

CONDITION CRITICAL:

Developing Records Retention Schedules

Hot topics in the records management field warrant a new look at old retention schedules or the need to build a well-planned, comprehensive retention schedule. This ongoing process requires thought, planning, and documentation to ensure the proper maintaining of important records.

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Enterprise content management, data privacy, Sarbanes-Oxley internal controls, and e-mail mismanagement are all high-profile, hot topics that have garnered the interest of senior-level management – topics that have increased awareness of the importance of the records management function within organizations.

Records retention schedules are, in fact, the critical component of all records management programs, since they identify records to be managed by the program as well as how long the records are to be retained. Records retention schedules are the primary tools that assist an organization in the management of its records because they provide the rationale behind retention policy as well as direction and guidance on other recordkeeping requirements and conditions.

Establishing and implementing records retention schedules provide very visible benefits, since these activities:

- Help ensure an organization meets all legal/fiscal retention requirements for all records, regardless of media
- Identify records requiring enhanced protection or control
- Identify the record custodian for all multi-copy or official records
- Reduce the floor space dedicated to the storage of active records by allowing the disposal of inactive, duplicate, or obsolete material
- Establish timeframes in which records are to be transferred on a scheduled basis from active to inactive storage areas
- Provide the go-ahead to purge unnecessary records from inactive records storage areas

Retention Scheduling Considerations and Decisions

In advance of developing retention schedules for an organization, there are a number of key considerations regarding their scope, format, and maintenance that require discussion and decision. Although not comprehensive to every organization, the following considerations are likely to be relevant to most.

1. **Is the organization starting from scratch, or is it refreshing existing retention schedules?** It is often easier to start from scratch, especially if the organization has inherited legacy retention schedules that have been cobbled together over time or has witnessed organizational changes without the schedules having been updated. Regardless of the approach, it is important to be mindful of existing records inventory that may have been mapped to former retention schedules.

At the Core

This article

- ▶ Outlines the steps in revising or developing records retention schedules
- ▶ Offers questions to answer in preparation for each step of the process
- ▶ Emphasizes the importance of training and communication in finalizing a retention schedule



ALTHOUGH ALL OF THE ORGANIZATION'S RECORDS SHOULD BE INCLUDED ON ITS RETENTION SCHEDULE, THE SIZE AND COMPLEXITY OF THE ORGANIZATION MAY INDICATE A NEED FOR A PHASED APPROACH...

2. **What is the scope of the retention schedules?** Although all of the organization's records should be included on its retention schedules, the size and complexity of the organization may indicate a need for a phased approach to the development of the retention schedules beginning with those areas of highest risk or those most likely to be subject to audit or investigation.
3. **Will the organization develop functional retention schedules or more detailed departmental retention schedules?** A functional retention schedule is one that describes broad groups or categories of records. A departmental retention schedule contains more detailed record series information specific to a department. Although departmental retention schedules tend to contain a greater degree of specificity and less potential for an end-user to miscategorize records, departmental retention schedules require a higher degree of time and effort to maintain.
4. **What method will be used to gather information to develop the retention schedules?** There are two primary methods to gather detailed information on an organization's records:
 - Individual, face-to-face meetings with departmental representatives
 - Standardized questionnaires distributed and completed

by departmental or functional key contacts

Although the first method is more time-consuming, it is the preferred method because it allows personal contact with the departmental or functional key contacts and more specific questioning regarding a department's records, eliminating some of the follow-up activities typically required after using the questionnaire method.

5. **How will common or general records be handled?** Individuals within the organization may keep copies of records for administrative, reference, or operational purposes for which the official records exist elsewhere. Examples include copies of expense reports or check requests, copies of contracts, and a manager's copy of employee files. Although not the official records of the organization, employees need direction on how long to retain these records. The records manager may decide to include these on all of the departmental or functional schedules or may develop a separate, stand-alone retention schedule for them.
6. **Who will perform the research into regulatory record-keeping requirements?** Will it be the records management department, the legal department, or outside counsel? Further, as regulatory requirements change, how will the organization stay abreast of changes that may affect the retention time periods assigned to records?

7. **How will retention schedules address electronic records?**

In many cases, the owning department of electronic records is not the same department or function that serves as their custodian, so a decision regarding the placement of electronic records must be made.

