Best Practices for Employee Recordkeeping

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Many people will dismiss recordkeeping as a less-than-important topic that can easily be discussed in a few minutes at the beginning of a relatively short staff meeting. No matter how prevalent this view, it is wrong. In fact, aside from responsibilities that businesses have to keep records about contractual and formation issues, businesses that employ others have significant and important statutory and regulatory responsibilities with respect to their records. Improper or faulty recordkeeping practices subject employers to enormous potential liabilities. On the other hand, good recordkeeping practices can reap significant benefits for an employer.

For instance, private-sector employers who regularly employ more than fifteen employees in a given year and public-sector employers have a statutory and regulatory obligation to preserve certain records related to their hiring and employment practices.[1] An employer's failure to preserve those records can lead to legal sanctions in a lawsuit brought against the employer for discriminatory conduct, such as being required to pay the opposing party's attorney fees.[2] In other cases, litigants have been sanctioned millions of dollars for "spoliation of evidence" for destroying evidence in cases brought against them.[3] Other potential sanctions against an employer who fails to preserve documents include (1) exclusion of relevant evidence, (2) an inference that the

[1] 42 U.S.C. § 2000e-8(c); 29 C.F.R. §§ 1602.12, 1602.14, 1602.31.
[2] *See* Broccoli v. Echostar Communications Corp., 229 F.R.D. 506, 514 (D. Md. 2005) (awarding attorney fees for failure to preserve documents relevant to a wage claim and Title VII discrimination and retaliation claim).
[3] *See, e.g., In re* Prudential Ins. Co., 169 F.R.D. 598, 617 (D. N.J. 1997) (imposing sanction of $1,000,000 for destruction of documents in a class-action claim against Prudential).

documents destroyed were harmful to the employer, (3) default judgment, or (4) contempt sanctions.[4]

Aside from the prophylactic reason of avoiding sanctions in litigation, there are several reasons to keep good and accurate employee records. The first reason is related to litigation—records are often the best defense against claims brought by employees against employers. If an employer is careful to document a history of performance problems, for example, it may be able to easily overcome a wrongful termination claim brought by an employee.

Additionally, the law requires that employers keep certain records. Federal and state anti-discrimination laws require most employers to keep records of employee selection, promotion, demotion, reduction in force, and termination. Additionally, labor and immigration statutes require an employer to keep proof of an employee's eligibility for employment in the United States. Further, federal and state statutes require the maintenance and preservation of records of employee tax withholdings, payroll payments, salary and wage information, and tip income.

Further, records help employers manage their employees and plan for the future. Accurate and careful records will show trends that an employer can use for strategic purposes.

These materials are intended to suggest the best practices that an employer can adopt with reference to its duty to make and preserve its records.

A. Protection from Damage or Loss

It seems obvious that a recordkeeping system is of no worth if it does not provide a method to protect stored records from destruction, damage, or loss. As a practical matter, therefore, it makes sense that employers plan ways to protect records. There, also, may be a more ominous reason to protect records, however—many statutes that require employers to keep records, state that requirement as a duty "to preserve" records[5]

[4] *See* Fed. R. Civ. P. 37; Utah R. Civ. P. 37; EEOC v. Jacksonville Shipyards, Inc., 690 F. Supp. 995, 997-98 (M.D. Fla. 1988) (applying Rule 37 analysis in case where party failed to preserve records as required by EEOC regulations).

[5] *See* 29 U.S.C. § 211(c); 29 U.S.C. § 657(c)(1); 42 U.S.C. § 2000e-8(c); 42 U.S.C. § 12117.

or to keep the records "safe and accessible."[6] Although unlikely, this may mean that an employer could be subject to a penalty for failing to provide adequate facilities for the protection of stored records from the consequences of natural disasters or accidents such as fires and floods.[7] It is clear from applicable cases and regulations that destruction of records in natural disasters or accidents does not excuse an employer from its burden of proving (1) that it, in fact, did keep those records or (2) the facts found within those records.[8]

To comply with their statutory and administrative obligations and to avoid potential liability, it is in the best interest of employers to adopt record maintenance and storage practices that would indeed have the effect of protecting the employers' records. These practices are best derived from those who have expertise in such areas: archivists and others who have studied records management.

