

Legal Research for Retention Schedules

Barbara E. Nye, CRM
Ictus Consulting, LLC

2001 GLA ARMA Conference
California State University at Long Beach
February 13, 2001

Introduction

- The Law
- Research Strategy
- Tools

The Law

- Structure
- Sources
- Documentation

The Law - Scope

- 50 Volumes of the United States Code
- 250 Volumes of the CFR
- 70,000 Pages of the Federal Register each year
- 200 Volumes of the California Codes
- 4 million court cases

The Law - Definition

- A binding custom or practice of a community.
- A rule of conduct prescribed or formally recognized as binding and usually enforced by a controlling authority.

The Law - Sources

- Executive
- Legislature
- Judiciary

The Law - Types

- Executive
 - Executive Order
- Legislative
 - Statutes
- Judicial
 - Legal Opinions / Case Decisions

The Law - Executive Order

- President Truman integrates the Armed Forces

The Law - Legislative

- Federal Records Act
- Occupational Safety and Health Act of 1970 - PL 91-596
- Clean Air Act
- Civil Rights Act
- Freedom of Information Act

The Law - Judicial

- Armstrong v. Executive Office of the President
- Public Citizen v. Carlin
- Brown v. The Board of Education
- Bush v. Gore

The Law - Other Sources

- Administrative Rules and Decisions
- IRS Revenue Rulings, Procedures
 - Rev. Proc. 98-25
- SEC No-Action Letters, Attorney Generals Opinions

The Law - Sources

■ Primary

- Constitutions of the U. S. and States
- Statutes
- Court Rules
- Agency Regulations
- Administrative Decisions
- Municipal Charters and Ordinances

The Law - Sources


- Secondary
 - Legal Encyclopedia
 - Topical Index
 - Common Name Table
 - Law Review
 - Law Treatise
 - CFR "List of Sections Affected"

The Code of Federal Regulations - Netscape


File Edit View Go Window Help

Back Forward Reload Home Search Netscape Print Security Stop

Bookmarks Netsite: <http://www.access.gpo.gov/nara/cfr/> What's Related



National Archives and
Records Administration



Attention: [New Code of Federal Regulations Browse Feature](#)

Code of Federal Regulations	Federal Register	Privacy Act Issuances	Public Laws	United States Government Manual	Weekly Compilation of Presidential Documents	Public Papers of the Presidents of the United States	U.S. Congress Information	GPO Access Search Page
---	----------------------------------	---------------------------------------	-----------------------------	---	--	--	---	--

Document: Done

The Law

- Substantive Law
 - Conduct and Relationships
- Procedural Law
 - Enforcing substantive rights

The Law - Applicability

- Laws applicable to all business
- Regulations for a specific industry
- Regulations for specific records of a specific business

Laws and Legal Considerations

- No law discussing records
- Maintain records - no retention
- Use "3-year presumption"

Laws and Legal Considerations

- Maintain records - specified time

- Example:

26 CFR 31.6001-1(3)(2)

Internal Revenue Code, Employment Taxes and
Collection of Income Tax at Source

“Except as otherwise provided...every person...shall
maintain such records for at least four years after
the due date....”

Laws and Legal Considerations

- Maintain specific record - specific time

- Example:

29 CFR 1904.6

The Labor Code, Recording and Reporting
Occupational Injuries and Illnesses

“Records provided for...(including form OSHA No. 200...) shall be retained...for 5 years...”

Laws and Legal Considerations

- Statute of Limitations

- Example:

California CCP 337

The Time of Commencing Actions other than
for Recovery of Real Property

“Within four years: 1. An action upon any contract,
obligation or liability founded upon an instrument
in writing...”

Laws and Legal Considerations

- Limitations of Assessment
 - Timeframe for imposing taxes
- Pending Litigation/Audit/Investigation
 - Discovery
 - Document Production
 - Legal Hold

The Law - Structure

- Functional
- Published (codified) by Subject

The Law - Structure

■ Codes of Statutes

- 5 USC - Government Organization and Employees
- 29 USC - Labor
- 31 USC - Money and Finance
- California Government Code
- California Labor Code
- California Revenue and Taxation Code

The Law - Structure

- Codes of Regulations
 - 5 CFR - Administration and Personnel
 - 29 CFR - Labor
 - 31 CFR - Money and Finance
 - Title 8 CCR - Industrial Relations
 - Title 22 Social Security

The Law - Structure

- Example:
- Federal Records Act, 44 USC 2901 et seq
- Authorizes NARA to implement
- 36 CFR 1228, "Disposition of Federal Records"
 - "Sets policies, standards, procedures and techniques" for carrying out the law

The Law - Published

Federal Statutes United States Code (USC)

Regulations Code of Federal Regulations
(CFR)

Cases Supreme Court Reports
(S.Ct.)
Federal Reporter (F.2d)
Federal Supplement
(F.Supp.)

