

CLOSING THE CLIENT PORTAL



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If a law firm's client portals are used for only sharing documents related to a particular matter, then the portal should be closed at approximately the same time that the client file is closed. There are, of course, different models that would extend the lifespan of a client portal such as subscription-based legal service delivery or estate planning practices where the client portal is an on-going service.

Some of the common ethical questions about client portals involves when and how it is appropriate to close the client portal, meaning that clients no longer have access to their information via the portal. The answer is that the portal should be considered an extension of the client file and ending portal access should be addressed in the attorney-client engagement agreement in the same way that matters like file destruction are addressed. This should be guided by any specific ethical guidance on the subject in your jurisdiction.

But let's be clear. Closing the client's access to the portal is not deleting their information. Good business practices and ethical constraints require law firms keep a complete copy of the documents in the client's file for a period of several years. It is also most likely that some portion of the information in the client's file was never uploaded to the portal, such as the complete responses to document production in discovery.

Personally, I do not believe you do clients any favors by leaving a portal open for many months after a client's matter has been concluded. The idea is not to exclude the clients from their information. Rather it is to assist them in saving their information before the portal is closed and it is simpler to do that during the rest of the file closing process instead of months later.

During the representation, there are many reasons why a portal is valuable. It provided a secure communications method for sharing documents. Using a portal efficiently is timesaving for lawyers and money-saving for the clients. But once a matter has been concluded, the portal's efficiency wanes and the potential for an inadvertent disclosure of confidential client information remains, even if it is slight and even if it could be the fault of the client for sloppily handling a password or having a browser remember a password on a computer that is used by another.

Once the client portal is closed, the law firm handles the request for information from a closed file from a former client the same way it would always have done. Your attorney client agreement should address obtaining documents from closed files, including whether there will be a charge for such retrieval.

30 to 60 days after the client's file is administratively closed is a good target date for closing the portal, in my opinion. But other firms will decide to simultaneously close the client file and the client portal, so the firm can assure the clients have retained the documents they need.

Client portal closing checklist

While it should have been covered in the attorney-client agreement, the client file closing process should include reminding the client (more than once) when the portal will be closed and they should print or save their documents before this date.

But we should note that the portal often means the traditional law firm practice of mailing clients many hard copies during the representation has been more limited and the client may have tended to open rather than download and save the documents. Therefore, some extra care may need to be taken to make certain that the client safely retains copies of the information the client should and wishes to keep. For many individual clients, printed copies of documents is a simple solution that does not involve digital security issues.

A few words of advice to the client about saving confidential digital information securely may be warranted. Many clients now have access to secure cloud storage and understand how it works. But others are very lax with their digital security. For the client who is not sophisticated with the use of technology, one suggestion might be to save everything to a flash drive and put the drive in the family safe in an envelope identifying the contents. But the client who owns a scanner and routinely keeps digital records may need little assistance while the client who does not do that now may be best served to maintain hard copies.

Remember that you not only want to provide this advice to your consumer clients, but if there is a problem, you may later need to be able to prove what advice you gave and when you gave it. Document this important advice as a standard office practice.

Note that preparation of file for closing and ultimate destruction likely involves retaining a permanent inventory of all files destroyed and the signed retainer agreement and other documents where the client consented to the destruction.

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