

OFFICE EQUIPMENT DISPOSAL POLICY



RISK MANAGEMENT PRACTICE GUIDE OF LAWYERS MUTUAL

DISCLAIMER: *This document is written for general information only. It presents some considerations that might be helpful in your practice. It is not intended as legal advice or opinion. It is not intended to establish a standard of care for the practice of law. There is no guarantee that following these guidelines will eliminate mistakes. Law offices have different needs and requirements. Individual cases demand individual treatment. Due diligence, reasonableness and discretion are always necessary. Sound risk management is encouraged in all aspects of practice.*

Office Equipment Disposal Policy

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INTRODUCTION

Getting rid of outdated office equipment such as computers or copiers is often based on “where do I take this?” or “how can I get something for this?” Rarely are such dinosaurs considered potential data security breaches.

However, almost every piece of equipment available stores data in some capacity. Your iPhone and iPad save snapshots of attachments in memory. Facsimile machines and printers store jobs for recall. All of these add up to confidential information that could be accessed if not properly erased before items are recycled.

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Why it Matters

If someone gets to your information in a disposed piece of equipment, it could get really ugly really fast. Stop and think about what is potentially available on even a fax machine: firm bank account records, confidential client information and confidential personal information for employees.

There is a good chance the State Bar will consider this an ethics violation for failure to take proper precautions to protect client confidentiality. Malpractice claims are likely to follow suit. HIPAA and Sarbanes-Oxley violations could also apply. (Remember that personal information for employees? Accidentally exposing their healthcare information is a HIPAA violation, too!)

Not only could you find your firm spending a good deal of time dealing with violations and malpractice claims, you could also be in the midst of a public relations disaster. Clients and potential clients will be wary of using an attorney who experienced a security breach.

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Wiping Data

There are several options for safely disposing of old equipment. Most are cheap or free and many options don't require special software.

Wiping Out HIDDEN storage

Much of the data that is stored on hard drives is not accessible to the consumer. Devices like copiers, fax machines and printers have had hard drives in them for many years – especially the large multi-functional printers (MFPs). In many instances, the MFPs are leased from copier companies, brought to the office for use, then taken away after the lease is expired and replaced with newer machines.

What happens to the data on the MFPs and fax machines once they are taken away? Most copier and

printer companies now include a hard drive destruction or formatting clause in their equipment disposal portion of the lease. Before your lease is signed, make

Practice Tip



Leased copiers, printers, and fax machines contain **HIDDEN HARD DRIVES**. Make sure your contract with the fax or copier company address what happens to the data on the hard drive. As part of your agreement, the data should be destroyed before they reclaim the machines.

sure that you understand what will happen to the data stored on those hidden hard drives in the MFPs. As long as it is part of your agreement that the data will be destroyed, you should feel comfortable with the equipment leaving your premises. Be sure to watch for that language in the contract you sign with the copier and fax company. It will protect you when the company reclaims the equipment.

Wiping Out Storage on Accessible Hard Drives

Many firms expect that when they are finished using their computers that they can be donated to charity after the data is wiped. In some instances, that is correct. However, in many instances, the computers are too old to donate to local charities. If a computer is more than five years old, many local charities will not accept the hardware donation.

If you do have a computer that is less than five years old and you are interested in donating or selling it, you need to take measures to destroy the data on the drive. The options for software available to wipe hard drives can be a bit overwhelming. The list below provides some of the options available and their key differences.

- DBAN (www.dban.org). Overwrites entire drive. DBAN offers a complex variety of data sanitation methods to overwrite existing data. DBAN works by simply burning the download to a CD then booting it and following the easy to use instructions. DBAN makes erasure software for smartphones, tablets, flash drives, and servers. All at no cost to you, regardless of whether it's for personal or business use.
- Format Command with Write Zero Option. Overwrites entire drive. This option comes built into Windows Vista and Windows 7 operating systems, and can be used with Windows XP system if you have access to a Windows 7 computer. The instructions are easy to follow, but some of this may seem foreign to you if you aren't used to computer speak. You can find instructions here:



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<http://pcsupport.about.com/od/toolsofthetrade/ht/write-zeros-format-command.htm>.