8. **What tools will support the development and ongoing maintenance of the retention schedules?** At a minimum, consider the following:

- Infrastructure management tool – contains contact information for the network of department key contacts and can be used to track activity dates
- Records retention tool – contains records data linked to departmental or functional organizational information used to generate the retention schedules
- Legal research repository – contains records-related citations and other legal research grouped by function or category

Although these tools may be housed in spreadsheets or word processing tables, it is recommended that a relational database be considered because it provides a more dynamic environment across all information requirements. For example, a database may contain a table for the organizational contact information, another table for the records data, and yet another table for the legal research. The tables can be linked to each other in a variety of relationships.

Retention Schedule Development

The primary steps in the development of retention schedules include

1. Planning and communications
2. Information gathering
3. Analysis, research, and preparation of draft retention schedules
4. Review and approval

Step 1. Planning

To develop retention schedules, the records manager must establish a network of key contacts, or records coordinators, within each department or function. These individuals, usually designated by department management, should be knowledgeable about the functions and responsibilities of the department, understand the records created, received and maintained, and be the key departmental liaisons to the records manager on all records-related matters. Organization charts can be a useful tool in ensuring all functions within the organization have a designated records coordinator.

In addition to records coordinators, other records management roles and responsibilities should be defined as part of the overall records management infrastructure. These roles and responsibilities include:

Retention Schedule Format

Retention schedules are usually presented in columnar format for ease of use and understanding and should include the information indicated below.

Column Heading	Description
Records Number or Code	A unique identifier for each record. An example of a unique identifier might be a two- or three-letter department code and the sequential number assigned each record within a department.
Record Title	The name of the record or record series
Description	A description of the record series, its contents, function, and purpose
Retention Category/ Code/Citation	Cross reference to citations/legal research
Total Retention	The total time period the record is required to be retained
Active Retention	The time period the records are to be retained in active or onsite office filing areas. This will be dependent on volume, growth over time, and frequency of access requirements.
Additional Comments	Designation of vital, historical, or confidential records, as well as additional explanatory notes or clarifying comments, may be included in this column.

- Records committee

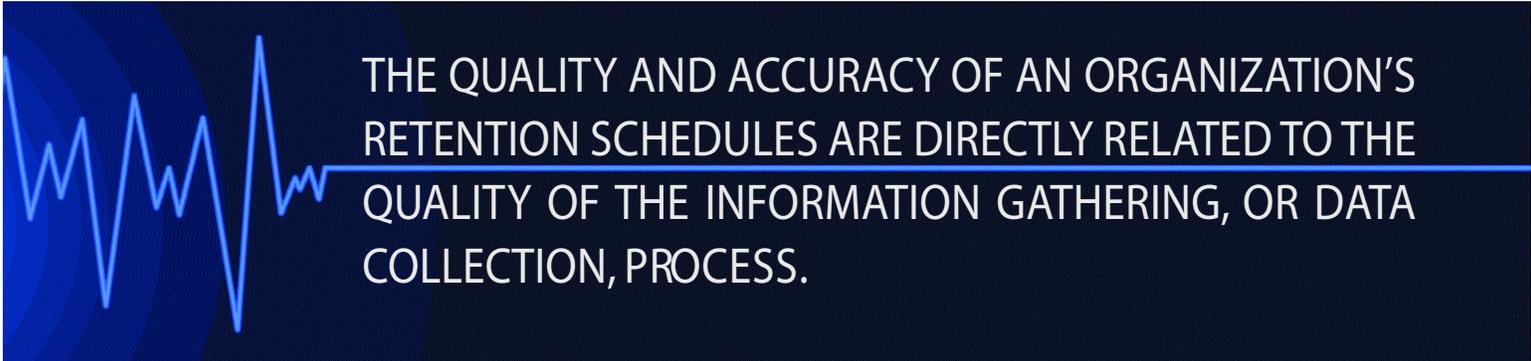
This may also be called a records advisory council or records governance group. Regardless of its name, this body should be the senior/executive-level group of individuals that provides the overarching authority for the records management program.

