



Compliance, Recordkeeping and Notice Requirements

SHRM State Conference
May 1, 2019



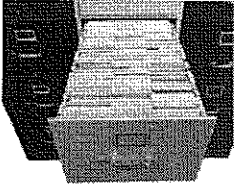
Presented By



Associated Engineers

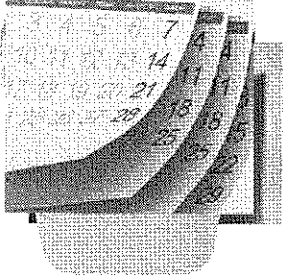
Records

- Required by employment laws
- Assist in managing human resources
- Help prove compliance
- Document employment decisions



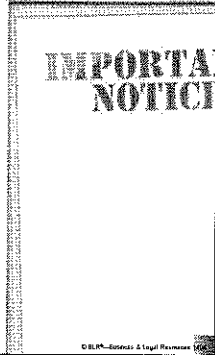
Retention and Disposal

- Records must be:
 - Retained as required
 - Properly stored
 - Disposed of fully



Notices

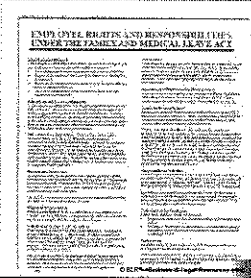
- Make employees aware of rights
- Must be posted as required
- Use protective case



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Notice Requirements: Posters

- Consolidated EEO
- Your Rights Under the Fair Labor Standards Act
- Notice of Protection
- Job Safety and Health Protection
- OSHA Form 300A
- FMLA notice

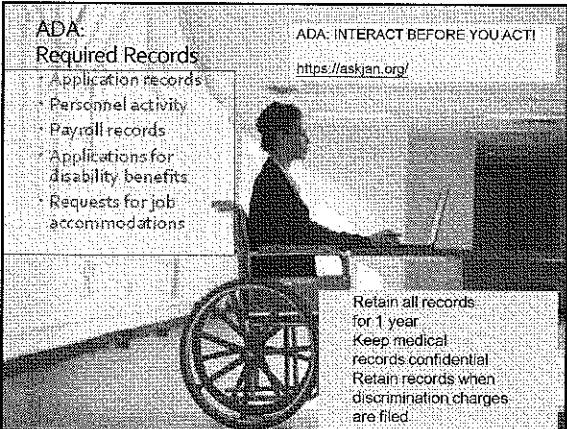


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ADA: Required Records

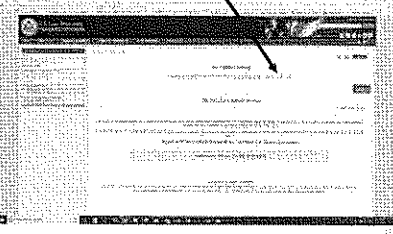
- Application records
- Personnel activity
- Payroll records
- Applications for disability benefits
- Requests for job accommodations

ADA: INTERACT BEFORE YOU ACT!
<https://askjan.org/>



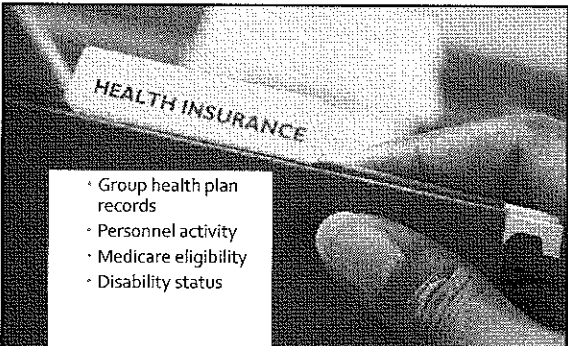
Retain all records for 1 year
 Keep medical records confidential
 Retain records when discrimination charges are filed

