



General Record Retention

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Education Records

Every year, NAIS receives many questions regarding retention of various records made and kept by its schools. Many of these questions relate to *education records* (those that specifically relate to students). These questions are largely addressed in an article written by Ropes & Gray for NAIS <http://www.nais.org/serve/2fed/studrec.pdf>. Generally speaking, rules regarding education records are commanded by FERPA, the Family Education Rights and Privacy Act of 1974. Although FERPA does not address how long to keep education records, this article suggests that six years is an adequate length of time. However, some states may have different statutes of limitations for bringing suits that may affect the length of retention. Your school's attorney should provide guidance in this area.

General Record Retention

Beyond education records, schools are subject to a variety of statutes and regulations that require record retention in other areas. Many of these laws provide minimum retention requirements. These requirements may not be long enough to aid your school should a legal or general reference issue arise. In light of these considerations, your school may want to implement longer retention schedules to suit its own needs.

The following time periods are the minimum retention times currently required by federal law. This table is not a complete summary of all federal law, but it does address many of the records generated by NAIS schools. Where two statutes cover the same records, the longer retention requirement should be followed.

Retention Schedule

Records	Period of Retention	Applicable Law
Employment records made or kept, including: <ul style="list-style-type: none">ApplicationsJob advertisementsDocuments relating to hiring, firing, layoffs, promotionsPayroll recordsJob descriptions	One year from date of record or action, whichever later	Civil Rights Act (Title VII); Americans with Disabilities Act (ADA)

<p>Employment handbooks Training program documentation Employee evaluations Requests for reasonable accommodations</p>		
<p>Records relating to bias or discrimination charge, including: appraisals, job descriptions, payrolls, and other records related to charging individual as well as employees similarly situated</p>	<p>Final Disposition of Charge or Action</p>	<p>Title VII; ADA</p>
<p>Employee Compensation Records, including: Payroll records Individual contracts Collective Bargaining Agreements Sales and purchase records</p>	<p>3 Years</p>	<p>Fair Labor Standards Act (FLSA)</p>
<p>Supplementary compensation records including: Employment and earning records Wage rate tables Work schedules Records of changes in compensation Documentation of basis for difference in compensation to employees of different sexes.</p>	<p>2 Years</p>	<p>FLSA</p>
<p>Documents relating to FMLA leave, including: Dates and hours of FMLA leave taken Employee handbook provisions relating to FMLA leave Records of disputes with employees over benefits</p>	<p>3 Years</p>	<p>Family Medical Leave Act (FMLA)</p>
<p>Employee Medical Records</p>	<p>Duration of Employment + 30 years</p>	<p>Occupational Safety Hazard Act (OSHA)</p>
<p>Analyses using exposure or medical records</p>	<p>30 years</p>	<p>OSHA</p>
<p>Records of Employee's health &/or welfare benefit plan, including: Benefit plans Summary plan descriptions</p>	<p>6 years</p>	<p>Employment Retirement Insurance Security Act (ERISA)</p>

Records of benefits which are, or may become due to any employee and name and address of employee	As long as possible such information may be relevant to benefit entitlement determination	Dept. of Labor
Records of Employee name, address, date of birth, occupation, rate of pay and compensation earned each week	3 years	Age Discrimination in Employment Act (ADEA)
Personnel or employment records including: job applications, promotion, demotion, transfer, job orders given to employment agencies, employer-administered aptitude tests, advertisements, etc.	1 year	ADEA
Employee Benefit Plan Information	1 year after plan termination	ADEA
Application forms for temporary positions	90 days	ADEA

Designing a System

Every school should consult its attorney to design a lawful and useful retention system. This system should resolve any overlap between retention requirements, as well as address the individual needs of each school. Because it is often not convenient or an efficient use of time to have many different types of records on different retention schedules, the retention system should also take into account the amount of time staff may be able to commit to the maintenance of records. Approach your school's counsel with an idea of how your school might organize and maintain its records, as well as any staffing constraints that may need to be addressed.

More Information

In addition to the above information, a few places on the web provide record retention information. Your school's accountant or counsel may also have useful guidelines for a record retention timetable that may be instructive for your school. Below are two links with more general retention guidelines.

- <http://www.wmfco.com/rrg.htm>
- <http://www.g-web.net/howard/record.html>

Conclusion

Every school should have a system for keeping track of the wide range of documents retained through the course of business. The above guidelines and links are meant to be a starting place for schools that feel a need to visit this area, as well as a refresher for schools with systems already in place. The best advice in this area will inevitably come from your school's counsel, accountant, or both. NAIS encourages its schools to seek this

advice and implement individually tailored programs that conform with legal requirements as well as the school's own needs.

N.B. Please note that the information provided above should not be construed as legal advice nor should it be used as a substitute for consulting with legal counsel.