustment Assistance Act of 1972	Contractors or subcontractors with contracts greater than $25,000 with any department or agency of the United States for the procurement of personal property or non-personal services, including construction	Federal Contractors Veteran's Employment Report (VETS100) must be submitted no later than September 30th each calendar year. This report must contain: 1. Number of special disabled veterans employed by contractor 2. Number of veterans from Vietnam era employed by contractor 3. Total number of new employees, including	Employment records and records relating to complaints under this Act must be retained for at least one year	Possible sanctions for non-compliance include: 1. Withholding of progress payments 2. Termination of the contract 3. Debarring of the contractors from receiving future contracts

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		special disabled veterans and Vietnam veterans, hired during the period covered by the report		
Age Discrimination in Employment Act of 1967	All private employers with twenty or more employees, state and local governments (including school districts), employment agencies and labor organizations.		Employers must maintain payroll records for three years containing the following information: 1. Employee's name 2. Address 3. Date of birth 4. Occupation 5. Rate of pay 6. Compensation earned per week Employers must retain the following types of documents for one year: 1. Job applications, resumes or other replies to job advertisements 2. Personnel records relating to promotion, demotion, selection for training, layoff, recall, transfer, discharge and other actions 3. Job orders submitted to	

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			an employment agency or union 4. Test papers from employee aptitude or other employment tests 5. Physical examination results 6. Job advertisements or notices to the public or employees regarding openings, promotions training programs or opportunities for overtime work Employee benefit plans, seniority systems and merit systems must be retained for the length of the plan plus one year Personnel records relating to an ADEA complaint against the employer must be retained until disposition of the complaint	
Family and Medical Leave Act of 1993	Any person engaged in a business affecting commerce who employs fifty or more employees for each working day during each of twenty or	FLSA and FMLA regulations apply	Employers must keep the following records for three years: 1. Basic payroll and	

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	more calendar workweeks in the current or preceding calendar year. Public agencies are covered without regard to the number of employees employed. Public and private elementary and secondary schools are covered without regard to the number of employees employed.		identifying employee data 2. Dates FMLA leave is taken by FMLA-eligible employees 3. Hours of leave taken if less than one full day 4. Copies of employee notices of leave furnished to the employer 5. Copies of notices given to employees as required by the FMLA 6. Documents describing employee benefits and/or employer policies regarding the taking of paid and unpaid leaves 7. Premium payments of employee benefits 8. Records of disputes between employer and employee related to the FMLA Medical records must be segregated and maintained as confidential, separate from normal personnel files	
Americans With Disabilities Act of 1990	All employers with fifteen or more employees		No formal record keeping regimen	

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			Employee requests for accommodation must be maintained for one year from the date of making the record or taking the personnel action involved, whichever is later Medical records, including post-offer medical examinations and inquiries must be segregated and maintained in separate, confidential files	
Occupational Safety and Health Act of 1970	Any person engaged in a business affecting commerce who has employees, except the United States, any state, or any political subdivision thereof		Employers must retain a log (OSHA 300), summary (OSHA 300-A), and incident report (OSHA 301) of occupational injuries and illnesses for five years following the end of the year in which the injury or illness occurred. The OSHA 300 Log must (1) briefly describe recordable injuries and illnesses; (2) state the extent and outcome of each recordable injury or illness; and (3) provide	

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			summary totals for the applicable calendar year. Each injury or illness must be recorded on the OSHA 300 Log and OSHA 301 Incident Report within seven calendar days of receiving information that an illness or injury has occurred. Employer must also retain more detailed records relating to each injury or illness Employer must retain records relating to medical examinations for duration of employee's employment plus thirty years Any records relating to exposure to hazardous materials must be retained for thirty years	
Immigration Reform and Control Act of 1986 and Immigration Act of 1990	All employers		Employers must complete Immigration and Naturalization Service form I-9 within three days after hiring a new employee.	Possible sanctions include a civil money penalty

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			Form must be maintained for three years after hiring or one year after termination. whichever is later.	
Employee Retirement Income Security Act of 1974 (ERISA)	All employers with plans	Plan Administrator must make reports required by the Internal Revenue Service and/or Department of Labor Reporting requirements vary based on type of plan	Plan Administrator must retain records required by the Internal Revenue Service and/or Department of Labor Record retention requirements vary based on type of plan	Possible sanctions include severe monetary penalties and individual criminal penalties for willful violations
Personal Responsibility and Work Opportunity Reconciliation Act of 1996	All employers	New hire reports must be made no later than twenty days after the date of hire or, if made electronically, in two monthly installments not less than twelve days nor more than sixteen days apart New hire reports may be submitted on Michigan Department of Treasury Form 3281 (form 5.1), W-4 forms, magnetic tapes or diskettes, or paper lists or print-outs New hire reports must include:		

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		1. Employee's name 2. Employee's address 3. Employee's social security number 4. Employer's name 5. Employer's address 6. Federal Employer Identification Number		
Bullard-Plawecki Employee Right to Know Act (Michigan)	All Michigan employers, including the state and its political subdivisions, with 4 or more employees, and their agents	Permits employee to review, copy and file a response to any personnel record maintained by the employer	Unless release of records containing disciplinary action is ordered in a legal action or arbitration, employer must delete disciplinary reports, letters of reprimand or other records of disciplinary action that are more than three years old Employee must be notified of the proposed release of any records containing disciplinary materials Employer may not keep records relating to employee's associations, political activities, publications or communications of non-employment activities unless authorized in writing by the	Employee may maintain an action in circuit court to compel compliance with the Act Possible remedies include: 1. Actual damages plus costs for a violation of the Act 2. $200 plus costs, reasonable attorney fees and actual damages for a willful and knowing violation

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			employee (exception applies to records of activities that occur on the employer's premises or during the employee's working hours when those activities interfere with the employee's performance of his duties) Employer may keep a separate, segregated file of investigation into an employee's suspected criminal activities for two years	
Wage and Fringe Benefits Act (Michigan)	Michigan employers		Employer must maintain records containing certain vital employment information including employee's name, address, birth date, classification, rates of pay, pay periods, total wages, etc. for three years (similar to federal regulations under the Fair Labor Standards Act)	
Michigan Occupational Safety and Health Act	All places of employment in the state (except domestic employment and mines)	Employers must post an annual summary of occupational injuries and illnesses using MIOSHA form 300	Employers must maintain a log of occupational illnesses on MIOSHA form 300. Injuries must be recorded on the form within six days of	

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		Records must be made available for inspection and copying by state officials and by present and former employees Employers with fewer than eleven employees are exempt from recordkeeping requirements Employers must report to MIOSHA injuries or illnesses resulting in a fatality or the hospitalization of three or more employees within eight hours of the occurrence (heart attacks at work which result in a fatality fall within the reporting requirements)	learning that an incident has occurred. Employers must maintain employee medical records for thirty years from the employee's last date of employment Employee exposure records and workplace environmental records must be kept for thirty years	
Tax Withholding Requirements	All employers	Employer must retain all employees' executed Form W-4 in its personnel records Income tax withheld by employers from pension plan, annuity and IRA distributions should be reported by employer on	Most employers must file on a quarterly basis Form 941 which details income taxes withheld for the quarter	Possible sanctions for non-compliance with income tax withholding requirements include a 100% monetary penalty

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		Form 1099-R and Form 945		