Deadline extended until June 1st



EEO-1 Reporting

<https://www.eeoc.gov/employers/eeo1survey/>



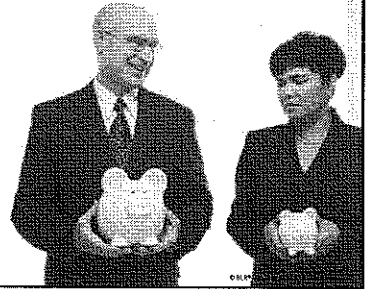
HEALTH INSURANCE

- Group health plan records
- Personnel activity
- Medicare eligibility
- Disability status

- Retain records as long as employees are covered
- Retain records of notification of benefits and rights

Equal Pay Act

- Retain wage records
- Retain job evaluations and descriptions
- Retain records of merit or seniority systems
- Retain records for 3 years



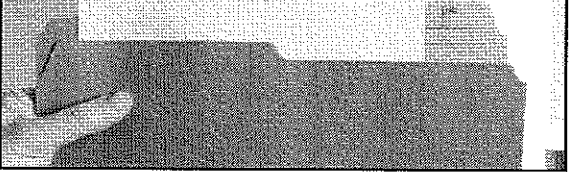
**Fair Labor Standards Act:
Required Records**

- Employee information
- Payroll records
- Union agreements
- Training agreements
- Certificates of age
- Retain for 3 years



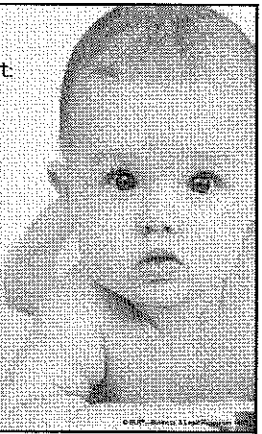
**FLSA: Required
Records (cont.)**

- Wage rate tables and wage records
- Job evaluations and descriptions
- Merit or seniority systems
- Retain for 2 years



**Family and Medical Leave Act:
Required Records**

- Employee identification data
- Payroll records
- FMLA documents
 - Retain for 3 years
- Notices describing leave benefits and policies
- Premium payments for benefits

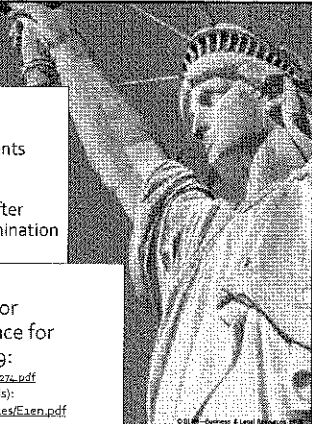


Immigration Reform and Control Act

- Form I-9, identification and work authorization documents
- Supporting documents
- Retain records for 3 years after hire and/or 1 year after termination

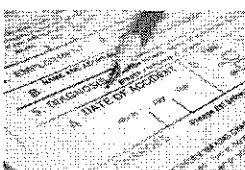
Resources

- USCIS website, www.uscis.gov
- ✳ **USCIS Handbook for Employers – Guidance for completing Form I-9:**
<http://www.uscis.gov/files/form/m-27.pdf>
- Form M-272 (hiring foreign nationals):
<http://www.uscis.gov/USCIS/Resources/Eaen.pdf>




What Is Workers Comp?

- Accident insurance program
- State mandated
- Compulsory
- Company funded



What Does It Cover?

- Medical and rehabilitation expenses
- Lost wages
- Death benefits



When Does it Apply?



- Work-related injuries
- Work-related illness
- Exceptions

What Should You Do If An Employee Is Injured On The Job?