The Law - Legal Citations

- Statute

 - 22 USC 2567 (a) (1) (1994)

- Regulation

 - 7 CFR 319.76 (1990)

The Law - Case Citations

- Roe v. Wade
410 U.S. 113 (1973)
- Armstrong, et al. v. Executive
Office of the President
1 F.3d 127
- Akiona v. United States
938 F.2d 158

The Law - Other Citations

- Constitutions

- U.S. Const. Art. I, § 9, cl. 2

- Pa. Const. Art. I, § 28 (1968)

- Court Rules

- Fed.R. Civ. P. 12(b)(6)

Research Strategy

- Purpose
- Responsibility
- Methodology
- Results

Research - Applicability

- The law must apply to organization's business

Research - Methodology

- Identify functions
- Identify jurisdictions / authorities
- Find the law
- Learn the vocabulary

Nolo Self-Help Law - Legal Information, Books, Software and Forms - Netscape

File Edit View Go Window Help

Back Forward Reload Home Search Netscape Print Security Stop

Bookmarks Netsite: http://nolo.com/ What's Related

What small business legal form do you need?

minutes of corporate meetings **Get it online, right now!**

WillMaker8

\$39.95

limited time only

NOLO Law for All

HOME PLAIN-ENGLISH LAW CENTERS LAW STORE

30 YEARS putting the law into plain English

Home Email Newsletter About Nolo Service & Support

Browse our free **Law Centers**

- Wills & Estate Planning
- Retirement & Elder Care
- Small Business
- Employment Law
- Independent Contractors
- Internet Law
- Trademarks & Copyrights
- Patent & Trade Secrets
- Landlords & Tenants
- Real Estate
- Consumer & Travel
- Neighbors & Pets

"Best legal self-help site on the Web." -- Yahoo!

Welcome to Nolo

Here you'll find the best do-it-yourself legal information and tools available anywhere.

News & Features

SUNDAY, FEBRUARY 11, 2001

Legal Effects of Marriage Thinking of popping the question on Valentine's Day? Here's the legal scoop on what you're getting into.

Using Roth IRAs to Avoid Probate They're all the rage. But did you know that Roth IRAs are also a great way to leave money to your heirs without probate?

How Evictions Work Did the rent go unpaid this month? Is eviction a possibility? Find out whether eviction might be in the cards.

New @ Nolo Wondering what great legal tools we've just released? Keeping up has never been easier!

Tools You Can Use

- Legal Encyclopedia**
Hundreds of useful articles
- Calculators**
 - House Affordability
 - Mortgage Payments
 - Credit Card Repayment
 - Loan Repayment
 - Refinancing
 - More . . .
- Law Dictionary**
Legal terms in plain English
- Legal Research Center**
 - U.S. Constitution
 - U.S. Laws and Regulations
 - State Laws
 - Supreme Court Cases
 - Legal Research Tips
- Court Information**
 - Federal, State & Local
 - Small Claims
- Legal Updates**
Up-to-date info for Nolo products

Nolo's **Law Store Sale**

SOFTWARE	40% off
BOOKS	30% off
LEGAL FORMS	20% off
DOWNLOADS	20% off

Most popular titles

SOFTWARE

- WillMaker 8
- LLC Maker
- Living Trust Maker
- Personal RecordKeeper
- Small Business Pro 4
- LeaseWriter
- More Software...

BOOKS

- Make Your Living Trust
- Patent It Yourself
- Form Your Own LLC
- Plan Your Estate
- IRAs, 401(k)s & Other Retirement Plans
- More Books...

Document: Done

Research - Methodology

- Document the law
 - Law Library
 - Law Librarians
 - Internet
 - Subscription ("Looseleaf") Services

Welcome to the California Code of Regulations - Netscape

File Edit View Go Window Help

Back Forward Reload Home Search Netscape Print Security Stop


Bookmarks Location: <http://www.calregs.com/> What's Related

Infobases available:

- [California Code of Regulations](#)
- [Agency List for CCR](#)

[Contact the publisher](#)

Welcome to the California Code of Regulations



Updated on February 7, 2001
Current as of Register 2001, No. 4
Dated January 26, 2001

➔ How to use this Website ➔ About the CCR

➔ Frequently Asked Questions ➔ Update List

➔ Go to the OAL Home Page ➔ Technical Support

Best viewed using 800 x 600 or higher screen resolution

California Code of Regulations copyright © 2001 by the State of California. All rights reserved.
Data on this website may not be commercially reproduced or sold.

