

**Sample Record Retention and Destruction Policy for CAAs**

Updated June 2020

***This sample record retention and destruction policy was developed by Community Action Program Legal Services, Inc. (CAPLAW) and has not been approved by any outside authority, such as the U.S. Department of Health and Human Services. You should thoughtfully review this sample policy and modify it as necessary to meet the individual needs of your organization and to comply with any applicable laws and regulations. CAPLAW strongly recommends that when working with this sample policy, you consult with an attorney in your state who is well-versed in state laws related to the retention of records.***

***This publication is part of the Community Services Block Grant (CSBG) Legal Training and Technical Assistance Center. It was created by CAPLAW in the performance of the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services Cooperative Agreement – Grant Award Number 90ET0467-03. Any opinion, findings, conclusions, or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Health and Human Services, Administration for Children and Families.***

***The contents of this publication are intended to convey general information only and do not constitute legal advice. This publication does not constitute or create an attorney-client relationship. If you need legal advice, please contact CAPLAW or another attorney directly.***

**How to Use This Sample Policy**

This sample record retention and destruction policy is intended to help CAAs develop a policy that facilitates compliance with federal and state record retention requirements. The record retention periods provided in this sample policy are derived from federal laws and regulations as well as from guidance on best practices. A CAA adapting this sample policy should understand the laws that apply directly to its records, and the specific retention requirements contained therein. Generally, record retention periods are dictated by the statute of limitations for a claim that may arise with respect to a CAA’s records. A record should be retained at least until the statute of limitations for that potential claim has expired. Statutes of limitations are informed by both federal and state laws.

This sample policy does not address state laws that may cover your CAA’s records and which may contain more stringent requirements around the type and the period of time records must be retained. When multiple retention requirements apply to the same record, using the more stringent requirement will result in a policy that is easier to comply with and enforce. This sample policy also does not dictate any particular method of document storage (paper, server, cloud, etc.). Your CAA will need to work with an attorney in its state to understand the applicable legal requirements and statutes of limitations, and adapt the sample policy accordingly.

One approach we take in our policy is the addition of one year to each retention period derived from a legal requirement. This additional year serves as a buffer for unintended inaccuracies that may arise. If a CAA determines that based on its operations an additional year is not necessary, it may revise the sample to reflect the exact retention periods in a requirement.

CAAs should use this sample policy as a template to develop and/or amend written policies and procedures for retaining records and destroying documents at their organizations. This sample contains bracketed text as well as footnote annotations that correspond to specific provisions. These are intended to help CAAs better understand some key options available when adapting the sample policy to meet the different needs of individual CAAs. *Any bracketed text and footnotes should be reviewed and deleted when finalizing the record retention policy*.

As with any policy, CAAs should consult with an attorney in their states as to state-specific requirements that may apply.

This sample policy is informed by the following federal requirements:

* **CSBG Organizational Standards:** CSBG Organizational Standard 8.13 requires nonprofit CAAs to have a written policy in place for record retention and destruction. Public CAAs are to follow local governmental policies for document retention and destruction.
* **Uniform Guidance:** The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (the Uniform Guidance) published by the Office of Management and Budget sets forth requirements addressing record retention and protection of personally identifiable information which may be contained in records a CAA is required to retain. These requirements apply to direct federal funding and are contained in Subpart D of the Uniform Guidance. While Subpart D does not automatically apply to block grants such as CSBG, some states incorporate it or all Subparts of the Uniform Guidance into their CSBG statute, regulations or grant agreements. Furthermore, since most CAAs receive funding from multiple federal sources, some of which require compliance with Subpart D, many CAAs elect to incorporate the Uniform Guidance’s requirements across all of their funding sources.

