

Information Requirements Clearinghouse

Phone: 303-721-7500

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User Requirements for Records Retention Programs

Organizations create and maintain records mainly so that company employees have the records needed to do their jobs and to help meet the goals of the organization. The records program also must comply with applicable legal requirements. These laws state what records must be created and how long they must be retained.

Unfortunately, many people confuse these two issues: records created to meet the needs of the organization versus records created to comply with the law. In reality, both issues must be considered independently when developing a records retention program. For each entry in the records retention schedule, one period should be established to identify user or operational requirements — the requirements for keeping records solely to meet the needs of the organization. Another period should be established for legal issues — the legal requirements or considerations for retaining records. The total retention period is the longest of these two periods. Figure 1 shows these three retention periods in a records retention schedule.

Some organizations also consider issues such as research or historical reasons for maintaining records. The private sector considers research as part of the user and operational needs for records, and rarely even considers historical issues because of the cost and time involved. The government sector, however, considers both these issues important in determining the total retention for records.

User Needs Versus Legal Concerns

The user retention periods reflect the periods of time the organization needs the records so that employees can do their job. Accounts receivable records, for example, are created initially to help account for, bill and collect money owed by outside groups. These records have little or no value after payment, except to respond to inquiries. Similarly, accounts payable records have little value after the other party cashes the checks and properly credits the payments. In both cases, the user retention periods would be only one to two years.

Record users often confuse this type of retention assessment with legal issues that also might affect the records. The following are not user issues, but are legal ones:

- The period of time records are needed for tax purposes.
- The need for the records during possible future litigation.
- The requirements of state or federal regulatory agencies.

You should remind record users that their user retention periods do not include any legal concerns. The Legal Department will actively review the records retention schedule to ensure that the appropriate legal periods have been assigned to each retention category. The users are the experts to determine how long they need records to do their job; the lawyers are the experts to determine how long the records should be kept to meet legal requirements or other legal considerations.

User Needs Are Subjective

The user needs for records are subjective in nature. Specific criteria are rarely available to help determine how long users need the records to do their job. When developing traditional records retention programs, the record users are often first asked to recommend retention periods. Unfortunately, most record users respond with retention periods that are inappropriately long. Once these longer periods have been stated, or, even worse, printed on a draft of the records retention schedule, it is difficult to undo the damage.

Individual record users have a right to retain records for the periods of time needed. The organization, on the other hand, has the same interest to keep records long enough to meet the needs of the organization but it also has a right to ensure that they are kept no longer. The decision to keep records for long periods increases costs, requires more staff, reduces access to valuable records and may create problems in litigation. User retention periods should therefore be based upon "actual" need rather than "perceived" need.

Determining User Retention Periods

Previous articles have reviewed the process of developing a records retention schedule. The following sections explain the process for determining user retention periods.

Interviewing Record Users

Many records management books and articles describe the traditional approach for developing records retention schedules and in particular for determining the user retention periods. Most of these sources suggest that the best way to determine user retention periods is by asking the actual users. Since they are the ones who use the records, these sources surmise, they are the ones most likely to know how long these records should be kept.

While this approach seems good in theory, it is sometimes ineffective for the following reasons:

- Before the interview, users have rarely considered how long they need the records.
- When asked how long to keep the records, users will tend to respond with a conservative answer such as "forever" or for other long periods of time. They believe this is "safe" answer because the records will be available whenever needed in the future.
- In spite of everything the interviewer may tell them, they still tend to confuse legal retention with user retention as described above.
- Users normally will not dedicate the time to review each records series or group of records nor suggest user retention periods.
- Users have an unrealistic view of the importance of their own records. Either they created the records themselves or believe the organization would suffer if even a single piece of paper was destroyed.

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For these reasons, do not ask the record users to even suggest retention periods during the interview! Instead, take this opportunity to assess their general attitudes toward records retention. You can ask them for a brief description of the records in the area and how they are used. Most record users will actually confirm that they need their records for only short periods of time. After this initial period, these records are rarely if ever considered again.

Another important question to ask during an interview is "how far back the user has ever gone to retrieve records and for what purpose?" You will often find that records are accessed after five or ten years merely to respond to inquiries. What would have happened if those records did not exist? Realistically, the person requesting information would have no choice but to proceed without the information. Rarely would the organization suffer severe circumstances.

In summary, the following types of questions would be appropriate for an initial interview with the record users:

- What types of records generally does your department maintain?
- How do you use these records?
- Describe some circumstances when you needed records after three years? After five years? After ten years?
- What would have happened if you could not find the records or they no longer existed?

With the interviewee's permission, you might record the interview on tape rather than taking notes. This will allow for the free flow of information without the interruptions common with note-taking. You are also able to devote your full attention to listening to the responses and preparing other questions.

After the interview, assess the general needs and temperament of the various record users. This will be useful in establishing the preliminary user retention periods.

Assigning the Preliminary User Retention Periods

The records inventory provides the initial information for developing the records retention schedule. Preferably, you will develop a functional retention schedule since user retention periods can be assigned more quickly and accurately.

