

Formal [Ethics Opinion R-5](#) requires that lawyers have a Record Retention Policy. The opinion holds that the policy should include the following:

- (1) Instructions to lawyer and non-lawyer personnel concerning their obligations under the policy;
- (2) Information concerning the location of storage facilities;
- (3) Methods for the eventual disposition of records and files;
- (4) Information concerning retention periods and the establishment of retention periods; and
- (5) A system for monitoring lawyer and non-lawyer employee compliance with the plan.

Formal Ethics Opinion R-5 also discusses the appropriate method of disposing of records once they are to be destroyed in accordance with the record retention policy:

“Finally, a law firm retention policy or plan should include information relating to the proper method of disposing of records when their record retention period has expired. To the extent that the record includes material disclosing confidential, secret or privileged information, the record must be disposed of safely by shredding or incineration, and certainly not by the mere deposit in a waste receptacle. In identifying information that should be destroyed, the retention policy should specify whether the information is to be deleted from tapes and computer disks in addition to disposal of paper copies.”

Formal [Ethics Opinion R-12](#) states that notice must be given to a client regarding the disposition of their client file. This can be done either when the lawyer-client relationship is established or at the conclusion of the representation matter.

The State Bar of Michigan maintains a [Record Retention Kit](#) that contains the State Bar of Michigan Ethics Opinions regarding record retention.