

IT'S NOT EASY BEING GREEN: THE CHALLENGES IN ESTABLISHING A PAPERLESS HUMAN RESOURCES DEPARTMENT

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Despite cost and environmental reasons to reduce paper use, the completely paperless office has yet to arrive. According to research firm IDC, U.S. companies printed 1.5 trillion pages as recently as 2007. So what's the hold-up? More often than not the answer is the law. In the once-thought-inevitable transition from paper HR records to e-HR records, the law often gets in the way, leaving employers and HR professionals little choice but to keep paper records.

The primary obstacle to going paperless is determining the permissibility of storing legally required documents electronically. In this regard the law has not kept up with the digital age. There is no comprehensive federal or state law governing electronic records retention and management making a totally paperless office virtually impossible. Before digital technology made electronic recordkeeping possible, legal recordkeeping mandates were simpler. When the expected default record form was paper, record retention laws and regulations were short and to the point: create and retain the record for the defined period. The laws slow adoption of electronic recordkeeping mandates reflects societal uneasiness with relying solely on the availability of records that exist only as virtual "ones" and "zeros" in a digital matrix.

However, there is some good news. Federal and state agencies are increasingly permitting electronic record retention. For example, the Department of Homeland Security allows employers to fill out and store I-9 forms electronically and the EEOC has approved of electronic

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recordkeeping for Title VII, ADA, and ADEA documents. Additionally, the federal E-SIGN law generally makes electronic signatures and contracts just as legal and enforceable as paper contracts signed in ink for almost all transactions.

So what is an employer who wants go paperless to do? ERISA regulations in particular provide useful guidance for setting up an electronic recordkeeping system, even for employers not covered by the law. There are a number of issues to consider and address in preparing to go "paperless." Employers should contact legal counsel for specific guidance and assistance.

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