First, develop the various records retention categories. Then determine and insert the legal retention periods. Finally determine the preliminary user retention periods. Base your decisions upon your preliminary interview with the record users, your knowledge of the organization, and your experience with specific records. These preliminary periods should represent your practical assessment of the needs of record users. These periods will often be much shorter than the user would normally state if asked.

You also may consider previous records retention schedules to get a preliminary assessment of how long records should be kept for user purposes. Unfortunately, many old retention schedules do not distinguish between user and legal retention periods, and therefore would not be appropriate for this purpose.

Revising the User Retention Period

After the records retention schedule is complete, distribute copies for comments. You are asking the record users to "react" to the user retention periods stated, rather than suggesting their own initial periods. The user should be asked the following question in the form stated:

- Explain why a user retention period, if any, in the records retention schedule does not meet your needs. Do not consider any of the legal retention periods. The Legal Department is handling all legal issues.

The form of the question is important. You want to determine only why a printed user retention period does not meet the user's needs, not "How long do you want to maintain these records?" You also want to reassure the users that the user periods are probably correct. There may only be only one problem with one user period (indicated by the singular form) or no problems at all (indicated by "if any").

Most users will be hard pressed to articulate reasons for keeping records for long periods of time when the preliminary retention periods indicate only "three years." Psychologically, they need to identify valid reasons for longer retention periods or they will appear silly or arbitrary. People also tend not to change written documents — especially if they look typeset. This type of subtle pressure forces record users to take a more realistic look at their records retention needs. It ensures however, that records will be kept only for the period of time needed, but no longer.

This approach also enables the users to actually see the difference between the columns for the user and legal retention periods. The users can then determine their user retention periods confident that the Legal Department will determine the retention periods in the legal column.

One disadvantage of this approach is that users might tend to increase the user retention periods "in order to be safe," if the legal periods are longer. You can help the user resist this temptation by reinforcing the basis for the user retention periods — the periods of time the user needs the records to do his or her job, rather than meet legal requirements.

Negotiating the User Retention Periods

Since the user retention periods are subjective, you will have to negotiate the final periods. If you follow the procedures stated above, the chances are good that the user retention periods will be reasonable in terms of their actual need for records. Sometimes the user still wants longer retention periods "just in case" or because the proposed periods are just not adequate.

If there are legitimate reasons for changing the user retention periods, the user should be able to articulate the reasons. After a detailed discussion of the user's concern, you may accept the new periods suggested by the user or offer compromises.

Users want to feel that you considered their views. They may even feel that "they really got away with one" when you compromise on a retention period perhaps two or three years higher than the initial period that you previously suggested. Through discussion and compromise the revised user retention periods will tend to be significantly lower than the periods users would normally suggest if asked initially.

You should negotiate for a period of time that is perhaps a little less than the user originally suggested but long enough to meet the user's perceived needs. If nothing else, you should strive to achieve a specific numerical period of time such as "50 years" rather than "permanent." Records can then still be destroyed at a specific time in the future, even if that time is long after the record's actual useful life has ended.

In addition, by stating a specific retention period, you can periodically review this retention period in relationship to the

users' actual needs for records. Many records management software programs will track access to the organization's records. By maintaining logs over time, you can document the actual records usage. Every few years, meet with the record users to compare their actual usage with their perceived user retention periods. Even if you initially accepted a compromise retention period of 50 years to gain acceptance for the overall records retention schedule, you can still review that decision every few years. You can then negotiate lower retention periods based upon the actual usage for records. Over time, the user retention periods will then approach the actual needs of the organization.

Safeguards and Your Responsibility

Safeguards must be included when following this approach. Since record users are only asked to react to user retention periods, they may only request changes to periods that are obviously erroneous. If record users do not review the proposed schedules carefully, some records may be destroyed prematurely and the organization may suffer severe consequences.

Safeguards also must apply to your involvement in this approach that some may be viewed as pompous or presumptuous. This approach assumes that you, the records manager or retention system designer, are better able initially to determine the user retention periods than the record users. That is generally true since record users may not have expertise in records management, may not have a realistic attitude toward the value of their own records, and may not have the time to properly devote to this task. But you also can harm your organization if you only try to gain acceptance for the lowest possible user retention periods, instead of the most appropriate ones.

You are therefore responsible also to safeguard the process. First, understand the needs and operation of your organization before developing user retention periods. This will take time, study and dedication. Then, make sure that the appropriate record users review the retention schedule in depth. Keep after them until you are certain that the user retention periods are realistic and will meet the needs of your organization. Only then can you feel confident in the validity of the user retention periods.

Summary

The records retention schedule should separately identify user and legal retention periods for records. The user retention periods represent the periods of time record users need the records to do their jobs — often only a few years. Record users often perceive their needs for these records, however, as lasting for very long periods of time.

Interview record users only to determine how they use records and to reveal their general attitudes toward retention. With this information plus experience and knowledge of actual record use, you prepare preliminary user retention periods. Record users then react to these preliminary retention periods rather than even suggesting initial periods. They are asked to explain which, if any, user retention period does not meet their needs.

Over time, long user retention periods can be modified based upon actual record usage and replaced with more realistic ones. Throughout the process, you are responsible for ensuring that users retention periods are long enough to meet the needs of the organization, but no longer. You also protect your organization by ensuring that records are destroyed as soon as they are no longer needed.