The foundation principles for organizing and keeping records in archives are as follows:

- **The principle of provenance** – This principle requires that documents be grouped, organized, and maintained according to their transactional origin or source;
- **The principle of original order** – This principle requires that documents should be maintained in the same scheme or order and with the same designations they received in the course of business;
- **The chain of responsible custody** – This principle requires that an archivist or record manager show that the documents have been kept in such a way and by such people that they have not been damaged, altered or destroyed.

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[6] 29 C.F.R. § 516.7(a).

[7] It bears noting that in Utah public employers have a higher duty to preserve records that come into their "hands for any purpose." Utah Code Ann. § 76-8-412. The statute states that any official who, *inter alia*, falsifies, removes, or destroys any such record is guilty of a felony of the third degree. Although this probably does not apply to a breach of a duty to provide for protection against destruction, a careless official who causes the destruction of a record before the statutory destruction period arguably could be liable under this statutory provision. Statutory destruction period will be discussed more fully later.

[8] *See, e.g.*, Allen v. Commissioner of Internal Revenue, 117 F.2d 364, 367-68 (1st Cir. 1941); *Gill v. United States*, No. 296-81T, 1997 W.L 820693, at *41 (Fed. Cl. Oct. 9, 1997); 26 C.F.R. § 1.274-5T(c)(5).

It is the best practice for an employer to keep all necessary documentation in such a state that will be useful to it. Following the foundation principles enunciated above will allow an employer do so. An employer will be able to see how a document was created, why it was created, and what the document means in a much more satisfactory manner. Additionally, it will be able to prove that the documents have not been altered or changed.

Moreover, the regulatory environment dictates that employers take steps to protect their documents from destruction, damage, or loss. Again, record management principles dictate best practices.

- **Risk Assessment** - Employers should first assess potential risks. They should identify risks, analyze whether the risk is probable and what effect it may have, prioritize the risks, and treat the risks.
- **Plan** – Employers should then plan for risks
  - List vital records that are significant or vulnerable, list location, and person controlling documents
  - List equipment and materials that would be available for document recovery
  - List back-up resources
  - Identify specific procedures for updating the plan
  - Provide simple instructions on how to handle damaged documents
- **Protect** - Employers should establish procedures to
  - Identify vital records or critical records that are being used in various offices.
  - Duplicate and disperse vital records
  - Ensure appropriate levels of fire and security protection
  - Store back-up copies off-site

Special attention should be given to determinations to store back-up copies of documents digitally or in computerized form. Many digital storage media have limited life spans. For instance, CDs can become damaged quickly and have short life spans.

Additionally, digitally-stored media may become obsolete. If, for instance, an employer saves a document in a particular computerized format in 2005, will a computer in 2020 be able to read that document in that format?[9]

B. Balancing Access Issues with Safeguarding Confidentiality

Along with the employers' obligation to protect employee records from damage and loss comes the added responsibility that employers have to protect the confidentiality of and to limit access to many records that they keep. Certain statutes require that employers maintain separate confidential files for certain information. For instance, when an employer obtains information from medical examinations conducted pursuant to the provisions of the Americans with Disabilities Act (ADA) or § 503 of the Rehabilitation Act, the statutes required that the information must be collected and maintained on separate forms in separate files and be treated as confidential.[10] The regulations implementing the Family and Medical Leave Act (FMLA) incorporate the ADA requirements for separate files.[11] Additionally, the Health Insurance Portability and Accountability Act (HIPAA), which will be discussed in detail later in these materials, requires separate files as well.[12]

Although other statutes do not require separate forms and files, because of the implications that could arise out of employee access to certain records, an employer would be wise to prohibit access to certain information to most employees. The EEOC, for instance, requires certain employers to compile annual statistics on the race, gender, ethnic background, veteran status, disability, etc., of its job applicants and employees.[13] Although there is no explicit direction to maintain separate files, the EEOC suggests them.[14] Additionally, detailed payroll and benefits files will include information such as medical conditions, marital status, dependents' names, and other data that would be

[9] Given the long document retention periods for certain records, the fact that in 2020 a business may need to retrieve data stored in 2005 is not an unreasonable assumption.
[10] 42 U.S.C. § 12112(c)(3)(B), (4)(C); 41 C.F.R. § 60-741.23(d).
[11] 29 U.S.C. § 2616(b); 29 C.F.R. 825.500(g).
[12] *See, e.g.*, 45 U.S.C. § 1320d-6; 45 C.F.R. § 164.504.
[13] 42 U.S.C. § 2000e-8(c).
[14] 29 C.F.R. § 1602.13.

illegal to use in making employment decisions. Accordingly, caution dictates that access be limited to those files as well.