The Uniform Guidance requires grantees to retain financial records, supporting documents, statistical records, and all other records pertinent to a federal award for a period of three years from the date of submission of either (i) the final expenditure report or (ii) the quarterly or annual financial report if the award is renewed quarterly or annually, with a few exceptions. [2 C.F.R. § 200.333](https://www.ecfr.gov/cgi-bin/text-idx?SID=5f038cb75a4fceb51cc39e621520b129&mc=true&node=pt2.1.200&rgn=div5#se2.1.200_1333); [45 C.F.R. § 75.361](https://www.ecfr.gov/cgi-bin/text-idx?node=pt45.1.75#se45.1.75_1361).

The sample policy incorporates two of the Uniform Guidance exceptions to the general three-year rule. These exceptions require a CAA to retain records for longer periods of time if: (1) the records are related to pending litigation, claims, audits, or investigations involving the CAA and/or (2) the federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity notifies a CAA in writing of an extension.

Other exceptions focus on when the three-year requirement begins and may also result in a longer retention period for certain records relating to: (i) the disposition of real property and equipment, (ii) program income reported after the period of performance, and (iii) the negotiation of indirect cost rate proposals and cost allocations plans. Lastly, the exceptions clarify that the three-year requirement does not apply when records are transferred to or maintained by a federal awarding agency or pass-through entity. While these exception may not be directly addressed in a policy, a CAA should be aware of them and prepared to comply with them if necessary.

The Uniform Guidance also requires that non-federal entities engage in reasonable efforts to safeguard protected personally identifiable information, including in records that it retains, as well as other private or confidential information consistent with legal requirements. [2 C.F.R. § 200.303(e)](https://www.ecfr.gov/cgi-bin/text-idx?SID=5f038cb75a4fceb51cc39e621520b129&mc=true&node=pt2.1.200&rgn=div5#se2.1.200_1303); [45 C.F.R. § 75.303(e)](https://www.ecfr.gov/cgi-bin/text-idx?node=pt45.1.75#se45.1.75_1303). “Protected Personally Identifiable Information” is defined as:

*[A]n individual's first name or first initial and last name in combination with any one or more of types of information, including, but not limited to, social security number, passport number, credit card numbers, clearances, bank numbers, biometrics, date and place of birth, mother's maiden name, criminal, medical and financial records, educational transcripts. This does not include PII that is required by law to be disclosed.*

[2 C.F.R. § 200.82](https://www.ecfr.gov/cgi-bin/text-idx?SID=8c43df823bf33ab3a807224985d9ca71&mc=true&node=se2.1.200_182&rgn=div8); [45 C.F.R. § 75.2](https://www.ecfr.gov/cgi-bin/text-idx?node=pt45.1.75#se45.1.75_12).

* **Form 990**: While the IRS does not require a tax-exempt organization to adopt a record retention policy to maintain tax-exempt status, it highlights the importance of having one by requiring a tax-exempt organization to acknowledge on its Form 990 whether it has a written document retention and destruction policy (Part VI, Sec. B, Line 14). The Form 990 instructions state that a record “retention and destruction policy identifies the record retention responsibilities of staff, volunteers, board members, and outsiders for maintaining and documenting the storage and destruction of the organization’s documents and records.” (Instructions for Form 990, p. 24). Thus, the organization must adopt a policy that meets these criteria to answer “yes” to Part VI, Sec. B, Line 14 of the Form 990.
* **Sarbanes-Oxley Act**: Under the Sarbanes-Oxley Act, it is a criminal offense punishable by fine and/or up to 20 years imprisonment to knowingly alter or destroy a document with the intent to obstruct or influence an “investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States … or in relation to or contemplation of such matter or case” [18 U.S.C. § 1519](https://www.law.cornell.edu/uscode/text/18/1519). To avoid potential liability, CAAs should adopt policies and procedures that help ensure such records will be retained for as long as an investigation or litigation exists. Record retention policies can do this by governing the careful identification and storage of records at the CAA, as well as the proper procedures for determining when records are no longer needed and may be destroyed.
* **Other Federal Laws**: Due to the nature of the work CAAs engage in, it is possible that a number of other federal laws and regulations may apply that contain additional record retention requirements. For example, federal funding source laws might have specific requirements that go further than the Uniform Guidance. CAAs should thus examine their grant agreements and determine if other such requirements apply.

