

Document Retention: *A Guide for Administrative Assistants*



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Document Retention: A Guide for Administrative Assistants

As you know, one of the biggest aspects of your job is communications, organization, and records management. Your boss relies on you to keep the company documents organized and be on top of records retention guidelines. With companies constantly searching for ways to trim their budgets, no one can afford the extra space it takes to store unnecessary records, or the time it takes to index and manage them. This white paper contains some guidelines for you on what you need to keep and how long you need to keep it, retaining documents for litigation, transitioning to digital file storage, how to determine whether you can throw something away or if you need to shred it, and how to go about disposing of your company records.

The IRS provides some advice to businesses to help them decide on whether or not they can dispose of business records. One of the biggest ways to determine if you need to retain a business record is to determine if it is connected to an asset. If so, you will need the record as long as you maintain custody and control of the asset. This is because you will have to determine amortization, depreciation, deductions, and ultimately the gain or loss that occurs when you sell or dispose of the asset.

Businesses have an obligation to keep records that fairly and accurately portray the company's transactions in a reasonable manner. Records are retained for a variety of legal, financial, and administrative reasons. Some of the most important reasons are to support tax returns, prove ownership of assets, and to comply with legal requirements as far as responding to subpoenas or requests for production of documents in ongoing litigation.

Some small business owners may believe that the best practice is to retain everything forever, subscribing to a "better safe than sorry" document retention philosophy. However, subscribing to this philosophy actually increases the company's risk of litigation and discovery costs! Think of it this way. The more documents your attorney has to review, the more costs will be incurred by the company. Alternatively, destroying records without regard to your company's document retention policy will leave the company exposed to legal sanctions, fines, and possible damage to the company's brand image.

Before making the final decisions on your company's document retention policy, refer to the IRS guidelines, those of your state, and check with your creditors and with your insurance company. Believe it or not, but both creditors and insurance companies may have retention guidelines that are actually more stringent than those of the IRS!

The easiest place to tackle your mounting document pile is to start by identifying and organizing the records that you need to preserve forever. These will need to be scanned onto your server, and uploaded onto your cloud-based storage system. You should keep the originals (when required) indexed and maintained in a dedicated fire-proof file cabinet. As a side-note, be sure to make all of your electronic .pdf documents OCR keyword searchable. If your boss is looking for a specific phrase in a document, you can quickly run an electronic manual search and it will take you directly to the clause he is trying to find, and he will think you are brilliant!

Accounting firms such as Yeo and Yeo and Baker Tilly recommend that you retain the following documents permanently:

- Articles of Incorporation and by-laws;
- Audit reports;
- Balance sheets;
- Bill of Sale;
- Bonds;
- Business permits;
- Capital stock records;
- Cash books;
- Charter;
- Checks (pertaining to important transactions);
- Company policy manuals;
- Contracts and leases that are current;
- Correspondence (anything legal, and any other important transactions);
- Depreciation schedules;
- Employee pension records;

- Financial reports;
- General ledgers;
- Insurance policies;
- IRA and mutual fund statements;
- Journal entries;
- Partnership agreement;
- Patents;
- Plant ledger;
- Property Records (including appraisals, deeds, and mortgages);
- Stock ledger and stockholder reports and lists of minutes;
- Minute books;
- Note register;
- Tax returns;
- Trademark records;
- Union (labor) contracts; and
- Warrants.

Check with your immediate supervisor or department head to determine if you actually need to retain hard copies of the documents. There are actually very few documents (vital records, for instance) that need to be maintained in hard copy. An original document that is certified by the court should be retained in hard copy, but there may be many instances where your supervisor will be able to determine that you are only required to manage a digital copy. Composing a checklist for yourself will help you stay organized when inquiring about which documents to actually retain in hard copy form.

Recommended items to keep for seven years:

- Accident records;
- Accounts payable & receivables ledgers;
- Bank statements;
- Checks (routine transaction);
- Contracts and leases (not in effect);

- Correspondence (accounting, credit and collection, and personnel);
- Deeds (after disposal);
- Employee records of terminated employees;
- Expense reports, analysis and schedules;
- Inventories;
- Invoices (all types);
- Maintenance and repair records;
- Mortgages (after termination);
- Notes receivable;
- Option records (expired);
- Payroll data;
- Plant cost ledgers;
- Purchase orders (purchasing department copy);
- Retirement plan reports (from filing date);
- Sales documents (cash and charge sales slips);
- Scrap/salvage documents;
- Securities (brokerage slips – after disposal);
- Stock and bond records (cancelled);
- Subsidiary ledgers;
- Tax returns – payroll;
- Time records;
- Travel records;
- Vouchers; and
- W-2 forms.