- Key advisors / subject matter experts

These individuals may be part of the records committee and are those subject matter experts who will provide specific retention guidance or decisions on specific topics. At a minimum, key advisors should include legal counsel, the tax manager, and an information technology representative. Depending on the industry and its regulators, other key advisors may be named on an as-needed basis from functional areas such as quality compli-

records should do so with an analytical approach, keeping in mind at all times the information that needs to be collected to facilitate the determination of retention time periods. By following an analytical data collection methodology, the line of questioning may not always follow the same path for every record under discussion. Think like an investigator who has to ask just the right questions to elicit responses that clearly provide answers to the retention puzzle. Some of the basic questions to ask include:

1. *What are the overall responsibilities of the department or function, and what are the specific tasks, or business processes, related to those responsibilities?* It is critical to gather this information for each departmental or functional area. If records are not linked to a specific business process or



THE QUALITY AND ACCURACY OF AN ORGANIZATION'S RETENTION SCHEDULES ARE DIRECTLY RELATED TO THE QUALITY OF THE INFORMATION GATHERING, OR DATA COLLECTION, PROCESS.

ance, regulatory affairs, government contracting, and environmental health and safety. (If the organization comprises various business units with different regulatory requirements, make sure to identify business-unit-specific advisors as well.) Before beginning information gathering, it is a good idea to meet with each key advisor to discuss the overall regulatory environment as well as organization-specific requirements that will supplement or override any regulatory requirements.

Step 2. Communications

To socialize the organization to retention scheduling initiatives, initiate communication on retention scheduling methodology and the importance of retention schedules to the organization. The audience for these communications should include senior management, department managers, and records coordinators, and the communications may take the form of direct correspondence via e-mail, “marketing” pieces in company newsletters, and orientation meetings.

Step 3. Information Gathering

The quality and accuracy of an organization's retention schedules are directly related to the quality of the information gathering, or data collection, process. A data collection “checklist” mentality should be avoided at all costs! Rather, the individuals collecting information regarding the organization's

activity as the “evidence” of that process or activity, it will not be possible to determine the importance and retention value of the records.

2. *What records are created, received, and/or maintained as evidence of each business process or activity? What electronic systems are used by the department or function in support of each business process or activity?*

Then, for each record identified, gather the following information:

- Description of the record – Identify the format and contents of each record.
- Purpose – How is the record used? What is its function? What business process does it support or document?
- Value – What is the value of the record to the organization?
 - a) Initially, records are retained to meet operating requirements. That is, the records are used to get something done or to support a specific task. Operating records are critical to the daily activities of an organization, and their loss can seriously impede company operations. However, the value of operating records diminishes as the operating process is completed. Records of operational value only usually have short retention periods after completion of the operating process.

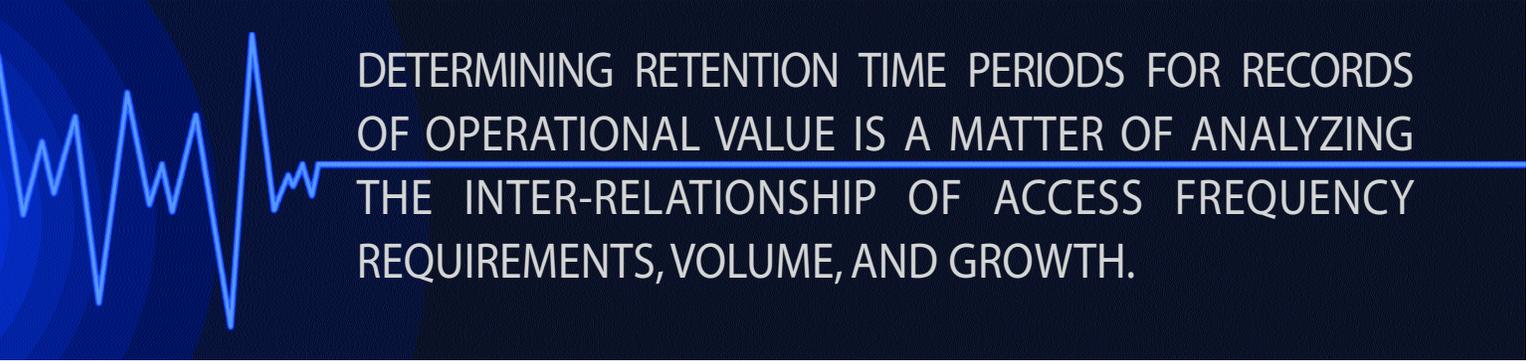
- b) Records having regulatory value are those defined as requiring retention by federal and state lawmakers.
- c) A small subset of records may have historical value to the organization and have retention time periods that would extend beyond their operational or regulatory requirements.
- Organization – Note the manner in which the records are organized (alphabetical, chronological, numerical, random, etc.) because this may affect retention recommendations.
- Media – Note the media on which the record is maintained – paper, microfilm, diskette, etc.
- Volume per time period – How much space do the

observations regarding the record that may be helpful in subsequent analysis.