Because of these confidentiality concerns, it is important that employers establish a document access policy that limits access to personnel records. Of course, these restrictions should be balanced against the need of employers to have ready access to information necessary for strategic planning purposes. The best and most appropriate way to address this issue is by establishing or revising recordkeeping policies and establishing a system of recordkeeping that provides limited access to sensitive and confidential employee information. Both of these issues will be discussed below.

C. Establishing or Revising Recordkeeping Policies

1. Document Retention Policies

A recordkeeping or "document retention policy" is absolutely essential to any business. Such a policy should provide for the systematic review of documents to determine whether those documents should be retained or destroyed. A comprehensive policy will be explicit in its description of the records that employees, supervisors, and managers should or should not keep. It will also detail documents that must be retained and those that should be destroyed.

These policies are useful for essentially three reasons. First, they increase business efficiency. By requiring systematic review and destruction of documents, businesses are able to reduce the need for storage space and increase employee efficiency by reducing time spent trying to find documents. Second, a well-crafted document retention policy will aid in litigation. It will be much easier to find important documents if such a policy is followed. It will also prevent the unintentional destruction of documents that are important to ongoing litigation. Third, these policies are necessary to assure that the employer complies with all statutory and regulatory requirements.

There is some danger in creating a document retention policy. First, once a policy is created, an employer may feel that its duty or obligation has been fulfilled and, consequently, will adhere to the policy and not frequently review it. Such an approach would be a mistake. Employment statutes and regulations are constantly changing.

Accordingly, what was once an appropriate or correct document retention time period may soon become obsolete. In such a circumstance, although an employer may believe that it is complying with the law, its failure to revise the policy may cause unintended violations of the law. Second, if a policy is created and haphazardly followed, any destruction of a document near the time of litigation can be viewed as suspect. For instance, in the recent litigation arising out of the Enron implosion, the Fifth Circuit stated that "[a] company's sudden instruction to institute or energize a lazy document retention policy when it sees the investigators around the corner . . . is . . . easily viewed as improper."[15]

A comprehensive document retention policy will:

- Include a single authority who is designated to manage the recordkeeping policy
- Identify documents, including electronic documents, that the business produces
- Identify the appropriate time periods for the retention of each category of document
- Identify the proper place and medium for the storage of each identified category of document
- Identify the proper method and time of destruction of documents
- Identify a specific yearly date for review of the document retention policy, periods of retention, and company adherence to the policy

A document retention policy should also explicitly prohibit certain types of recordkeeping. For example, in most instances, employers should avoid creating records that include information about an employee's after-hours behavior, arrest records, personal finances, family background, club memberships, religious affiliation, union memberships, and political beliefs or affiliations. Additionally, inconsistent

[15] United States v. Arthur Andersen, LLP, 374 F.3d 281, 297 (5th Cir 2004). This opinion was later reversed by the United States Supreme Court but is instructive to show how the inconsistent use of a document retention policy can be viewed as a sinister move by juries. *See* Arthur Andersen LLP v. United States, 125 S. Ct. 2129 (2005).

recordkeeping practices should be discouraged. An example of this type of practice would be a particular supervisor keeping a detailed record about subordinates he or she personally dislikes while recording almost nothing about favored employees. Moreover, the document retention policy should forbid "unofficial" files, such as a supervisor's own file about employees kept in his or her personal desk or filing cabinet. By requiring centralized filing, employers are better able to manage their supervisors' recordkeeping conduct and review and destroy inappropriate matters in personnel files.

2. Record Access Policies

As discussed above, employers should establish a personnel records access policy regarding whether an employer will permit access to employment records. An employer must allow access to certain records. For example, an employee has the right to review any consumer report, defined by statute to include a background check of a potential employee,[16] commissioned by an employer in certain circumstances.[17] For the most part, however, giving employees access to their personnel records is entirely discretionary with private employers. Employees of the state and its political subdivisions, however, have a statutory right to review and copy non-confidential portions of their personnel files.[18]

In formulating these policies, employers should consider the following issues:

- Will employee access be an absolute right or a discretionary privilege?
- Will employees be permitted to make copies of the material in their files?
- Will employees be permitted to challenge materials found in their files?