- First concern is for the safety of the employee
- Once you are certain the employee is safe:
 - Inspect scene for hazards & remove if additional injuries could occur
 - Document the scene

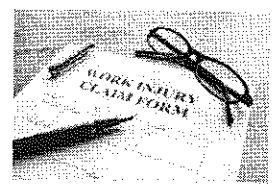
Incident Follow-up

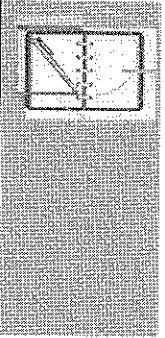
- Good questions to ask:
 - What did you see?
 - What did you hear?
 - What is the normal procedure?
 - What do you think caused the accident?
- Get basic information from witnesses
- If possible, take photos
- Draw sketches

INCIDENT REPORT

Filing Claims

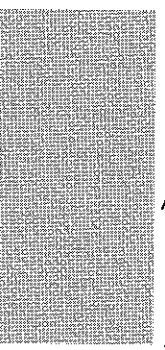
- Normal claims
- Fraudulent claims





Managing the Claim

- Out of sight should not mean out of mind
- Your goals during claims process:
 - Make sure employees receive their benefits
 - Minimize claims that go to litigation
- Key Management Tools
 - Stay involved with an injured worker
 - Stay involved with your claim rep



Getting Them Back to Work

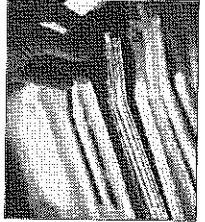
- The decision on when an employee is ready for early return-to-work is made by the treating physician
- Also depends on whether employer can deal with early return-to-work
- Only 50% of workers out 6 months return to work, and only 10% of workers off 1 year return

A Few More Pointers...

- Never rush injured worker back to work
- Setting up a job for the injured worker
- Doesn't have to be in the same department
- Talk to the injured employee before assigning the job
- Set performance standards

Reporting Requirements

- Accident reports
- Medical reports
- OSHA forms



First Report of Injury

Work-related Injury Step-by-Step Process

(See Handout)

NUMBER	STEP	REQUIRED ACTION	RESPONSIBILITY
1	Identify the injured worker	Identify the injured worker and the location of the injury.	Supervisor
2	Report the injury	Report the injury to the appropriate authority (e.g., OSHA, state or local health department) and the insurance carrier.	Supervisor
3	Obtain medical attention	Obtain medical attention for the injured worker as soon as possible.	Supervisor
4	Investigate the cause of the injury	Investigate the cause of the injury to determine the root cause and prevent future incidents.	Supervisor
5	Return the worker to work	Return the worker to work as soon as possible, either full duty or on a restricted duty assignment.	Supervisor
6	Follow up on the injury	Follow up on the injury to ensure the worker is recovering and to address any ongoing issues.	Supervisor

OSHA: Required Records

- Form 300: illnesses and injuries
- Form 301: incidents
- Form 300A: annual summary

Recordkeeping web page
<https://www.osha.gov/recordkeeping>

OSHA Form 300

Log of Work-Related Injuries and Illnesses

Instructions: This form is to be used to record work-related injuries and illnesses that result in days away from work, restricted work or transfer to another job, job modification, or medical treatment beyond first aid.

OMB No. 1218-0182 8-01-20

OSHA Form 300 Log of Work-Related Injuries and Illnesses	Employer Name (or other identifying number)	Establishment Name (or other identifying number)	OSHA Region	NAICS Code	ICD-10 Code	Supervisor's initials	Injury or Illness					Days Away From Work	Job Transfer or Restriction	Medical Treatment Beyond First Aid	Lost Workdays	Total Days Away From Work
							Date	Case No.	Time	Place	Part of Body					
<p><i>If there is a question record then cross out later</i></p> <p><i>Only one box gets checked</i></p>																

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OSHA's Form 301

Injury and Illness Incident Report

Instructions: This form is to be used to record work-related injuries and illnesses that result in days away from work, restricted work or transfer to another job, job modification, or medical treatment beyond first aid.

