



## GUIDANCE

### **Disposition of Documents and Data of Faculty and Staff who are Leaving Penn or Have Left Penn**

#### **Preamble**

In recent years, Penn has been faced with the question of how to handle the electronic information, documents, data, and other assets of deceased faculty, staff members and individuals who leave the University. With the growth of electronic communications, the amount of data held by individuals has increased; and the ability to search, destroy, and share data has expanded correspondingly.

In the case of deceased individuals, questions about who should have access to information and other assets may be apparent – for example, a family photograph being provided to a next of kin. Often it will be possible to identify and contact those individuals and discuss the appropriate disposition of documents and data. However, it may sometimes be unclear who has the right to access materials; and in other cases, people may not wish to cooperate or may be difficult to reach.

In any event, appropriate decisions about how to handle documents and data must be made, with due regard to the privacy interests of the individual, legal and other obligations to preserve certain data, institutional history and other interests, and the public good.

The guidance below is intended to highlight the importance of coordinating the review and disposition of materials of faculty and staff who leave the University, and to highlight issues that may require special attention.

#### **Guidance**

When a faculty or staff member is deceased or otherwise leaves the University, a number of issues arise regarding the handling of personal data and other assets formerly under their care. In the case of deceased individuals, questions about what material should be shared with whom should be handled with great sensitivity to the difficulties faced by loved ones; and in all cases, handling of materials should consider the interests of colleagues and collaborators, institutional interests in data, and legal and contractual obligations.

The following practices are recommended:

1. Ownership of Process. The Department Chair in the case of faculty, and Senior Business Administrator in the case of staff, or a designee of either, is the appropriate person to coordinate decisions and actions regarding data or other materials in the individual's possession.

2. Immediate Review. Prior to a planned departure, or within one month after the departure or death of the individual, or as otherwise reasonable, the Department Chair, Senior Business Administrator, or designee should seek to identify the types of documents in the possession or under the control of the University, as well as materials developed as a function of the individual's role at Penn, and to determine appropriate archiving, sharing, and destruction measures. In the case of individuals who are leaving or have left Penn, this review should include best efforts to involve the individual him/herself in identifying types of documents and data and in determining appropriate disposition.
  
3. Inventory Information. To carry this review out, it may be necessary to have an inventory of the information, in general terms, prepared.
  - a. Assembling the inventory will likely involve an Information Technology (IT) professional reviewing electronic data on the appropriate desktop, laptop, server and other media as reasonable, as well as departmental administrative staff reviewing data in the office.
  - b. In some cases, there may be sensitive information about the individual who is no longer at Penn or others (consider for example the health information of patients or research subjects). The Department Chair or Senior Business Administrator should consider whom to involve in the inventory of the information in light of sensitive information, and should ensure that the processes adopted maintain confidentiality and reasonable data security. It is recommended that there be two individuals involved in taking the inventory.
  - c. The Department Chair or Senior Business Administrator should offer guidance to individuals involved in taking inventory, such as search terms or information related to research, to assist them in providing a useful inventory in common categories. See below for more information.
  
4. Retention of Information – One Year. Some of the interests and the appropriate handling of information will be readily apparent early on; some will not, and will depend on other individuals coming forward and making requests for data or other materials. If there is any reasonable question about the value, need, and interests in the information, it is recommended that information be maintained for at least one year or longer (See Section 6 below), to afford time for collaborators, family, research sponsors or others to come forward and request data, with the costs of data retention borne by the former employee's department or unit.
  
5. Verification of Requesters. In cases where a third party is requesting access to information such as, for example, a research sponsor, an academic collaborator, or an executor of the estate, it is important to verify the identity and the authority of the individual to access the requested information. For example, in the case of personal data of deceased individuals, it is recommended that there be proof of executorship or, in the absence of such proof, a signed certification of the right to such information. Any questions about executorship or other authority to access information should be referred by the Department Chair or Senior Business Administrator to the Office of General Counsel.

6. Categories of Interests. The following are examples of situations that should be considered in determining appropriate handling of information:
- a. Required Retention: There may be legal, policy, or contractual requirements to retain data or other information. These are difficult to exhaustively enumerate in advance, but several examples are provided below. In addition, Penn's Records Retention schedules should be consulted – see <http://www.archives.upenn.edu/urc/recrdret/entry.html>.
  - b. Business Continuity: Departing faculty and staff may hold data that is important for ongoing operational reasons. Examples include student grades in current courses that are critical to determining final grades, or status notes of an existing project necessary for completion. The Department Chair, Senior Business Administrator, or designee, should determine appropriate handling of documents and data to ensure continuation of important operational activities.
  - c. Research grants: If a research grant is involved, Penn's Office of Research Services (<http://www.upenn.edu/researchservices/contacts.html>) must be informed of the departure or passing of the individual and must be consulted to determine, for example, whom to notify (e.g., the Principal Investigator, the sponsoring agency) and in general to address the handling of the data. Compliance with government regulations and University research policies must be ensured. Information and guidance can be obtained from the Office of the Vice Provost for Research (<http://www.upenn.edu/research>).
  - d. Academic collaborators: If a faculty member was collaborating with another individual at Penn or elsewhere, the Department Chair or designee should take appropriate steps to address the interests of the collaborators, the individual, and Penn. These should include seeking objective evidence of the collaboration.
  - e. Potential litigation: If there is an actual or likely claim against Penn, there is a duty to preserve all evidence, hard copy or electronic, that might become relevant to the lawsuit. The Office of General Counsel must be consulted (<http://www.upenn.edu/ogc/contact.html>).
  - f. Intellectual Property: If the data is likely of interest as Penn's intellectual property, the Center for Technology Transfer should be consulted (<http://www.ctt.upenn.edu>).
  - g. Institutional History: If the data is potentially of interest to Penn for institutional history purposes, the University Archivist should be consulted (<http://www.archives.upenn.edu/home/contactinfo.html>).
  - h. Personal data: In the case of deceased individuals, personal data requested by family members or close friends can be provided, but only through the executor. As described above, documentation of executorship should be requested by the department and reviewed by the Office of General Counsel.
7. Questions – If you have any questions or seek advice regarding how to handle the above, please contact the Office of General Counsel at 215-746-5200.