Another example includes federal laws that apply to most employers such as the Fair Labor Standards Act (FLSA) and the Family and Medical Leave Act (FMLA). The FLSA requires covered employers to keep various records for non-exempt workers, such as payroll records for at least 3 years. Other records, such as time cards and wage rate tables, must be kept for at least 2 years. More information on these requirements can be found in the Department of [Labor’s Fact Sheet #21: Recordkeeping Requirements under the Fair Labor Standards Act (FLSA)](https://www.dol.gov/agencies/whd/fact-sheets/21-flsa-recordkeeping). The FMLA requires covered employers to comply with FLSA’s record retention requirements.

**[Name of Community Action Agency]**

**Record Retention and Destruction Policy**

***Introduction and Purpose***. The purpose of this Record Retention and Destruction Policy (“Policy”) is to retain records necessary for [Organization Name] (“CAA”) to facilitate efficient and effective operations and comply with legal requirements. Records will be retained for a period of time as needed, but no longer than reasonably necessary. CAA adopted this Policy to comply with Record retention requirements of state and federal law, as well as applicable grant/contract terms and conditions.

***Scope of Coverage***. All directors, officers, and employees shall manage, protect, and maintain all Records in accordance with this Policy. “Records” as used in this Policy means all documents, files, or records pertaining to CAA which are created or held by any CAA employee, officer or director acting within the course of his or her duties. Records include, but are not limited to, electronic Records, e-mail, voicemail messages, paper documents and forms, photographs, photocopies, facsimiles, or scans.

***Retention Operational Guidelines***.Records may be kept in electronic or hard copy form.[[1]](#footnote-1) If Records are kept in electronic form, the [Information Technology department][[2]](#footnote-2) shall ensure that Records are securely stored and backed up, and that they remain accessible to authorized personnel as needed.

Each [program director][[3]](#footnote-3) is responsible for checking contract or grant requirements to ensure that the Record retention requirements of this Policy are met. Each [program director] is also responsible for ensuring that program procedures are in place to follow this Policy, including training and regular monitoring. Once Records are no longer needed, care must be taken to ensure that Records containing confidential information are shredded or otherwise disposed of to prevent the disclosure of confidential information. Questions about this Policy and the requirements contained herein should be directed to CAA’s [chief operating officer].[[4]](#footnote-4)

***Record Retention Period***. The required periods of retention for different types of Records are listed below. CAA may retain Records for a longer period if necessary for the administration of the program and provided available storage space exists. CAA understands that different retention periods might apply to the same Record and, in such instances, the CAA will retain the Record for the longest applicable retention period.[[5]](#footnote-5) Generally, the Record retention periods informing this Policy include those that apply to:

* **State funded projects –** [Record retention period required by state law or grant/contract provisions for state grants or contracts, if any, plus 1 year]. Records required to be kept in connection with a program funded by, or pursuant to a contract with, the state of [Name of State], including client Records and other Records supporting CAA’s compliance with contract terms and conditions and costs charged to the contract (including, for example, attendance Records) shall be kept for a period of [#][[6]](#footnote-6) years after termination of the contract. Not all client Records need to be kept, but retained Records should include documentation of a client’s program eligibility and the nature of the services provided.
* **Federally funded projects – 4 years generally; permanently for certain close-out Records and monitoring reports.** If a program receives federal grant funds, then the Record retention period for financial Records, supporting documents, statistical Records, and all other CAA Records pertinent to the federal award is 4 years[[7]](#footnote-7) after termination of the federal grant, except that grant close-out Records created prior to December 26, 2014, including but not limited to monitoring or audit reports and corrective action plans and reports, if any, shall be retained permanently.[[8]](#footnote-8) The retention period for any of the federal award-related Records may be extended if a federal funding source notifies CAA of such extension in writing.
* **Contracts with consultants, businesses, and other private parties – [Number of years of statute of limitations in your CAA’s state for contract claims,[[9]](#footnote-9) plus 1 year].** The Record retention periods for contracts between CAA and a private party (i.e., parties other than local, state, and federal government entities), and Records in connection with such contracts, shall be kept for a period of [#][[10]](#footnote-10) years after termination of the contract.

