

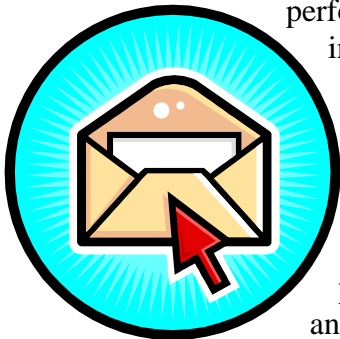
Avoiding the Perils of ELECTRONIC DATA

‘Because of the new amendments to the Federal Rules of Civil Procedure, effective December 1, 2006, companies need to take a hard look at what they are doing on record retention.’

By Bill Roberts

Excerpted from *HR Magazine*, SHRM

Each time your employees edit a Word document or create an Excel spreadsheet, they unknowingly leave behind vital hidden electronic data. These data can include, for example, text that a manager added or deleted to a performance review, formulas employees used for making spreadsheet calculations, and information regarding which individuals accessed a file, when they accessed it and how they changed it.



Federal court rulings in employment discrimination suits – all within the past two years – illustrate what can befall organizations that don't properly manage electronic data. In one case, a judge ruled that an employer had to provide plaintiffs with the hidden data in electronic documents. In another case, a judge ruled an employer should have reasonably

If your company doesn't have a process to effectively manage and retain electronic data, it could be at risk!!

assumed it was going to be sued and should have retained e-mails it destroyed. For HR, the unique challenges posed by maintaining and tracking such hidden electronic data require working with IT staff, legal counsel and business units to formulate an effective electronic data retention policy.

The need for such policies has never been greater. While electronic discovery has been a fact of life for more than a decade, the proliferation of computers, networks, cell phones, digital voice recorders, digital cameras, personal digital assistants, flash drives and every other manner of digital storage system has accelerated its complexities.

When it comes to electronic document retention policies, e-mail is the biggest problem for most employers. By now, most companies have policies governing the proper use and content of e-mail – but few have retention policies. According to the American Records Management Association, only 34% of 416 surveyed companies reported having e-mail retention policies. Yet e-mail is still the number one target in litigation!!

CRAFTING A DOCUMENT RETENTION POLICY:

No matter what your company's size, if you don't have an effective electronic documentation policy, it is time to create one. The policy needn't be long, but it must be well thought out, based on deep knowledge of the kind of documents the company produces and where they typically end up. It is important that once the policy is approved and distributed, that employees read it, sign it and know that they will occasionally be monitored or audited.

- Define how, where and how long to store both paper and electronic records (for example, e-mails for 30 days unless they contain sensitive information)
- Be sure to take into account all forms of electronic data in all devices. Don't forget voice messages and printers.
- Spell out how records are to be destroyed when their retention period has expired.
- Describe the circumstances under which the policy is to be suspended due to litigation or investigations.
- Define penalties for employees who don't comply, and impose them.
- Review the policy on a regular basis. In the electronic world, document retention will continue to be a moving target.
- Train employees on the company's electronic data retention policy and communicate and monitor adherence to the policy.



- Per Bill Roberts -

CURRENT SEARCHES

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- When?** February 1, 2007, 3:00pm
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What We Know ... What We Know ...

The following is a list of 10 significant findings reported in 2006 by SHRM's (Society for Human Resource Management) Research Department:

1. Employers report continuing difficulty in **recruiting** top candidates to fill positions.
2. Employers are most concerned about **retaining** employees from Generations X and Y.
3. **Hiring** is expected to grow in the utilities, transportation/warehousing and services industries.
4. Employers cite **communication, professionalism** and **customer service** as lacking among new workers.
5. **Compensation** remains king for employees 55 years of age and younger.
6. Almost three-quarters of employees indicate they believe their organizations are committed to **diversity**.
7. A majority of HR professionals are concerned about the number of **voluntary resignations** tendered in their organizations.
8. Executive-level compensation is now more aligned with **performance** than it has been previously.
9. HR professionals see ever-escalating **health care costs** as the most significant workplace trend.
10. The fastest growing family-friendly benefit is domestic partner **benefits**.

Source: www.shrm.org/research/2006top10

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- ❖ *Holding People Accountable and the Art of Resolving Conflict in the Workplace: Thursday, June 14, 2007*