



Records Management, Retention, and Destruction Guide

Why Records Management Matters

An effective records management program protects both your firm and your clients by keeping information secure and organized. Retaining client files beyond the required period, whether physical or digital, can increase your firm's exposure in the event of a data breach or other security incident. Clear policies for record retention and destruction help your firm stay compliant and reduce potential risks.

The Florida Bar has no official guidelines for retention and destruction in place that apply to all files (other than regulations stipulating that trust accounting records, contingency fee agreements and closing statements, and statement of insured client's rights must be maintained for a minimum of six years).

File Retention and Destruction Policy – Communicating the Policy to Clients

Establishing client expectations early reduces confusion and potential conflict. Your engagement letter or welcome packet should clearly state:

- That your firm follows a records retention and destruction policy.
- The retention period for client files.
- The client's right to request their file.
- A reminder to keep their contact information up to date.
- That files may be destroyed after a reasonable period and unsuccessful contact attempts.

Additional Resources:

Refer to LegalFuel's Document Library for "**Closed File Archive and Destruction Notice**" under the [Client Communications Forms and Letters](#) category.

At the conclusion of representation:

- Promptly return original client-owned documents.
- Offer the remaining file to the client or retain it for a reasonable period.

Additional Resources:

Refer to LegalFuel's Document Library for "**Acknowledgement of Receipt of File, Authorization for Transfer of Client File, File Closing Letter to Client**" under the [Client Communications Forms and Letters](#) category.

Before destruction:

- Review for documents the client may need in the future.
- Identify lawyer work product with long-term value and redact as necessary.
- Notify the client (in writing or email) with an offer to retrieve the file or provide direction.

Before destroying a file when the client cannot be located:

- Send registered mail to the last known address.
- Retain returned mail as evidence of attempted contact.
- Perform basic research (e.g., obituaries, court records).
- Ensure no original documents belonging to the client remain in the file.
- Only after these reasonable efforts should the file be securely destroyed.

[A Model File Retention Policy is available in the Ethics Informational Packet on Closed Files.](#)

Destruction methods:

- Use office shredders for small volumes
- For large volumes, use bonded, secure destruction vendors
- Create a detailed spreadsheet of what files are being destroyed, by whom, and under which retention policy. Staple the destruction receipt with the detailed spreadsheet and keep for your records.

Resources for Destruction Vendors:

- [I-SIGMA International Secure Information Governance & Management Assoc.](#)

*** Members are advised to perform their own research before making any data destruction vendor selections.*

Digital content requires careful treatment:

- Securely delete confidential data when it is no longer needed.
- Wipe or destroy data storage devices before disposal, sale, or return.
- Document each destruction event: include date, items destroyed, method, responsible person, and policy used.

See Florida Bar Opinions on Electronic Records: [06-1](#), [10-2](#), [12-3](#)

Florida Bar Rules that may affect a records retention policy include:

RULE 4-1.15 SAFEKEEPING PROPERTY

Compliance With Trust Accounting Rules. A lawyer shall comply with The Florida Bar Rules Regulating Trust Accounts.

RULE 5-1.2 TRUST ACCOUNTING RECORDS AND PROCEDURES

(f) Record Retention. A lawyer or law firm that receives and disburses client or third-party funds or property must **maintain the records required by this chapter for 6 years after the final conclusion of each representation in which the trust funds or property were received.**

(1) On dissolution of a law firm or of any legal professional corporation, the partners must make reasonable arrangements for the maintenance and retention of client trust account records specified in this rule

(2) On the sale of a law practice, the seller must make reasonable arrangements for the maintenance and retention of trust account records specified in this rule consistent with other requirements regarding the sale of a law firm set forth in chapter 4 of these rules.

RULE 4-1.5(f)(5) requires that lawyers retain copies of executed contingent fee contracts and executed closing statements in contingent fee cases for 6 years after the execution of the closing statement in each contingent fee matter.

RULE 4-1.8 CONFLICT OF INTEREST; PROHIBITED AND OTHER TRANSACTIONS

(j) Representation of Insureds. When a lawyer undertakes the defense of an insured other than a governmental entity, at the expense of an insurance company, in regard to an action or claim for personal injury or for property damages, or for death or loss of services resulting from personal injuries based on tortious conduct, including product liability claims, the Statement of Insured Client's Rights must be provided to the insured at the commencement of the representation. The lawyer must sign the statement certifying the date on which the statement was provided to the insured. **The lawyer must keep a copy of the signed statement in the client's file and must retain a copy of the signed statement for 6 years after the representation is completed.** The statement must be available for inspection at reasonable times by the insured, or by the appropriate disciplinary agency. Nothing in the Statement of Insured Client's Rights augments or detracts from any substantive or ethical duty of a lawyer or affect the extra disciplinary consequences of violating an existing substantive legal or ethical duty; nor does any matter set forth in the Statement of Insured Client's Rights give rise to an independent cause of action or create any presumption that an existing legal or ethical duty has been breached.

Other Relevant Opinions:

- Cost of copying file [88-11 Rec](#), [00-3](#)
- Disposition
 - Associate leaving firm [93-4](#)
 - Closing law practice [74-43](#), [77-1](#), [81-8](#)
 - Deceased attorney's files [74-43](#)
 - Dissolving law firm [71-62](#)
 - Partner withdrawing from firm [69-1](#)
- How long to keep [63-3](#), [81-8](#)
- Property of lawyer rather than client [88-11](#), [88-11 Rec](#)
- Retaining liens [71-57](#), [88-11](#), [88-11 Rec](#)
- Technology, use of [06-1](#), [10-2](#), [12-3](#)

Note: Florida Bar Rules are subject to periodic updates. For the most current version of the Rules Regulating The Florida Bar, visit: <https://www.floridabar.org/rules/rrtfb/>

For questions regarding Florida Bar Rules or Ethics Opinions, please contact Ethics at 800-235-8619.