***Document Destruction***. Once the retention period for a document has expired and the Record is no longer needed, the document shall be destroyed and any Record containing personally identifiable information[[11]](#footnote-11) (PII) shall be shredded. PII includes an individual’s first name or first initial and last name in combination with any one or more of types of information, including, but not limited to: social security number; passport number; credit card numbers; clearances; bank numbers; biometrics; date and place of birth; mother’s maiden name; criminal, medical and financial Records; and educational transcripts.[[12]](#footnote-12)

When paper Records are put in either a secure onsite or offsite storage area, they must have a label indicating their contents, the department and person responsible for them, a contact phone number and email address, and a “destroy by” date.[[13]](#footnote-13)

Each [month], the [chief operating officer][[14]](#footnote-14) will review a list of all Records that have reached the destruction date, and will confirm that the Records can be destroyed, to ensure CAA’s continued ability to produce Records for known investigations or litigation.

If an outside vendor for storage and/or destruction of Records is used, after approval for destruction, the Records storage vendor shall shred or otherwise destroy the noted Records and provide a certificate of destruction in accordance with this Policy. Destruction of electronic Records shall utilize a method to ensure the electronic Records are completely destroyed and not retrievable from any storage media

***Litigation Holds.***  No Record that relates to any threatened or pending litigation, claims, audits, or investigations involving the CAA may be destroyed. All such Records must be retained until those matters are completed. In addition, a document shall not be knowingly destroyed with the intent to obstruct or influence any actual, threatened, or pending investigation of any matter within the jurisdiction of any federal department or agency.[[15]](#footnote-15) FAILURE TO COMPLY WITH A LITIGATION HOLD MAY RESULT IN SIGNIFICANT RISK, EXPOSURE OR LIABILITY TO CAA.

***Failure to Comply***.[[16]](#footnote-16) Failure to comply with this Policy, including the knowing destruction of or obstruction of access to Records required to be retained and/or accessible pursuant to this Policy, may result in disciplinary action, litigation, and/or civil and criminal penalties.

***Specific Record Retention Requirements***[[17]](#footnote-17)

In this section, the retention periods are in year increments and the “P” denotes that the Record is to be kept permanently.

Corporate Records/General Operations

The following Records shall be retained by the Legal or Operations department. The Record retention period shall begin after the termination date/expiration (T) of the Record, unless noted otherwise:[[18]](#footnote-18)

|  | **Retention Period** |
| --- | --- |
| Annual reports filed with Secretary of State for [Name of State] | P |
| Articles of Incorporation and amendments  | P |
| Bylaws and amendments  | P |
| Minutes of meetings of Board of Directors and committees | P |
| IRS Form 1023 and letter of tax-exempt determination from IRS | P |
| Tax-exemption certificates and other documentation from state(s) | P |
| Written policies*(e.g., Accounting Policies and Procedures, Records Management and Retention, Acceptable Use of Technology, Emergency, IT Security, and Risk Management Plans)* | T+7 |
| Procurement *(Records other than contracts evidencing purchase of goods and services e.g., purchase orders; purchase requisitions, delivery receipts, receiving documents)* | T+7 |