D. Records that Must (or Should) Be Stored Separately

As discussed in part I.B above, certain statutes mandate that certain employment records be kept separate from other records. Good practice, rather than statutes or regulations, mandate that other employment records be kept separate. Accordingly, employers should have essentially five separate recordkeeping systems for five categories of records: (1) personnel files, (2) medical records files, (3) equal employment opportunity data, (4) I-9 records, and (5) payroll and benefits data.

[16] 15 U.S.C. § 1681a(d)(1)(B).
[17] 15 U.S.C. § 1681b(b)(3).
[18] Utah Code Ann. §§ 67-18-3, -5.

1. Personnel files

Personnel files should be maintained that include relevant employment data and should exclude unnecessary personal information. The records that should be included in a personnel file are:

- Application material (application, resume, recommendation letters, and other records related to the hire)
- Job-related test results (not medical tests)
- Records related to promotion, demotion, raises, transfers, etc.
- Education and training records
- Supervisor/Performance appraisals or reports
- Awards/Commendations
- Disciplinary records
- Lay-off or termination records
- Basic compensation information

2. Medical Files

As discussed above, medical files must be kept separate from other employee personnel records. Additionally, access to these documents should be limited to those who need to know the information. Other than an employer's human resources personnel, these individuals include (1) supervisors or managers for purposes of identifying necessary restrictions on the employee's work or duties or identifying accommodations for an employee's disability, (2) first-aid and safety personnel, when appropriate, or (3) government officials investigating compliance with the law.[19]

The medical files should include:

- Pre-employment drug screen results
- Post-employment physical exam results
- Family and Medical Leave Act documentation
- Return-to-work releases
- Requests for reasonable accommodation

[19] *See* 42 U.S.C. § 12112(c)(3)(B); 41 C.F.R. § 60-741.23(d)(1).

- Documentation regarding a disability or accommodations
- Workers' compensation documentation
- Insurance claims documents
- Physicians' notes
- Any other records that reveal or relate to an employee's medical condition, history, or treatment

3. Equal Employment Opportunity Data.

Certain employers are required to compile annual statistics on the race, gender, ethnic background, veteran status, disability, etc., of its job applicants and employees.[20] Since employers are precluded from using that information in their employment decisions, in order to avoid the implications that flow from access to that information, it is best to have access limited to only those who need to have that information to file reports. Accordingly, a separate file including these separate documents should be compiled and separated from the other employee records. [21] These files should include only the information that the employer is required to compile by the EEOC's regulations.

4. I-9 Records.

Federal law requires that an employer verify that an employee is authorized to work in the United States. It also requires that employers keep records of its verification of the employee's ability to work.[22] This form is called an I-9. Because employers are precluded from using national origin information in their employment decisions, in order to avoid the implications that flow from access to that information, it is best to have access limited to only the human resources department. Additionally, having the documents separate from the other Equal Employment Opportunity data will keep employers from unnecessarily disclosing the full contents of employee files and other employer records to investigators who should be reviewing only the employers' I-9 recordkeeping.

5. Payroll and benefits data.

[20] 42 U.S.C. § 2000e-8(c).
[21] 29 C.F.R. § 1602.13.
[22] *See generally* 8 U.S.C. § 1324a.

The Fair Labor Standards Act (FLSA)[23] and the Internal Revenue Code[24] require that employers keep rather detailed records regarding an employee's wages and withholdings. Because employers are prohibited from using much of the data that is included in these reports for employment decisions, access to detailed payroll and benefits information should be limited.

Payroll records should include:

- An employee's full name and social security number
- Address, including zip code
- Birth date for minors
- Sex and occupation
- The time and day of the beginning of employee's workweek
- The hours worked each day
- Total hours worked each workweek
- Basis for employee's payment
- Hourly pay rate (regular)
- Total regular earnings for day or week
- Total overtime earnings for workweek
- All deduction from employee wages
- All benefits
- Total wages paid
- Pay period
- Date of payment

E. Guidelines and Timing of Retention and Disposal

As discussed in part I.C. above, a document retention policy is an important and vital component of any employer's business. Document retention schedules should be based on the business desires of employers. Thus, although statutes and regulations

[23] 29 U.S.C. § 211(c).
[24] 26 C.F.R. § 31-6001.1(e)(2).

provide minimum retention times, an employer is free to retain records longer if it wishes to do so. However, documents should not be retained longer than is useful.