- HDDEraser. Overwrites entire drive. Like DBAN, HDDEraser runs as a boot file from a download. HDDEraser works from any variety of boot media, from CD to flash drive. HDDEraser is available here: <http://cmrr.ucsd.edu/people/Hughes/SecureErase.shtml>. The developer does not offer support, but the available "Read Me" document should answer most questions that arise.
- MHDD. Overwrites entire drive. MHDD comes in a variety of downloadable formats. Information, as well as a discussion forum, is available at <http://hddguru.com/software/2005.10.02-MHDD/>. For the best data sanitation, use the "FASTERASE" option.
- zDelete (www.zdelete.com). Overwrites individual files and folders, but not entire drive. This is an electronic shredder type software that conforms to the US. Department of Defense guidelines for media sanitation. The full version of the software ranges from \$29-49, for 1 to 3 licenses.
- Freeraser (www.freeraser.com). Overwrites individual files and folders, not the entire drive. This is a true Windows software application. An icon appears on your desktop that essentially shreds your documents - immediately overwriting anything you 'delete' into this folder - via a simple drag and drop method.
- Active KillDisk (www.how-to-erase-hard-drive.com). This is bootable file download that will overwrite an entire drive. This program comes in both a freeware and a professional (purchased) version. The free version offers very simple data

destruction with more sophisticated features reserved for the professional version.

Things to Avoid

Some options that remove data do not permanently delete items from the hard drive.

- **Recycle Bin and Empty.** This is the equivalent of taking the small trash can under your desk and emptying it into a larger trash can in a common area. The items are somewhere you can't see them, but they aren't gone. Perhaps the average user can't locate them, but anyone with basic tech skills or knowledge to download the right application can quickly recover the files.
- **Departitioning or partitioning the hard drive.** Consider this to be the equivalent of knocking down a wall. It doesn't actually destroy what's on the other side, just rearranges the space. While this is labeled as formatting, your computer doesn't actually overwrite the data, which means it is recoverable. Free applications will recover your information easily.

Hiring Professionals

Properly preparing equipment for disposal can be a daunting task. If you don't have someone in the office who feels comfortable taking on this responsibility, hire an expert to handle it for you. Hiring a professional will provide peace of mind that an expert will not overlook any critical steps in the data wiping process.

Obtaining professional assistance in equipment

Practice Tip



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AVOID THE FOLLOWING:

RECYCLE BIN AND EMPTY. You can't see the items, but they aren't gone.

DEPARTITIONING OR PARTITIONING THE HARD DRIVE. The data is not overwritten, which means it is recoverable.

disposal is essentially the same as hiring a company for shredding or document storage. You'll need to obtain a written statement regarding confidentiality, destruction methods, and indemnity should they fail to adequately destroy information.

The Quick and Dirty

If your firm is not interested in investing the time or money into "refurbishing" old computers, there is a "quick and dirty" option for the destruction of data on a hard drive. All of the data on a computer is stored in a removable hard drive. If the hard drive is removed, the data is no longer accessible. By removing and physically destroying the hard drive (with the equivalent of a sledgehammer), the data and physical hard drive will be destroyed. In most instances, the hard drive can be replaced for less than \$100 plus the operating system.



If you don't have someone in the office who feels comfortable taking on this responsibility, hire an expert to handle it for you.

After Data is Cleaned

Once you've selected your program of choice and wiped your data, your equipment is ready for disposal. Here are some options for ridding yourself of your old equipment once and for all.

Resell

Reselling outdated equipment can have multiple benefits. First, you actually get something in return. As most resells are often in-house, it can build employee goodwill since they'll be getting a bargain.

Obviously equipment for resell has to be in good working order. For a computer, the operating system should at least be installed so it will boot. Be careful not to install your licensed software as you'll need the software for computers in your office. Using the restore disk that accompanied the computer when purchased should provide basic functionality.

Additionally, equipment sold in-house should be covered in a support and/or return policy. You may elect to offer equipment "as is" with no return or support, but such equipment should be given away to avoid upsetting employees. If you have newer equipment that you would like to sell because it would feasibly last a while, you may elect to offer some support and a short return policy. 30, 60 or 90 days would be an appropriate time frame.

Donation

Donating works much like reselling. Simply find an appropriate charity in need of equipment and deliver the equipment to them when it is ready. Be sure to document its value for tax purposes.