Powered by siteDirector®

Document: Done



OFFICIAL CALIFORNIA LEGISLATIVE INFORMATION

Welcome to the official site for California legislative information. This WWW site is maintained by the [Legislative Counsel](#) of California, pursuant to California law. For more information, you may read [Accessing California Legislative Information on the Internet](#), refer to [Frequently Asked Questions](#), or visit other [Legislative WWW sites](#). For new additions to our site, see our [New Features](#) page .

[Daily Updates](#) [Assembly Bills](#) [Senate Bills](#)

TODAY'S
EVENTS

BILL
INFORMATION

CALIFORNIA
LAW

YOUR
LEGISLATURE

LEGISLATIVE
PUBLICATIONS

Feedback

Help

Documenting Legal Research

Record ID	12345
Citation	CA LC 1174(d)
Common Name	California Labor Code
Jurisdiction	California
Records Affected	Payroll Records
Retention Period	2 years
Agency	Department of Industrial Relations
Topic	Labor / Wage and Hour
Text	Keep, at a central location...payroll records showing the hours worked daily by and the wages paid to....These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years.

Research - Methodology

- Decide when to stop

Tools

- Books
- Serial (Subscriptions)
- Shepard's Citators
- Online research
- Software
- Subscription Services

FindLaw - Your Online Legal Resource - Netscape

File Edit View Go Window Help

Back Forward Reload Home Search Netscape Print Security Stop

Bookmarks Location: http://findlaw.com/ What's Related

 Legal News
  Legal Professionals
  Students
 FindLaw
 The Public
  Business
  MY FindLaw

[FREE Official California Case Law! 1934 - Present](#)
[Online CLE](#)
[Cyberspace, Ethics, Federal](#)

search FindLaw Guide

[MY FindLaw](#) - [Calendar](#) - [Legal News](#) - [Free Web Sites](#) - [Email@Justice.com](#) - [Secure Document Exchange](#) - [Free Toolbar Library](#) - [Medical Images](#) - [SEC EDGAR](#) - [Message Boards](#) - [LawCrawler](#) - [Supreme Ct Center](#) - [NewsLetters](#) - [ELECTION CENTER 2000](#)

[Legal Professionals](#) | [Students](#) | [Business](#) | [The Public](#) | [News](#) | [MYFindLaw](#)
 Choose the Channel for the Resources that meet your needs or Personalize the Site with MYFindLaw

Legal Professionals [Channel Home Page](#)

[Legal Subjects](#)
 Constitutional, Intel. Prop., Labor...

[Laws: Cases & Codes](#)
 US Sup Ct, US Code, Constitution, States...

[CLE Online](#)
 Elim. Bias, Ethics, Substance Abuse...

[US Federal Resources](#)
 Executive, Legislative, Judicial...

[Lawyer Jobs](#)
 Listings, Placement, Submit Resumes...

[US State Resources](#)
 California, New York, Texas...

[Lawyer Marketing](#)
 Advertising, Ethics, Strategies...

[Foreign & International](#)
 Countries, Int'l Law, Int'l Trade...

[Law Office & Practice](#)
 MY FindLaw, Free E-mail, Free Web Site...

[Forms](#)
 Court, Tax, Sample Contracts...

[Software & Technology](#)
 Case Management, Time Billing...

[Reference Resources](#)
 Library, Dictionary, Directories...

[Consultants & Experts](#)
 Referral Services, Witnesses...

[Legal Organizations](#)
 Nat'l Bars, State Bars, Local Bars...

Find A Lawyer
 City or ZIP
 Practice Area
 State Search
[Search by Name](#)

TODAY IN WRIT
[Juvenile Crime](#)
 Having It Both Ways:
 Getting Flexible with,
 Instead of Just Tough
 on, Juvenile Crime

 by BARTON ARONSON

Document: Done

Tools

- Online or CD-ROM Subscriptions
 - LEXIS
 - WESTLAW
 - Skupsky
 - Braincore
 - Zasio
 - BLI

Tools

- Software
- Zasio - Retention
- Skupsky - IRCH Retention Manager

Legal Research for Retention Schedules

- Identify Jurisdictions
- Identify Areas of Law
- Document the Research
- Maintain