Recommended items to keep for three years:

- Bills of Lading;
- Budgets;
- Correspondence (general);
- Employment applications (for unsuccessful applicants);

- Financial reports (interim);
- Garnishments;
- Insurance policies (expired);
- Internal reports;
- Petty cash vouchers;
- Physical inventory tags;
- Remittance statements;
- Savings bond records;

Recommended items that are safe to dispose of after one year:

- Bank reconciliations & statements;
- Correspondence (routine);
- Duplicate deposit slips;
- Purchase orders;
- Receiving sheets & reports;
- Requisitions;
- Stenographer's notebook; and
- Stockroom withdrawal form.

The benefits of implementing an indexing system for retaining and destroying your records after they are no longer needed include saving you time in responding to requests for records, and saving physical and cloud storage space, freeing up your schedule for more substantive tasks.

A Note About Retaining Documents During Litigation

It is an unfortunate aspect of business, but at some time or another your company is going to be involved in a lawsuit. At minimum, know that you will have to maintain all of the documents used in the lawsuit while the action remains pending. When your company is on notice of a potential claim, it is required to implement a litigation hold. The litigation hold means that the company must retain and manage the documents that it believes will become discoverable through the anticipated lawsuit.

Discoverable just means that it is a document that you will have to produce to the other party sometime during the litigation. When parties are producing documents, typically they will assign what is called a bates-number to the bottom right hand corner of each document. The documents will be indexed by the bates-stamp, and the unique number will identify each page of the document, and allow the record to be called upon and found easily later during trial or arbitration.

No company is required to retain electronic data forever. That standard would be impossible to maintain, and could literally debilitate a large corporation. Instead, the standard is that companies retain data as long as is necessary for business purposes.

Your company will work with its lawyers on developing a formal policy that the company needs to adhere to. Some businesses are able to destroy documents after two years. The administrative assistant can be a key point person to make sure that the internal policies that have been developed by the company are being adhered to. The whole reason the policies are developed is to help your company avoid sanctions for willfully destroying documents. The company may have to prove that the reason they no longer have responsive documents is because they were destroyed pursuant to their document retention policy. For instance, it is not legal after you are on notice of litigation to go on a shredding spree because your department has five years' worth of reports that were not destroyed because it failed to live by the terms of its own retention policy. You are sunk and required to produce the records. It is too late, and you are not allowed to retroactively adhere to your own internal policies.

The reason that you want to really pay attention to destroying your company's documents is because you want to help eliminate the possibility of being forced to produce unfavorable communications that have been unnecessarily retained and will inevitably be taken out of context and harm your company. If you make it your goal to implement company policy on document destruction, you can have a very real impact on protecting your company from being forced to produce documents that shouldn't have even been available! Further, you will be saving your company thousands (in many cases, hundreds of thousands) of dollars in attorney's fees by reducing the amount of information that is available for review in anticipation of producing documents in response to discovery requests and subpoenas.

Being entrenched in how your company stores its documents and how to find them will make you an invaluable asset to your company. You may even be able to carve out a job duty of working directly with your IT department on document retrieval, and could find yourself designated as the records custodian if you really know your stuff.

Making the Transition From Hard File Storage to Digital Storage

Microsoft SharePoint is one cloud-based storage system that Iron Mountain is combining with their Accutrak software to offer digital records management services. Whatever service you ultimately choose, you want to select a program that provides a classification system that allows you to identify the type of record, whether it is an internal or external document, who has access to the record, and when it should be destroyed. By the way, this system will work for managing emails as well. Utilizing a classification system will enable your company to easily meet compliance obligations, and will be the quickest way to respond to legal requests and audits. The worry over losing hard files will be virtually eliminated!

Another benefit of transitioning to a cloud-based server and storage system is that employees can work from anywhere! This is such a benefit for those employees and busy executives who are required to travel. No more logging on to the slow VPN server from the hotel room and experiencing long delays in opening files directly from the company server. Instead, everything is at your fingertips to be readily accessed from any iPad or tablet, Smartphone, or wireless laptop. A cloud-based system will sync your data to all users and will have a master calendar system for tracking deadlines.

To help your company with document retention, you can utilize eDiscovery tools to protect, preserve, and manage your data in order to respond to discovery requests without even having to consult your IT department!

Records Disposal

What is the Quickest Way to Identify Records to Destroy?

Many companies will utilize a sticker card on the hard file that will identify the future destruction date. This is the best policy for managing your hard files, because a department manager will review the file one last time before it is given to an administrative assistant to file away. You will only be responsible for complying with the destruction date, and will not have to spend countless hours reviewing the entire file cabinets from scratch to make independent judgments on when to dispose of the records. If your company is making the transition to strictly digital storage, this card system easily transfers over to updating a digital master index that can be updated quickly within your cloud storage system program.

