

## Instant messages are legally considered documents

An instant message, otherwise called an “IM”, is legally considered a document, and is subject to the same retention policies that cover other business records. This is particularly dangerous since the use of instant messaging is often considered a simple conversation, much like a telephone call, and not subject to the same legal standards as other written documents.

### Written Policies

Many companies don't have written policies in place regarding instant messaging, which is important since IM use has increased dramatically within most companies. Written policies should be in place covering issues like acceptable use and data retention.

Sometimes instant messaging software is downloaded and installed by employees without their employers' knowledge or consent, so it is important to have a previously established policy regarding its use. This ignorance can expose an employer to liability for what its employees say. Some companies curb IM use or ban it altogether to eliminate the legal liability.

### Preserving Communications

If an employer is required to save documents relating to certain topics, IMs must be saved as well. Popular consumer programs do not offer a centralized way to store messages, so the problem for employers turns to how to save the messages and what messages to save.

That is not to say that none of the information can be saved. These programs allow individual users to save transcripts, which can be used in court as evidence.

### Conclusion

Counties need to have written policies in place regarding who is allowed to use such software (if anyone is allowed to use such software), and which types of messages are required to be saved.

Records from the use of “chat rooms” can also be obtained for legal purposes. Privacy policies should be updated to include these issues.

For more information, contact CTSI at 303-861-0507.