



County Technical Assistance Service

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Recordkeeping

Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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Recordkeeping

Reference Number: CTAS-1045

Covered employers are required to keep records in accordance with the recordkeeping requirements of the federal Fair Labor Standards Act (FLSA)^[1]. No particular form of records is required, but employers having eligible employees are required to keep records containing the following information for at least three years:

1. Basic payroll and identifying employee data, including name, address and occupation; rate or basis of pay and terms of compensation; daily and weekly hours worked per pay period, additions to or deductions from pay; and total compensation paid.
2. Dates FMLA leave is taken by eligible employees; leave must be designated as FMLA leave in records and such leave may not include leave required under state law or an employer plan that is not also covered by FMLA.
3. If FMLA leave is taken in increments of less than one full day, the hours of the leave.
4. Copies of employee notices of leave furnished to the employer under FMLA if in writing, and copies of all written notices given to employees as required by the FMLA; copies may be maintained in employee files.
5. Any documents (including written and electronic records) describing employee benefits or employer policies regarding taking paid and unpaid leave.
6. Premium payments for employee benefits.
7. Records of any dispute between the employer and an eligible employee regarding designation of leave as FMLA leave, including any written statement from the employer or employee of the reasons for the designation and for the disagreement.

If an employee is not subject to the FLSA's recordkeeping requirements for minimum wage and overtime purposes (i.e., "exempt" employees), the employer need not keep a record of actual hours worked by the employee as long as eligibility for leave is presumed if the employee has been employed for at least 12 months, and with regard to employees who take leave intermittently or on a reduced leave schedule, as long as the employer and the employee maintain a written record of their agreement on the employee's normal schedule or average hours worked each week.

Records and documents related to certifications, re-certifications, or medical histories must be maintained as confidential medical records in separate files from the usual personnel files. If the Americans with Disabilities Act (ADA) applies, these records also must be maintained in accordance with the ADA's confidentiality requirements (see 29 CFR 1630.14(c)(1)), except that--

1. Supervisors and managers may be informed regarding necessary restrictions on the work or duties of an employee and necessary accommodations;
2. First aid and safety personnel may be informed (when appropriate) if the employee's physical or medical condition might require emergency treatment; and
3. Government officials investigating compliance with FMLA (or other pertinent law) shall be provided relevant information upon request. 29 C.F.R. § 825.500(g).

If the Genetic Information Nondiscrimination Act of 2008 (GINA) is applicable, records and documents created for purposes of FMLA containing family medical history or genetic information as defined in GINA shall be maintained in accordance with the confidentiality requirements of Title II of GINA (see 29 CFR 1635.9), which permit such information to be disclosed consistent with the requirements of FMLA, stated above.

[1] 29 C.F.R. § 825.500.

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