Setting Aside Time

The only way to stay on top of your documents is to set a reminder on your calendar to purge your files. A workable suggestion may be to set aside a day biannually. Popular times might be around Memorial Day, and just before New Year's Day. People are winding down around the holidays, and it is easier to get these types of projects completed in a chunk of uninterrupted time. The key is to make sure there is a designated person within each department to handle the purging of data. You want everyone to understand and be on board with the schedule and policy for destroying records.

Determining If You can Throw it Away or Need to Shred it

Assume that when you throw something away, you are putting it out in the world for anyone to see. If you work in the finance industry or healthcare field, you probably have a basic understanding of how important it is to dispose of documents to either stay in compliance with the Federal Trade Commission or to abide by HIPAA regulations. Regardless of your industry, a good start to determining if a document can be thrown away or if you need to shred it is to ask the following questions.

If you answer in the affirmative to any of the below questions, you need to make the decision to securely shred your documents:

1. Does the record contain confidential or trade secret information? For instance, if it is correspondence from a law office to your company, it is confidential.
2. Do the records contain personal identifiers, such as social security numbers, dates of birth, telephone numbers, addresses, and names? Remember, this applies to your employees, as well as your customers.
3. Is it an old employee file?
4. Are the records old banking records or credit card statements?
5. Are the documents old tax returns?
6. Are the documents credit card offers?
7. Does the document contain anything about health insurance?
8. Did the record originate from the marketing department, sales department, or the human resources department? All of these departments are usual suspects to start evaluating when it comes to shredding documents.

Shredding and Destroying Electronic Media

Part of document retention is implementing a plan to dispose of records after they are no longer needed. At minimum, your office should have two shredder bins in the copy room area that are locked and secure. One of the bins should be designated for the destruction of paper documents, and the other bin should be utilized exclusively for the destruction of plastic media articles. The company you arrange shredding services with will typically stop in once a month to empty the shredder bin. They will then take the documents to their warehouse, shred them or otherwise destroy them, and dispose of the remnants through incineration. If your business needs include the witnessed destruction of documents, you will want to select a vendor that is able to provide on-site destruction services, and issue a certificate.

Check your state's secure disposal laws when selecting a vendor. There may be due diligence requirements that your company will have to comply with. This may include reviewing the vendor's internal procedures, arranging for an independent audit, and even evaluating their references. These due diligence requirements will protect your company from liability if the vendor is responsible for data loss.

Your vendor should also be able to offer your company services related to the destruction of all plastic media in an environmentally compliant way. Examples of plastic media that need to be securely disposed of could include: old debit and credit cards, CDs and DVDs, old tapes and film, photographs, medical x-rays, old employee badges, and old computer disks.

Conclusion

The administrative assistant can play a critical role in ensuring the company has a clear policy on document retention that is communicated effectively to employees. If the policy is so convoluted that it is not easily understood by each employee, then the policy is a failure. You may find yourself playing the role as a sounding board to allow executives to decide on how best to communicate company policy in a straightforward manner that can be understood and absorbed by everyone. Many times, executives and legal professionals are guilty of using too many words. The administrative assistant can be extremely useful in helping to cull down voluminous, dry policy manuals, and get to the heart of what employees really need to know.

You may even be able to exercise some creativity and be able to use your skills to create a PowerPoint presentation or short video that your co-workers will actually want to watch and pay attention to. Perhaps consider recent safety videos that major airlines have recently implemented when creating a model for turning dry material into a subject matter that will engage employees. Again, if employees are not engaged in implementing the policy, there is no point in even going to the trouble of designing one. All of the time spent on legal fees to advise department heads on how to stay in compliance will be wasted. Your Vice President of Marketing is not sitting around thinking of better ways to manage data. That is your job.

As an administrative professional, you will be given the opportunity to shine when it comes to utilizing your organization and communication skills. You may find yourself developing into a role as a company trainer to other administrative assistants in your company, where you will truly serve as a communications hub.

On its face, the subject of developing and implementing a document retention policy can seem like a very dry topic. Before you read this article you may not have understood just how important your role can be as far as protecting your company from legal liability and sanctions, and assisting with compliance requirements for your department.

I hope you will use this information as motivation to get more involved in managing your company's data, and work to further develop your skills as a records custodian and communications expert. Playing an active role in document retention can help secure your spot in your company as an invaluable team member. Further, you will be able to take these skills along with you to any position the future holds for you.

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