A document retention program should always include a policy providing that in the event of litigation, all documents relevant to the litigation be retained rather than destroyed. As discussed above, failure to do so can lead to serious consequences. An employer's failure to preserve records can lead to sanctions against the employer in a lawsuit brought against the employer for discriminatory conduct, such as being required to pay the opposing party's attorney fees.[25] In other cases, litigants have been sanctioned millions of dollars for "spoliation of evidence"[26] when companies destroyed evidence in cases brought against them.[27] Other potential sanctions available to employees against an employer who fails to preserve documents include (1) exclusion of relevant evidence, (2) an inference that the documents destroyed were harmful to the employer, (3) default judgment, or (4) contempt sanctions.[28]

The retention schedule that is included on the following pages provides a general description of the retention periods for various documents as those periods are defined by federal law. The table is of necessity very general and does not include many retention periods that may be applicable to an employer in a particular industry and does not attempt to describe differing retention schedules under Utah law.

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[25] *See* Broccoli v. Echostar Communications Corp., 229 F.R.D. 506, 514 (D. Md. 2005) (awarding attorney fees for failure to preserve documents relevant to a wage claim and Title VII discrimination and retaliation claim).

[26] The spoliation doctrine "holds that where a *party to an action* fails to provide or destroys evidence favorable to the opposing party, the court will infer the evidence's adverse content. Under the spoliation doctrine, such an inference will be drawn '[w]here on party wrongfully denies another the evidence necessary to establish a fact in dispute.'" Burns v. Cannondale Bicycle Co. 876 P.2d 415, 419 (Utah Ct. App. 1994) (quoting *National Ass'n of Radiation Survivors v. Turnage*, 115 F.R.D. 543, 557-58 (N.D. Cal. 1987).

[27] *See, e.g., In re* Prudential Ins. Co., 169 F.R.D. 598, 617 (D. N.J. 1997) (imposing sanction of $1,000,000 for destruction of documents in a class-action claim against Prudential).

[28] *See* Fed. R. Civ. P. 37; Utah R. Civ. P. 37; EEOC v. Jacksonville Shipyards, Inc., 690 F. Supp. 995, 997-98 (M.D. Fla. 1988) (applying Rule 37 analysis in case where party failed to preserve records as required by EEOC regulations).

STATUTE	RETENTION PERIOD	RECORD
Age Discrimination in Employment Act	1 year from date of personnel action[29]	Job advertisements Job applications, resumes, any other form of employment inquiry in response to advertised job openings Records related to promotion, demotion, transfer, selection for training, layoff, recall, or discharge Job orders submitted to employment agencies or unions Results of employer tests Physical exams used in making personnel decisions
	1 year after plan is no longer in effect[30]	Benefit plans Seniority/ Merit systems
	3 years[31]	Name Address Date of Birth Occupation Rate of pay Weekly compensation

[29] 29 U.S.C. § 626; 29 C.F.R. § 1627.3(b)
[30] 29 C.F.R. § 1627.3(c).
[31] 29 C.F.R. § 1627.3(a).

STATUTE	RETENTION PERIOD	RECORD
Americans with Disabilities Act[32] Rehabilitation Act of 1973	Public employers - 2 years from date of making of record or personnel action involved, whichever is later.[33] Private employers - 1 year from date of recordation or personnel action involved, whichever is later[34]	Job applications, resumes, and other hiring-related documents Documents relating to demotion, promotion, and transfer Requests for reasonable accommodations
	Public employers – 2 years from date of termination[35] Private employers - 1 year from date of termination[36]	Records relating to involuntary termination
	EEO-1 As long as is current[37] EEO-4 & EEO-5 – 3 years[38]	Employer Information Reports
Employee Retirement Income Security Act	6 years[39]	Employee benefit plan documents Summary plan descriptions Form 5500
Equal Pay Act	3 years[40]	Definition of the work week Number of hours each employee works Pay rates Total wages Total deductions

[32] The document retention periods are superseded if a charge of discrimination is filed with the Equal Employment Opportunity Commission (EEOC). In that case, all records relevant to the charge must be retained until final disposition. *See* 29 C.F.R. §§ 1602.14, 1602.31, 1602.40.
[33] 29 C.F.R §§ 1602.31, 1602.40.
[34] *Id.* § 1602.14.
[35] *Id.* §§ 1602.31, 1602.40.
[36] *Id.* § 1602.14.
[37] *Id.* § 1602.7.
[38] *Id.* §§ 1602.30, 1602.39.
[39] 29 U.S.C. § 1027.
[40] 29 C.F.R. § 516.5.

