



Record Retention: What To Hold, When To Fold

When DuPont went through an enterprise-wide reorganization of its corporate records, the company discovered to its great chagrin that more than 50 percent of the documents the company gathered for discovery between 1992 and 1994 should not have been retained. It estimated that it had spent \$10-\$12 million in unnecessary retention and production costs. Ouch.

There's no doubt: Solid document retention policies (DRPs) offer real benefits for you and your clients. They impose order and force you to clean up what can literally be rooms full of documents. They preserve storage space on the network and on user's desktops, optimizing network performance. And they lessen the chance of having documents used against the company in lawsuits. In the end, all of this organization can result in limiting the scope of discovery and reducing time and costs.

But be forewarned: There is no one-size-fits-all document retention policy. However, the basics are fairly straightforward.

- 1) If you are governed by federal/state law or regulations, follow them. If federal and state requirements conflict, follow the more stringent requirements.
- 2) If you are governed by internal bylaws, other mandatory procedures or industry standards, abide by them.
- 3) If you are on your own after following rules 1 and 2, assume all documents in your possession — paper and electronic — will be the subject of a lawsuit somewhere down the line and act accordingly.

Sample Law Firm Retention And Disposal Schedule

Again, an effective DRP must be tailored to your firm's unique needs. But, as a general example, consider the following suggested retention periods:

Accounting

Audit Trails & Other Internal	15 days
Bank Deposits	4 years
Bank Statements	4 years
Billing Memoranda	Earlier of payment or 90 days
Billing Memoranda Copies	1 Month
Cash Receipts/Bank Deposits	4 years
Checks, Canceled and Paid	4 years
Client Invoices	4 years
Client Ledger Cards	Permanent
Depreciation Schedule	7 years
Employee Invoice Journal	4 years
Employee Tax Records	4 years
Employee Withholding	7 years
Financial Statements - Annual	Permanent
Financial Statements - Internal	1 year (until completion of
General Journal	4 years
General Ledger	4 years
K-1s	Permanent

K-1s Permanent

Payables Records (Invoices, Approvals, Checks, Etc.)	4 years
Petty Cash	1 year
Reimbursable Expense Records	4 years
Tax Bills & Records	4 years
Tax Returns	Permanent

Benefits

Non-personnel benefit-related files	5 years
Personnel benefit-related files	5 years from termination

Legal Recruiting

Resumes	1 calendar year
Offers and Rejections	1 calendar year
Evaluations	1 calendar year
Reports	1 calendar year

Management Reports

Annual Hours By Matter	1 calendar year
Annual Inventory Reports	1 calendar year
Associate Compensation Reports and Records	5 years
Billing Rate Records	3 years
Conference Room Schedules	30 days
COMPART Reports and Records	5 years

Manuals and Instructions	While current
Monthly Financial Reports	1 calendar year
Monthly Hours By Matter	Upon replacement
Monthly Inventory Reports	Upon replacement
Partner Contribution Reports	5 years
Quarterly Financial Performance Reports	5 years
Telephone Message Pads	30 days

Payroll

Individual Client/Firm Time Records Maintained by Timekeepers	1 month
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Personnel

Attendance & Time Records	4 years
Education & Training Records	1 year after termination
Employee Policy Statements	Upon revision or replacement
Evaluations	Earlier of 4 years or 1 year after termination
Individual Employment or Termination Agreements	1 year after expiration
Insurance Records	4 years after termination
Job Descriptions	Upon revision or replacement
Medical Histories & Health Records	1 year after termination
Testing Records	1 year after termination
Training/Instruction Manuals and Memoranda	Upon revision or replacement

Retirement

Allocation Reports

Permanent

Audit and Tax Forms

7 years

periods for specific categories of records.

2. Make sure you have considered all forms of electronic data in all devices and media (don't forget digital printers/copiers and voicemail).

3. Specify how records are to be destroyed when their retention period has expired. Is it automated or are users responsible?

4. Specify the individuals responsible for enforcing, monitoring and updating the policy.

5. Detail the circumstances under which the policy should be suspended, such as when a lawsuit is anticipated or in progress, a subpoena has been served or an investigation is known to be underway.

6. Finally, if you are going to have a DRP, enforce it. And be sure to enforce it in a consistent fashion. Selective enforcement is a sure ticket to a spoliation of evidence or obstruction of justice charge.

Knowing what to keep and for how long can be tricky business for law firms. Our knowledgeable professionals can provide expert guidance and help your firm draft a solid document retention policy that protects your interests as well as those of your clients.