Financial/Accounting Records

The following Records shall be retained in the Finance department. The Record retention period shall begin after the creation (C) of these Records, unless noted otherwise:[[19]](#footnote-19)

|  | **Retention Period** |
| --- | --- |
| Audit reports | P |
| Depreciation schedules | P |
| Form 990  | P |
| Financial statements *(Records relating to periodic financial statements e.g., periodic audited and un-audited financial statements, including balance sheets, income statements and profit and loss statements, general ledgers, audit work papers)* | Annual – POthers – C+7 |
| Accounting*(Records relating to current accounting functions e.g., accounts payable invoices, check disbursements, accounts ledgers, schedules, budgets, general ledgers/year end trial balance, chart of accounts)*  | 7 after no longer actively used |
| Bank records*(Records relating to ordinary banking e.g., bank statements, bank reconciliations, deposit slips, cancelled checks, check listings / ledgers / registers, wire transfers, and electronic payments)* | C+7 |
| Donations to CAA | C+7 |
| Grants/contracts from funding sources | 7 after expires |
| Payroll*(Records relating to payroll e.g., time sheets/cards, travel advance, garnishment and reimbursement Records, W-2s, Form 1099s)* | C+7[[20]](#footnote-20) |
| Correspondence, general or routine | C+2 |

Legal Records

The following Records shall be retained in the Legal department. The Record retention period shall begin after the termination date (T) of the following, unless noted otherwise:[[21]](#footnote-21)

|  | **Retention Period** |
| --- | --- |
| Trademark registrations and copyrights  | P |
| Historical/legal correspondence | P |
| Claims and litigation | T+10  |
| Contracts, mortgages, notes and leases | T+7 |
| General correspondence | 4 after sent |
| Routine correspondence | 1 after sent |

Insurance Records

The following Records shall be retained in the Legal department. The Record retention period shall begin after the termination date/expiration (T) of the following:[[22]](#footnote-22)

|  | **Retention Period** |
| --- | --- |
| Insurance policies  | T+20 |
| Insurance records (claims, etc.) | T+10  |

Property Records

The following Records shall be retained in the Property or Legal department. The Record retention period shall begin after the termination date/expiration (T) of the following, unless noted otherwise:[[23]](#footnote-23)

|  | **Retention Period[[24]](#footnote-24)** |
| --- | --- |
| Deeds, mortgages, and bills of sales (including funding source)  | P |
| Routine repair/maintenance orders and Records | P |
| Inventories | 8 after creation |
| Property appraisals | T+7 |
| Leases | T+7 |

Human Resources Records

The following Records shall be retained in the Human Resources department. The Record retention period shall begin after the termination of employment (T) of the following, unless noted otherwise:[[25]](#footnote-25)

|  | **Retention Period** |
| --- | --- |
| Discrimination and wage claims | P |
| Pension Records | P |
| Personnel file\*  | T+7[[26]](#footnote-26) |
| Benefits Records | T+7[[27]](#footnote-27) |
| Criminal background check Records for hired employees | T+7 |
| Job descriptions | T+7 |
| I-9s (not hired) | 4 after date of recruitment or referral[[28]](#footnote-28) |
| Leave files, including FMLA | T+4[[29]](#footnote-29) |
| Applications (not hired)  | 1 after receipt |
| Criminal background check Records (not hired) | 1 after receipt |

\**Personnel File=I-9, application, resume, job description, payroll authorization, hiring packet, evaluation and other Records relating to performance, change of status*

Public Information Records

The following Records shall be retained in the Public Relations/Communications department. The Record retention period shall begin upon the release (R) of the following, unless noted otherwise:[[30]](#footnote-30)

|  | **Retention Period** |
| --- | --- |
| Articles and press clippings | P |
| Annual reports | P |
| Program brochures | R+7 |
| Press releases  | R+3 |

Proposals and Fundraising

The following Records shall be retained in the Executive Office. The Record retention period shall begin upon the program termination date/expiration (T), unless noted otherwise:[[31]](#footnote-31)

|  | **Retention Period** |
| --- | --- |
| Proposals (funded) – state/local funding | T+7 |
| Proposals (funded) – private funding  | T+7 |
| Proposals (funded) – federal funding  | T+4[[32]](#footnote-32) |
| Records of fundraising appeals and events | T+4 |
| Correspondence | 3 after sent |
| Proposals (unfunded) | 1 after denial |

