



1000 University Ave., W. Suite 222  
Saint Paul, MN 55104  
651-330-8062 (Main)  
www.mendozalawoffice.com

Anthony S. Mendoza, Esq.  
Direct Dial: 651-340-8884  
tony@mendozalawoffice.com

## **WHY YOUR NONPROFIT NEEDS A DATA RETENTION POLICY**

A data retention policy is a good idea for any organization, for profit or not for profit. You may think that the need for data retention policies is a private sector or large organization problem. But consider this hypothetical scenario:

*Have a Heart Foundation, Inc. started as a board managed small non-profit 10 years ago. Through the early years, records for the organization were kept by board members at their homes, work offices, at offices of various vendors and contractors used over the years. But eventually, the organization started to grow to the point where it hired staff, rented an office, and has numerous contractors, vendors, and volunteers working for it through the course of each year. But one day the organization hit a major bump in the road – it got sued. The plaintiff in the lawsuit served discovery on the organization asking for all documents related to the lawsuit for the past 10 years, including hard copies, electronic files, hard drive and cloud backups, and e-mail messages sent and received. Your organization has a staff of 4 already very busy people. . . .*

While the above scenario would be unwelcome by any organization, a data retention policy can greatly reduce the amount of time and stress that would be required to respond to a discovery request in a law suit. A data retention policy can help organize record keeping and systematize your organization's data retention practices. Boiled down to its essence, a data retention policy is an agreed upon schedule that dictates how long different types of documents should be kept by an organization, and when documents and records should be purged and destroyed. A data retention policy can also communicate the legal obligations an organization has in the unfortunate event it is ever involved in litigation (i.e. legal "holds"). A data retention policy can also set forth emergency response operations with respect to data storage and recovery. Having a data retention policy in place can also greatly increase the efficiency of due diligence conducted as part of a merger and acquisition, and can also facilitate the merger of the organization's operations with another entity.

It is important to give thoughtful consideration to an organization's document retention policy, taking into account practical considerations, and the resources of the organization. Too strict or burdensome of data retention policy can get in the way of the organization's programmatic mission. On the other hand, having too liberal of policy can result in an organization's documents accumulating in various places where

the documents may be forgotten or lost, or stored for too long in places that are not secure. Finding the right practical balance of burden vs. benefit in a document retention policy is important.

Data retention policies can be more challenging for smaller organizations than larger ones because they typically start with no paid staff and no centralized office or location, and perhaps have grown into a small and busy staff with a small office and not much storage capacity or IT infrastructure. Over time, a small organization's documents can end up scattered in different locations with different people, some of whom may not have been involved with the organization for many years. Emails of any age could be sitting on any number of computers of board members, volunteers, and staff who could be all over the country. Along the way, an organization might grow through merger and acquisition, expanding the scope and scale of an organization's data universe.

Developing a policy early in an organization's history can save the organization a lot of time compared to an organization that waits until after it has grown into a more substantial organization, or worse yet if it waits until disaster has already struck. If an organization adapts a data retention policy early on, procedures can be incorporated into the day-to-day operations of the organization. A small investment of time now and the routinization of data retention policy tasks can save an organization lots of time and money in the long run.