OMB No. 1218-0182 8-01-20

<p>Employer Information</p> <p>1. Name of Employer</p> <p>2. Address</p> <p>3. City, State, ZIP+4</p> <p>4. Telephone ()</p> <p>5. FAX ()</p> <p>6. E-mail</p> <p>7. Title of Reporting Person</p> <p>8. Name of Reporting Person</p>	<p>Incident Information</p> <p>9. Date and Time</p> <p>10. Location</p> <p>11. Description of Incident</p> <p>12. Name and Title of Supervisor</p> <p>13. Name and Title of Employee</p> <p>14. Name and Title of Employer's Representative</p> <p>15. Name and Title of OSHA Representative</p> <p>16. Name and Title of Other Agency Representative</p> <p>17. Name and Title of Other Person</p> <p>18. Name and Title of Other Person</p> <p>19. Name and Title of Other Person</p>
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OSHA Form 300 - 2002
Summary of Work-Related Injuries and Illnesses

<http://www.naics.com/search/>

Drug & Alcohol Testing

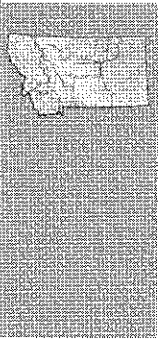
Required Testing
CFR 49 Part 382
CDL Drivers

Federal Department of Transportation
CDL required if driving:

- ✓ 26,000 gross vehicle weight
- ✓ Carrying hazardous material
- ✓ Carrying 16+ passengers

• Required under Federal Law
• Must have a written policy
• Testing Circumstances:

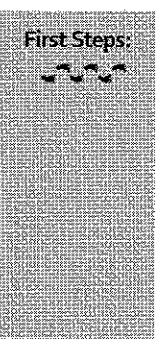
- ✓ Pre-Employment (Post-Offer)
- ✓ Random
- ✓ Reasonable Suspicion
- ✓ Post-Accident
- ✓ Follow-up



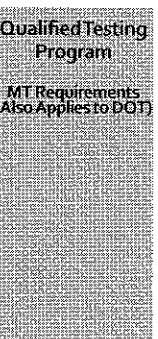
Montana's Workforce Drug and Alcohol Testing Act

- **Voluntary** program for employers in Montana
- Balances employee's right to privacy against employer's right for safe workplace
- MCA §§ 39-2-205 through -211
- Allows testing of employees who engage in the performance, supervision, or management of work in:
 - A Hazardous Work Environment
 - A Security Position/Position Affecting Public Safety
 - A Fiduciary Position for the Employer

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1. Determine which employees can be subject to testing under MT law, and which will be subject to testing under your policy
2. Determine type of testing to be conducted (pre-employment, random, etc.)
3. Determine if rehab/treatment are options
4. Select a lab to perform the actual testing
5. Adopt a qualified, written testing program

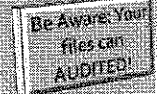


- Mont. Code Ann. §39-2-207
- Must be available for review by all employees subject to it, at least 60 days before implementation
- Must have testing procedures that conform with 49 CFR part 40
- Must have a separate written policy and procedures that include:
 - Describe legal sanctions
 - Program for educating employees on health risks
 - Standard of conduct
 - EAP
 - Sanctions for policy violation
 - Identify testing program & drugs tested for
 - Describe hiring policy
 - Confidentiality

Unemployment Claims: The Process

Steps in Managing UI Claims:

1. Receiving Notification of a Claim
2. Verify Details of the Claim
3. Determine whether or not to appeal
4. Gather Evidence
5. Participate in the Hearing
6. Receiving the Determination



Required documentation for UI purposes:

Section 24.11.2204, of the Administrative Rules of Montana

- Start and ending date of all pay periods
- Any work-related reimbursements issued to employees
- Number of staff that worked or received pay for the payroll period which included the 12th of the month
- Dates employees' were hired, re-hired or returned to work after an temporary lay-off
- All employee's name, and full SSN
- Method of pay and wages paid for each payroll period
- Details of the specific cause of employee(s) termination
- Documentation distributed by the Secretary of State

Web Site:
uid.dli.mt.gov

Montana Department of
LABOR & INDUSTRY

Employer Handbook
Three Deadlines for Labor Claims
Administrative Review