Executive Office Records

The following Records shall be retained in the Executive Office. The Record retention period shall begin after the following are sent (S), unless noted otherwise:[[33]](#footnote-33)

|  | **Retention Period** |
| --- | --- |
| Correspondence – of historical importance (non-email) | P |
| Correspondence – general (not kept by other departments)  | S+3 |

Information Technology/Office Services/Administration Records

The following Records shall be retained in the Operations department. The Record retention period for the following shall begin after the termination date/expiration (T), unless noted otherwise:[[34]](#footnote-34)

|  | **Retention Period** |
| --- | --- |
| Equipment location and maintenance Records  | Length of lease |
| Contracts, leases, and addenda, related proposals and correspondence | T+7  |
| Emails | Retain pursuant to this Policy based on type of Record, not that it is an email |

1. Each CAA should assess its own capacity and consider certain factors when deciding how best to retain records. Such factors could include the availability of physical space to store records, time and resource limits, and the level of expertise that exists at the organization to support an electronic record retention system. In addition, if records are to be kept only in electronic form, you may need to confirm with your funding source the standards for doing so. [↑](#footnote-ref-1)
2. A CAA that does not have an Information Technology department should revise this Policy here to name the person or department at the CAA responsible for maintaining and ensuring the security of electronic systems. [↑](#footnote-ref-2)
3. Consider who at the CAA should be responsible for ensuring that the record retention requirements of grants and contracts are met. The sample policy lists program directors, given their familiarity with and oversight over each program at the CAA. Another option could include “Department Heads.” [↑](#footnote-ref-3)
4. Consider who at the CAA should be responsible for fielding questions about the Policy and each program’s efforts to comply with it. [↑](#footnote-ref-4)
5. For example, the statute of limitations for a federal award cost disallowance might require that a contract for services be retained for three years. That same record would also need to be retained in relation to potential breach of contract claims under state law, for which a statute of limitations of six years applies in that state. Under this policy, the record would be retained for the six-year period. [↑](#footnote-ref-5)
6. CAAs should consult applicable state laws and/or grant/contract provisions for state grants or contracts to determine applicable record retention periods. Adding one year to the required record retention period here offers CAAs a degree of flexibility and time to properly account for and subsequently destroy records for which the retention period has expired. [↑](#footnote-ref-6)
7. Under the Uniform Guidance, the federal record retention period is three years after the date of submission of the final expenditure report. See [2 C.F.R. § 200.333](https://www.ecfr.gov/cgi-bin/text-idx?SID=e7991b157c0ee27938303355e92f8df0&mc=true&node=pt2.1.200&rgn=div5#se2.1.200_1333); [45 C.F.R. § 75.361](https://www.ecfr.gov/cgi-bin/text-idx?node=pt45.1.75#se45.1.75_1361). That period is extended for audits, claims, or litigation pending at the time the three-year period expires. CAPLAW recommends that CAAs using this sample policy consider implementing a four-year retention period for federal records to offer a degree of flexibility for program directors and others tracking various program records. [↑](#footnote-ref-7)
8. Prior to the effective date of the Uniform Guidance (December 26, 2014), a federal awarding agency or pass-through entity could disallow costs at any time. As such, federal grant recipients needed to retain federal grant close-out records, including but not limited to monitoring or audit reports and corrective action plans and reports permanently to protect against potential disallowances. The Uniform Guidance requires federal awarding agencies or pass-through entities to make cost disallowances and notify the non-federal entity within the record retention period of 3 years. As such, CAAs seeking to protect against cost disallowances for federal awards after December 26, 2014, need only retain such records in accordance with Uniform Guidance requirements. See [2 C.F.R. § 200.344(a)(1)](https://www.ecfr.gov/cgi-bin/text-idx?SID=3f86aae024af1c9f514b81d44e3a11ab&mc=true&node=se2.1.200_1344&rgn=div8); [45 C.F.R. § 75.386(a)(1)](https://www.ecfr.gov/cgi-bin/text-idx?node=pt45.1.75#se45.1.75_1386). [↑](#footnote-ref-8)
