



TECHSHOW2020

Cloudy, With a Chance of Sanctions – or Success!

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WHAT IS CLOUD COMPUTING?

“

Cloud computing is a fancy way of saying stuff's not on your computer. It's on a company's server, or many servers, possibly all over the world. Your computer becomes just a way of getting to your stuff. Your computer is an interface, but not where the magic happens.”

*"Byte Rights" by Quinn Norton,
Maximum PC, Sept. 2010*

■ WHAT DOES THAT ACTUALLY LOOK LIKE?





ARE LAWYERS
REALLY USING
CLOUD
COMPUTING?

58%



use cloud computing for work-related tasks
(up from 38% in 2016)

12%



of small firm lawyers plan to move to the
cloud in 2020

**WHY ARE
LAWYERS
USING CLOUD
COMPUTING?**



65%



Easy browser access

61%



24/7 access to firm data

48%



Low cost of entry and
predictable monthly expenses

45%



Robust data backup and
recovery

35%



Easy to get up and running

31%



Eliminates IT and software
management requirements

30%



Offers better security than can
be provided in-house

**BUT IS IT
REALLY
SECURE?**



■ IN MOST CASES **YES** -
BUT YOU HAVE TO
THOROUGHLY VET
THE PROVIDERS



EMAIL IS INHERENTLY **UNSECURE**

Secure client portals in the cloud offer a more secure method of communication.

“

*A lawyer should understand and use electronic security measures to safeguard client communications and information...including, for example...(a) **secure internet portal**.*

ABA Opinion 477 (2017)

IS IT ETHICAL?



■ THE BOTTOM LINE:

YES

More than 20 states have concluded that cloud computing is permissible (and none have said it's impermissible).

“

A lawyer may use cloud computing as long as the lawyer uses reasonable efforts to adequately address the risks...(and) protect client information and confidentiality, and...the lawyer's ability to reliably access and provide relevant client information when needed.

Wisconsin Formal Ethics Opinion EF-15-01

Is **client**
permission or
notification
required?

How do you
exercise
reasonable care?

Step 1: Maintain technology competence

38 states require lawyers to
maintain technology
competence

“

*To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, **including the benefits and risks associated with relevant technology...**(Emphasis added).*

--

Comment 8 to ABA Model Rule 1.1

Step 2: Vet the provider

Thoroughly screen the provider before signing up

TOP SECURITY ISSUES TO CONSIDER:

- Evaluate vendor's security measures and backup strategy
- Ensure data can be retrieved if needed and in what format
- Make sure SLA requires the vendor to preserve confidentiality
- Periodically re-evaluate vendor and their security measures in light of technology advances

TOP SECURITY ISSUES TO CONSIDER:

- Evaluate the vendor and its financial stability
- Understand the integration strategy, how data is exchanged, and who's responsible if there's a problem
- Determine who owns and has access to the cloud server facility
- Ensure that the encryption methods used are sufficient for your firm's needs

Step 3: Review the SLA

Thoroughly review the SLA
before signing up

■ TOP 5 SLA ISSUES TO CONSIDER:

- Availability
- Data ownership
- Cloud hardware and software
- Disaster recovery and backup
- Customer responsibilities

*50 SLA agreement resources:
<https://tinyurl.com/50SLAResources>

Step 4: Establish internal audit and security procedures

Once you've signed the SLA,
create internal procedures for
vendor oversight and outages

TOP **VENDOR OVERSIGHT** ISSUES

■ TO CONSIDER:

- “Get it in writing”
- Make sure to retain email and other correspondence
- Retain all executed agreements

TOP INCIDENT RESPONSE PLAN

CONSIDERATIONS:

- Create an internal response plan in the event of a breach
- Establish a response plan for any unexpected service outages

THANKS!

Any questions?

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