Step 4. Review, Research, and Analysis

During the data collection process, the records manager began to formulate a determination regarding records' value. Once identified as having operational, regulatory, or historical value, the next task is to determine the retention time period for each record.

Determining retention time periods for records of operational value is a matter of analyzing the inter-relationship of access frequency requirements, volume, and growth. The small set of records identified as having historical value typically is assigned permanent retention. Those records identified as having legal or regulatory value, however, will require additional



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records occupy and for what time period?

- Access frequency – The frequency of access to records typically diminishes through time, and identifying periods of high access versus those periods when records are rarely referred to will help in determining active (onsite) and inactive (offsite) retention time periods.
- Current retention practices – Most often, departments retain records until they no longer have room for them in the office, then they may send them to offsite storage. Find out how long records are typically stored in the office, how long they are stored in offsite storage, and if a retention time period has already been assigned. What is the oldest record maintained in the office? The answer to this question does not necessarily mean that a retention time period has been established for the record. For example, the oldest record may date to January 2003 simply because that is when the last file clean-up day was conducted.
- Other copies – Does anyone else receive this record? This question is asked to determine whether a record is the official – or record – copy of a record. The record copy is either the original of a document or a copy that must be retained to satisfy the longest operating needs and any legal or regulatory requirements.
- Additional comments – Add any special comments or

research into federal and state statutes and regulations to determine retention requirements.

There are a number of resources available for locating relevant statutes and regulations. Most state and federal regulations can now be found on various government and industry websites through one of the many Internet search engines. There are also commercially available software products that not only contain specific recordkeeping citations but also categorize the citations by function or industry. An organization's legal department may also have access to statutes and regulations through an online service provider.

During research into regulatory requirements, records managers are likely to find rules and regulations that fall into one of the following categories:

- Requirements to keep records for a specified time period
- Requirements to keep records that do not specify a time period
- Statutes of limitation time periods stating when legal actions can be initiated. Statute of limitation time periods are not necessarily records retention requirements, but they provide guidance on the time period for which an organization may find it advisable to maintain certain collections of records. For example, if an organization knows it may be sued for up to six years after the expiration of a contract, it is likely to assign a retention time of six years after expiration to make

sure they are available during the time they may be relevant in a legal action.

- Limitation of assessment periods for tax-related records. Limitation of assessment time periods, like statute of limitation time periods, are not necessarily retention requirements, but they provide guidance on how long an organization decides to retain its records.

In addition to laws that require records to be retained for specific time periods, there are laws that affect the manner in which certain records are maintained. Some laws may be media-specific, such as the requirements that digital media be of a write-once read-many (WORM) format. Other laws may contain conditional requirements for specific media types, such as storage and backup procedures.

Although many retention requirements are codified in the Code of Federal Regulations and state administrative codes, records managers may also find guidance on records retention through other quasi-government or industry groups. Don't forget internal subject matter experts who also may be aware of appropriate sources. Do be aware, though, that individuals may claim that certain retention time periods are regulatory requirements. Attempting to locate the corresponding citation sometimes reveals that what has been claimed as a regulatory requirement is not that at all.

When developing the retention schedules, keep in mind the various manners in which to express retention time periods:

- Records with creation-date-based retention expressions are those whose eligibility for destruction is based on a calculation using the creation date of the record as a starting point. For example, accounting records may be assigned a seven-year retention period, so they are eligible for destruction seven years from the date on which they were created.
- Records with event-based retention expressions are those whose eligibility for destruction cannot be calculated until an event occurs. For example, employee files that are assigned a retention period of "Termination + six years" are eligible for destruction six years after the event of employee termination occurs.
- There are some records that are assigned permanent retention. Do not confuse permanent with indefinite. The word "indefinite" should be avoided on retention schedules. If a specific retention time period cannot be identified, language such as "review after 10 years to determine ongoing retention requirements" should be added to the retention schedule.

