

# THE INSIDE PERSPECTIVE

LABOR AND EMPLOYMENT LAW SOLUTIONS FOR EXECUTIVES AND HR PROFESSIONALS



SMITH MOORE LLP  
ATTORNEYS AT LAW

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## RECORD RETENTION: May I Throw This Away YET?

Employers generate all kinds of documents for all kinds of reasons. In the Human Resources arena, what do you have to keep and for how long? The answer requires that you consider statutory requirements, possible legal claims, costs of retention and business needs.

- In North Carolina, the statute of limitations for breach of contract and for many tort claims, including wrongful discharge, is three years. Records that might support the defense of a legal claim should be kept for at least that time period. A good rule of thumb is to keep employment records for six years after the employee leaves employment.
- In the event of litigation or other legal action, records should be kept until the final resolution of the claim.
- Payroll records should be kept for at least three years.
- Safety records (injury, illness) should be kept for at least five years. Hazmat exposure records should be kept for thirty years after termination of employment (to allow for possible latent disease issues)
- An archive of historical information such as prior versions of policies, handbooks, and training materials can be beneficial in the event a question arises regarding earlier practice.
- Disposal pursuant to a written document retention policy, consistently followed, helps to reduce the risk of identity theft or other loss of confidential data, as well as to avoid later spoliation of evidence claims in litigation.

# TIP

Each business should develop a written document retention policy to manage its personnel records. Many factors will influence decisions regarding what to keep and what to throw away. On balance, however, retaining personnel documents for at least six years beyond an employee's termination of employment will satisfy most legal obligations.



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The firm restricts its practice in the labor and employment area to the representation of management.

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