



New York State Department of Labor
David A. Paterson, *Governor*
M. Patricia Smith, *Commissioner*

February 6, 2009



Re: Request for Opinion
Record Retention
GA-09-0010

Dear [REDACTED]:

This letter is written in response to your letter of January 14, 2009 in which you "request information in regards to record retention for the State of New York for employee personnel files, payroll records, active employees vs. terminated employees, etc." This letter is limited to the recordkeeping requirements imposed by the New York State Labor Law and is not intended to be an exhaustive description or listing of the recordkeeping requirements under either New York or Federal Law but fall outside of this Department's jurisdiction.

Section 195(4) of the Labor Law requires employers to establish, maintain, and preserve payroll records showing the hours worked, gross wages, deductions and net wages for each employee for a period not less than three years. Similarly, Labor Law Section 661 requires employers to keep records of hours worked and wages paid by each employee subject to the State minimum wage requirements along with such "other information" deemed necessary by the Commissioner of Labor. The "other information" is outlined in regulation at 12 NYCRR 142-2.6 and includes much of the information required to be kept under Labor Law Section 195(4). This "other information" contained in 12 NYCRR 142-2.6 must be kept by employers for a period not less than six years.

The above described provisions apply to both current and former employees. Please further note that all employers employing persons in New York State must make these records or sworn certified copies thereof, available upon request of the Commissioner at the employee's place of employment. (Labor Law §26; 12 NYCRR 142-2.6(d)). Copies of the above-referenced provisions are enclosed for your convenience.

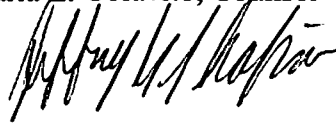
Please take further note that there may be additional recordkeeping requirements imposed by the New York State Labor Law that are applicable to your company including, but not limited to records of: public work contractors, employers of minors, sponsors of apprenticeship or other training programs, professional employer organizations, and employers who fall under the safety and health provisions adopted by the Department of Labor. Without further information regarding your business, it is not possible to express an opinion as to whether any of these recordkeeping requirements would pertain.

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This opinion is based on the information provided in your letter of January 14, 2009. A different opinion might result if the circumstances outlined in your letter change, if the facts provided were not accurate, or if any other relevant fact was not provided. If you have any further questions, please do not hesitate to contact me.

Very truly yours,

Maria L. Colavito, Counsel

A handwritten signature in black ink, appearing to read "Jeffrey G. Shapiro". The signature is written in a cursive style and is positioned over the printed name of the signatory.

By: Jeffrey G. Shapiro
Associate Attorney

JGS:
cc: Carmine Ruberto

Enclosures