

Employer Document Retention Policies: Relevant ERISA Requirements

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Many employers maintain policies for compliance with the various laws governing document retention. In developing such a policy, it is important for employers to consider the rules applicable to documents related to plans subject to ERISA:

- Section 107 of ERISA mandates a six-year document retention period for purposes of its reporting and disclosure requirements (e.g., documents supporting the content of a Form 5500 must be retained for six years after the filing date).
- Section 209 of ERISA requires an employer to retain benefits records for each employee sufficient to determine the benefits which are or may become due to that employee.
 - No end date is specified, but a proposed DOL regulation specifies that pension records must be retained for “as long as any possibility exists that they might be relevant to a determination of benefit entitlements.”

Employers should ensure that their document retention policies have been reviewed for consistency with ERISA’s requirements and use caution before destroying employee benefit plan records or archiving them in a manner that makes them difficult to locate.