9. Statutes of limitations for contract claims vary by state. CAAs using this sample policy should consult with an attorney in their states to determine what the applicable statute of limitations is for breach of contract claims. [↑](#footnote-ref-9)
10. This number would be based on the statute of limitations for breach of contract claims, which varies by state. For example, in Massachusetts the statute of limitations for breach of contract claims is 6 years. A Massachusetts CAA could add 1 year to that statute of limitations to arrive at 7 years. Adding 1 year to the applicable statute of limitations offers CAAs a degree of flexibility and time to properly account for and subsequently destroy records for which the retention period has expired. CAAs using this sample policy should consult with an attorney in their states to determine the applicable statute of limitations for breach of contract claims, and edit the sample policy accordingly. [↑](#footnote-ref-10)
11. Many states have enacted laws regarding the protection of electronic and/or other records containing confidential information. CAPLAW recommends that a CAA working with this sample policy check its state laws and consult with an attorney licensed in your state with knowledge of such laws to ensure compliance. [↑](#footnote-ref-11)
12. This definition of protected personally identifiable information mirrors the definition provided in the Uniform Guidance. See [2 C.F.R. § 200.82](https://www.ecfr.gov/cgi-bin/text-idx?SID=2896d5ea669bde0240eae31b471d7618&mc=true&node=pt2.1.200&rgn=div5#se2.1.200_182); [45 C.F.R. § 75.2](https://www.ecfr.gov/cgi-bin/text-idx?node=pt45.1.75#se45.1.75_12). It does not contain an exhaustive list of types of information that could be considered PII. Most states have laws that define what information an organization must protect as confidential and steps that must be taken to protect such information. A CAA should work with an attorney licensed in its state who is knowledgeable about such laws to ensure compliance, and/or include additional examples of PII to the list. [↑](#footnote-ref-12)
13. CAAs may include additional information and operational guidance in this section. For example, a CAA may decide to label records that contain PII accordingly. This section could also detail a process for the identification, labeling, and storage of records, and assign responsibility for operation and ongoing monitoring of this process. CAAs should consider what information, guidance, and processes to include here based on their needs, capacity, and resources, and in consultation with local counsel. [↑](#footnote-ref-13)
14. Consider who at CAA is responsible for the overall administration of the Policy. [↑](#footnote-ref-14)
15. Sarbanes Oxley Act, [18 U.S.C. § 1519](https://www.law.cornell.edu/uscode/text/18/1519). [↑](#footnote-ref-15)
16. CAAs should consider, in consultation with local counsel, what, if any potential sanctions to include in the Policy for failures to comply. These could range in severity and include reference to such consequences as disciplinary action for non-compliant personnel, the prospect of civil litigation, and/or a reminder of potential civil and criminal penalties, including fines and imprisonment. CAAs should consider the costs and benefits of including such a provision. If a CAA does include language related to non-compliance, it should be prepared to enforce the Policy and any applicable sanctions contained therein. [↑](#footnote-ref-16)
17. CAAs using this sample policy should consult state laws and grant requirements to determine the applicable record retention time period for each type of record listed, and edit the Policy as necessary. [↑](#footnote-ref-17)
18. Unless otherwise noted, the retention periods in this section reflect best practices and not any specific federal or state requirement. CAAs using this sample policy should consult an attorney familiar with their state laws to clarify what, if any, additional record retention requirements apply to these records. [↑](#footnote-ref-18)
19. Unless otherwise noted, the retention periods in this section reflect best practices and not any specific federal or state requirement. CAAs using this sample policy should consult an attorney familiar with their state laws to clarify what, if any, additional record retention requirements apply to these records. [↑](#footnote-ref-19)