As with resell, donated equipment should be in

Practice Tip



Options for **DISPOSING OF YOUR EQUIPMENT**

RESELL. Consider in-house resells which builds employee goodwill as the employees often get bargains, and you get something in return.

DONATION. Many charities will accept used equipment. Computers must be less than 5 years old.

RECYCLING. Locate a local recycling center for proper disposal of your equipment.

working order. Again, the restore disk should provide sufficient functionality.

Recycling

Due to hazardous materials contained within, environmental laws prohibit throwing broken equipment in the dumpster. If you have an item that cannot be salvaged, locate a local recycling center for proper disposal. Be sure that any hard drive is damaged enough that the average person would not be able to recover information from it.

Professional services also are available for shredding hard drives. Many mobile shredding companies and special technology recycling centers now offer this service for your convenience. Purchasing your own hard drive shredder is an option, but it is generally cost prohibitive.

SAMPLE EQUIPMENT DISPOSAL POLICY

I. Purpose

<Firm Name> maintains confidential information within its database and documents. Basic computer delete functions are insufficient to protect against recovery of such data when equipment is to be disposed of by recycling, donating, or discarding. Even non-functioning equipment can contain recoverable data if not disposed of properly.

Unauthorized disclosure of confidential information can expose <Firm Name> to ethics violations, malpractice claims, and violations of federal laws such as HIPPA and the Gramm-Leach-Bliley Act. In addition, failure to properly remove software can be a violation of copyright laws by violating licensing agreements and failing to protect vendor's rights regarding the use of software.

II. Policy

All computers, electronic devices, and storage media must be properly sanitized of confidential information and have licensed software removed before being recycled or donated. Non-working hard drives and non-rewritable media must be physically destroyed.

III. Procedures

1. All equipment for disposal should be provided to <Name, Title> for data deletion and inventory maintenance. Equipment to be included in disposal procedures includes, but is not limited to:
 - a. Computers
 - b. Servers
 - c. Printers
 - d. Copiers
 - e. Scanners
 - f. Tablets, if purchased by Firm
 - g. Smartphones, if purchased by Firm
 - h. USB flash drives
 - i. CDs
 - j. Disks
 - k. Tapes
2. All equipment marked for disposal must be accompanied with an Equipment Disposal Verification Form.
3. All equipment marked for disposal must be properly sanitized using adequate software that adheres to existing data sanitation standards. <Firm Name>'s preferred software is <software>. Data sanitation method must be documented on the Equipment Disposal Verification Form.
4. Equipment that cannot be properly sanitized must be adequately destroyed. The method of destruction must be documented on the Equipment Disposal Verification Form. Data sanitation includes, but is not limited to, the removal of:
 - a. Database records
 - b. Microsoft Office documents, incl. Word, Excel, PowerPoint, etc.
 - c. PDF files
 - d. Licensed software, except when licensed software is attached to equipment (ie: operating system)
 - e. Internet history
 - f. Temporary files
5. All equipment marked for disposal must be disposed of in accordance with environmental regulations. Options for proper disposal of functioning equipment include:
 - a. Resell
 - b. Donation
 - c. Recycling
6. Failure to comply with this equipment disposal policy can result in discipline or termination action, as appropriate.

EQUIPMENT DISPOSAL VERIFICATION FORM

EQUIPMENT INFORMATION:

Device: _____
Brand: _____
Model: _____
Serial#: _____
Tag#: _____
User: _____
Department: _____

I verify that the above-referenced equipment was surrendered for data sanitation.

Name Date

DATA SANITATION INFORMATION:

Date: _____
Method: _____
Cleaned by: _____

I verify that all data, programs, and the operating system have been removed from this computer in accordance with <Firm Name> Equipment Disposal Policy.

Name Date

DISPOSAL INFORMATION:

Date: _____
Method: _____
Disposed by: _____

I verify that the above-referenced equipment has properly been disposed of in accordance with <Firm Name> Equipment Disposal Policy.

Name Date

ADDITIONAL RESOURCES

“9 FREE DATA DESTRUCTION SOFTWARE PROGRAMS.” About.com. Available at:

<http://pcsupport.about.com/od/toolsofthetrade/tp/free-data-destruction-software.htm>

“Dumpster Divers: Tips for Ethically Retiring Your Old Computers.” South Carolina Bar. Available at:

<http://www.scbar.org/public/files/docs/PMAP/Dumpster.pdf>