Review and Approval Process

1. Having completed the review, research, and analysis of the records information collected, generate and forward draft

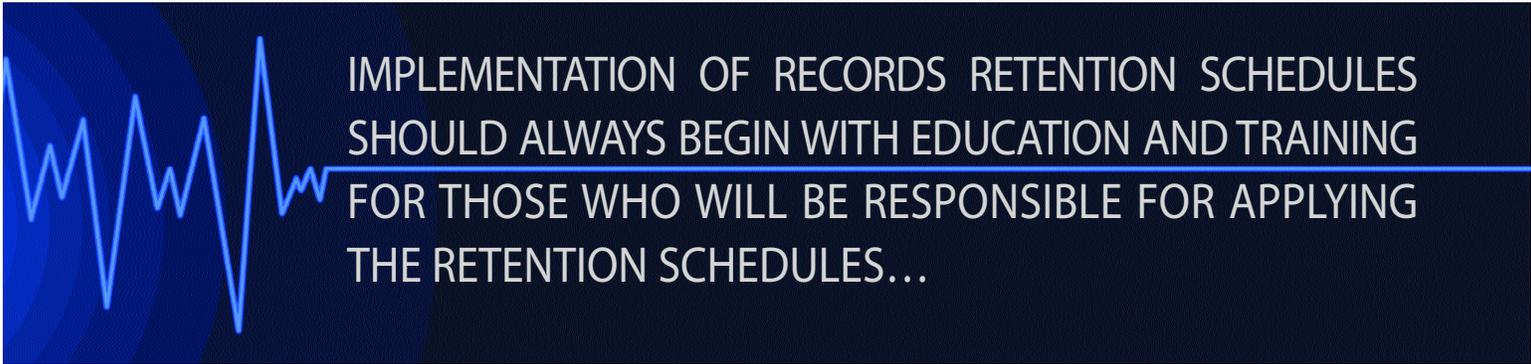
retention schedules for each function or department to each records coordinator or other key contacts who participated in the information-gathering process. Instruct the records coordinators to coordinate the review of the retention schedule with appropriate individuals within the department.

2. Records coordinators should communicate changes or additions to the records manager, who should incorporate the changes into the retention schedule as necessary. When the retention schedule is finalized, the department manager should sign off on the schedule and return it to the records management department.
3. Forward retention schedules to the records committee or to the key advisors for approval. It is beneficial to provide

age surpasses total retention requirements. Before implementing retention schedules, organizations should have a process in place to apply hold orders to records that may be related to actual or pending litigation, audit, or government investigation.

- Some records will require continued retention, but they will be candidates for transfer to offsite storage because they have surpassed their onsite or active retention time requirements.

In addition to applying retention time periods, training should include instruction on enhanced protection for vital, critical, confidential, or historical records that are identified on the retention schedules.



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the individuals who will be final retention schedule approvers with any additional documentation and legal research supporting the rationale for the retention time periods appearing on the retention schedules.

4. Once approved, notify the records coordinators that their retention schedules have been finalized and can now be implemented

Implementation

Implementation of records retention schedules should always begin with education and training for those who will be responsible for applying the retention schedules to the organization's records. Education should include general information about records management as a function, its importance to the organization, and the details (typically encapsulated in policies and procedures) on how the organization plans to incorporate records management into its operating practices.

Training should include direction on how to read and implement a records retention schedule, keeping in mind that the implementation of a retention schedule will result in one of the following activities:

- Some records will require continued retention because they will not have met their total retention requirements.
- Other records will be eligible for destruction because their

Annual Review

The development of comprehensive, complete, and accurate retention schedules is a significant undertaking and should be considered the first step in an ongoing process that includes the application of approved retention schedules to records, as described above, as well as a regular, annual review of the retention schedules. During this review, the records manager should incorporate new or updated regulatory requirements, modify the list of record series as necessitated by new or updated business processes, and ensure the department is complying with the retention schedules. Any deviations, exceptions, or problems should be reported to the appropriate subject matter experts and/or the records committee for resolution.

As a final note, the records manager should ensure that the retention schedule development methodology, legal research, and approval process are all documented. In the event that the retention schedules are questioned, the records manager should be able to provide an audit trail for the development and approval process to demonstrate that a planned and well-executed approach was completed. ■

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