20. Records related to employment taxes, including payroll records and summaries and withholding tax statements, must be retained for at least 4 years, [according to the IRS](https://www.irs.gov/publications/p15#en_US_2020_publink1000294375). Because such records may relate to a contract claim governed by state law, we opted for a longer period. Generally, the statute of limitations for contract claims is 6 years but you will need to confirm the period required by your state laws. [↑](#footnote-ref-20)
21. The retention periods in this section reflect best practices and not any specific federal or state requirement. CAAs using this sample policy should consult an attorney familiar with their state laws to clarify what, if any, additional record retention requirements apply to these records. [↑](#footnote-ref-21)
22. The retention periods in this section reflect best practices and not any specific federal or state requirement. CAAs using this sample policy should consult an attorney familiar with their state laws to clarify what, if any, additional record retention requirements apply to these records. [↑](#footnote-ref-22)
23. The retention periods in this section reflect best practices and not any specific federal or state requirement. CAAs using this sample policy should consult an attorney familiar with their state laws to clarify what, if any, additional record retention requirements apply to these records. [↑](#footnote-ref-23)
24. Under the Uniform Guidance, CAAs must retain records for real property and equipment acquired with federal funds for at least 3 years after final disposition. See [2 C.F.R. § 200.333(c)](https://www.ecfr.gov/cgi-bin/text-idx?SID=33a1dcec9dd2d54a4142079e0de84a2d&mc=true&node=pt2.1.200&rgn=div5#se2.1.200_1333); [45 C.F.R. § 75.361(c)](https://www.ecfr.gov/cgi-bin/text-idx?node=pt45.1.75#se45.1.75_1361). While the retention periods contained in this section would cover the retention period required by the Uniform Guidance, CAAs should be aware if they amend this section or other sections that pertain to records for real property and equipment acquired with federal funds. [↑](#footnote-ref-24)
25. Unless otherwise noted, the retention periods in this section reflect best practices and not any specific federal or state requirement. CAAs using this sample policy should consult an attorney familiar with their state laws to clarify what, if any, additional record retention requirements apply to these records. [↑](#footnote-ref-25)
26. For I-9 retention for employees hired, [8 U.S.C. § 1324a(b)(3)](https://www.law.cornell.edu/uscode/text/8/1324a) requires the later of: 3 years after the date of hiring an individual, or one year after the individual’s employment is terminated. This requirement falls within the retention period listed in this sample policy. [↑](#footnote-ref-26)
27. The Employee Retirement and Income Security Act (ERISA) requires that records related to employee benefits be retained for at least 6 years. [↑](#footnote-ref-27)
28. The retention of I-9 verification forms is governed by [8 U.S.C. § 1324a(b)(3)](https://www.law.cornell.edu/uscode/text/8/1324a), which requires employers to retain the forms for 3 years after recruitment of an individual but not hiring them. [↑](#footnote-ref-28)
29. Records created related to FMLA are subject to the requirements of the FLSA, which requires a retention period of 3 years. [↑](#footnote-ref-29)
30. The retention periods in this section reflect best practices and not any specific federal or state requirement. CAAs using this sample policy should consult an attorney familiar with their state laws to clarify what, if any, additional record retention requirements apply to these records. [↑](#footnote-ref-30)
31. Unless otherwise noted, the retention periods in this section reflect best practices and not any specific federal or state requirement. CAAs using this sample policy should consult an attorney familiar with their state laws to clarify what, if any, additional record retention requirements apply to these records. [↑](#footnote-ref-31)
32. This retention period reflects the general retention requirement of 3 years contained in the Uniform Guidance for records related to federal funding. [↑](#footnote-ref-32)
33. The retention periods in this section reflect best practices and not any specific federal or state requirement. CAAs using this sample policy should consult an attorney familiar with their state laws to clarify what, if any, additional record retention requirements apply to these records. [↑](#footnote-ref-33)
34. The retention periods in this section reflect best practices and not any specific federal or state requirement. CAAs using this sample policy should consult an attorney familiar with their state laws to clarify what, if any, additional record retention requirements apply to these records. [↑](#footnote-ref-34)