STATUTE	RETENTION PERIOD	RECORD
Fair Labor Standards Act	2 years from date of last entry[41]	Records supporting hours, basis for wage determinations, and wages paid Records supporting additions or withdrawals from wages
	2 years after last effective date[42]	Wage rate tables Work time schedules
	3 years from date of last entry[43]	Name found on social security card and complete home address Date of birth (if under age 19) Sex and occupation Day and time of beginning of employee workweek Regular rate of pay for overtime weeks, basis for determining rate, and payments excluded from rate Hours worked each workday and workweek Regular and overtime earnings Additions and deductions from wages for each pay period Total wages paid for each pay period Date of payment and pay period
	3 years after last effective date[44]	Collective bargaining agreements Certificates authorizing employment of minors, students Total sales volume and goods purchased

[41] 29 C.F.R. § 516.6.
[42] *Id.*
[43] 29 C.F.R. § 516.5.
[44] *Id.*

STATUTE	RETENTION PERIOD	RECORD
Family and Medical Leave Act	3 years[45]	Basic employee and payroll data as required by the Fair Labor Standards Act Dates FMLA leave is taken Hours worked in the previous 12 months Hours of FMLA leave for FLSA-exempt employees Copies of employee notices furnished to employer Copies of general and specific notices given to employees Documents describing employee benefits or policies regarding paid and unpaid leave Documents verifying premium payments of employee benefits Records of FMLA disputes
Immigration Reform and Control Act	3 years after hire date or 1 year after the date of termination, whichever is later[46]	Form I-9

[45] 29 U.S.C. § 2616(b); 29 C.F.R. § 825.500.
[46] 8 U.S.C. § 1324a(b)(3).

STATUTE	RETENTION PERIOD	RECORD
Internal Revenue Code	4 years after tax is due or tax is paid, if later[47]	Employee name, address, occupation and Social Security number Total amount and date of each payment of compensation Fair market value of noncash payments Total withheld for taxes or otherwise Amount of compensation subject to withholding for federal income, Social Security, and Medicare taxes, and amounts withheld Pay period covered by each payment Reason why total compensation and taxable amount for each tax is different W-4 Beginning and ending dates of employment Employer-provided fringe benefits and any substantiation Employer requests for cumulative method of wage withholding Adjustment or settlement of taxes Copy A of employee Forms W-2 Amounts and dates of tax deposits Information regarding wage continuation payments Copies of tax returns filed

[47] 26 C.F.R. § 31-6001.1(e)(2).

STATUTE	RETENTION PERIOD	RECORD
Occupational Safety and Health Act	3 years[48]	Training records related to health and safety
	5 years[49]	Records of occupational injuries and illnesses
	30 years[50]	Records of employee exposure to hazardous materials and blood-borne pathogens
	Duration of employment plus 30 years[51]	Employee medical records
Title VII of the Civil Rights Act	*See* ADA and Rehabilitation Act of 1973 Retention Periods	*See* ADA and Rehabilitation Act of 1973 Records
Vietnam Era Veterans' Readjustment Assistance Act	*See* ADA and Rehabilitation Act of 1973 Retention Periods	*See* ADA and Rehabilitation Act of 1973 Records

[48] 29 C.F.R. § 1910.1030(h). It is important to note that there is no general training record document retention schedule. The training record retention requirements for the identified regulation is the longest currently required by regulation.
[49] 29 C.F.R. § 1904.33.
[50] 29 C.F.R. § 1910.1020(d)(ii)-(iii).
[51] 29 C.F.R. § 1910.1020(d)(i).

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D. Scott Crook represents both private and public sector employers and employees in most areas of employment law, including creation and negotiation of employment-related documents, including personnel policies, employee handbooks, employment agreements, severance agreements, and non-competition agreements. He has successfully handled employment contract claims, labor disputes, and discrimination claims in administrative agencies and courts at all levels, including the Equal Employment Opportunity Commission, Utah Anti-Discrimination and Labor Division, Merit Systems Protection Board, and the National Labor Relations Board.

Mr. Crook also has an active litigation and appellate practice, recently serving as chair of the Appellate Practice Section of the Utah State Bar. He has represented clients in state courts in Utah and Idaho, the Utah federal District Court, the Utah Court of Appeals, Tenth Circuit Court of Appeals, and Utah Supreme Court. He has lectured or written on employment law, constitutional matters, appellate practice, real property, and jury selection procedures.