

ACC ONLINE EDUCATION

ACC Records Management University

Class 1: Introduction to Modern Records Management:
Creating a Records Policy and Schedule



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Today's Faculty



Tom Mighell, Esq., COO, Contoural

With over 25 years of experience in compliance, litigation, privacy and information governance, Tom regularly works with corporations to develop information governance programs and is a Certified EU Privacy Professional. Tom served as Chair of ABA TECHSHOW 2008 and 2018, and as 2011-2012 Chair of the ABA's Law Practice Division.



Mark Diamond President & CEO, Contoural

As founder and CEO of Contoural, Inc. Mark Diamond is one of the industry thought leaders in proactive records management, privacy, litigation readiness, compliance and governance strategies. As a trusted advisor he and his company work with more than 30% of the Fortune 500, plus many mid-sized firms, federal agencies, as well as non-profits. Contoural is also helping the Association for Corporate Counsel launch a law firm security assessment program.

ACC Records Management University Syllabus

Class 1: Introduction to Modern Records Management: Creating a Records Policy and Schedule

- **Key concepts of a modern records program**
- **Creating a compliant and easier-to-execute records retention schedule**
- **How privacy, data governance and other initiatives fit into a records program**

Class 2: Records Program Execution – September 21, 2022

- Determining the right level of program maturity for your company
- Getting a records program started or restarted
- How to avoid from getting stuck, or restarting a stalled initiative
- Designing a records program so it drives effective privacy, eDiscovery, and employee productivity

ACC Records Management University Syllabus, cont.

Class 3: Automating Records Management – On Demand

- The Five Second Rule – Creating combined records management, privacy, data classification and access control processes that employees can follow quickly
- A quick review of technologies to automate programs, including technologies that most companies already own today
- How to delete email, files and other information quickly and defensibly
- Combining policies, processes and technologies to automate records management

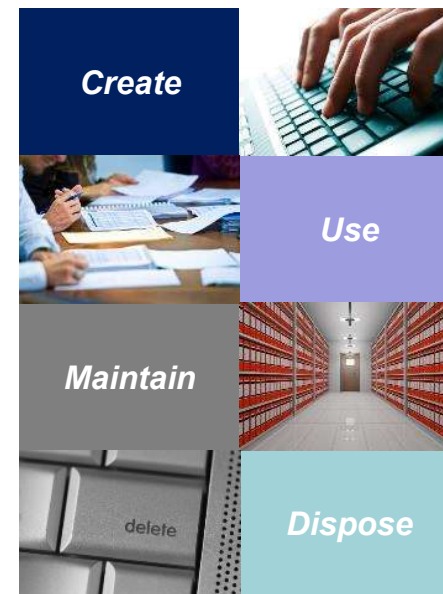
Class 4: Records Management Training, Employee Behavior Change Management and Organizational Development – On Demand

- How messaging, communications plans, training and audit can be combined into an effective employee behavior change management strategy
- Creating records management messages that resonate, even for employees that don't care about records management
- Creating and staffing a records management organization

What is Records Management?

Records Management, sometimes referred to as Records & Information Management, or “RIM,” refers to the systematic control over the lifecycle of records.

Everyone manages records as part of their work - creating, using, storing, and ultimately destroying documents on a daily basis.



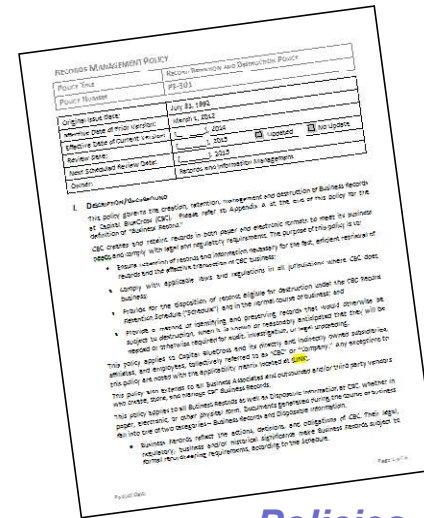
Records Management Policies and Schedules

Record Retention Policies

- Sometimes referred to as a Records Retention and Destruction Policy. It governs the management of all records, in any format.
- Typically, it is an enterprise policy that applies to all employees in all locations and business units.
- The Policy is the stated intent for an organization to comply with applicable contractual, regulatory and legal recordkeeping requirements

Code	Record Type	Record Type Description	Retention Requirement
	Account Administration		
	Enrollment Files	Records maintained as part of a group or member's enrollment file. Includes Enrollment Applications and Working Documents, Group SIDs, ID Cards, Student Cert Letters, Group Certificates, MTM, Correspondence	10 Years
	Member Billing	Records relating to billing of groups and individuals for policy premiums. Includes Invoices, HRA Claims, and ASO	7 Years
	Analytics and Reporting		
	Analytics Records	Records created for the purpose of understanding company performance and improving services to customers. Includes HEDIS, Accountable Care Analysis, Quality Analysis, Clinical Care Analysis, Quality Backlog Tables.	7 Years
	Reporting Records	Includes Budget Variance Analysis, Medical Trends, High Cost Claims, Cost of Care Reporting, Utilization Trends	7 Years

Schedules



Policies

Records Schedules

- The Records Retention Schedule is typically an addendum to the policy and lists all record types and their retention periods.
- Some schedules detail the legal citations supporting the retention period.
- Schedules can be organized in a various of formats.

What are Business Records?

- *Reflect business actions or decisions*
- *Can exist in any media format (paper, electronic, email, DVDs, images, etc.)*
- *Retention justified either by legal or regulatory requirement and/or business value*
- *May be stored in various locations (physical and/or electronic)*
- *Have defined retention requirements*



Non-Records

1. Convenience Copies

Convenience Copies are documents copied to you as a convenience. You probably often receive email with copies of documents attached; your department did not create them, so you have no responsibility for retaining them.

Convenience Copies should only be kept as long as needed to do your job. If you no longer need a Convenience Copy, dispose of it.

2. Drafts

There are often many drafts created of a final record. Dispose of drafts once superseded by a new draft or the final version.

If retention of drafts is required for legal or regulatory reasons, keep them for the period identified in the Schedule. Otherwise, dispose of them.

3. Work Papers

Work Papers are short-term records created as part of a project or in conjunction with working on a task.

These records include notes, reference materials, or other documents created and used when accomplishing a task.

Dispose of Work Papers as soon as you no longer need them.

4. Transitory Information

Transitory Information are emails and other documents with no on-going business value.

Transitory Information can include notes, out-of-office messages, and personal email.

Dispose of Transitory Information immediately.

Working Documents

Working Documents are short-term records created as part of or in conjunction with working on a task.

These records include notes, reference materials, or other documents created and used when accomplishing a task.

However, some working documents become part of an official record when the task is complete.

Many companies allow retention of working documents for a limited period, e.g., 18 months, in a managed repository.



Legal Holds May Supersede Record Retention Destruction Dates

Instructions for complying with a Legal Hold:

- *Carefully read the Legal Hold Notice you receive from the Legal Department.*
- *Save and store documents normally.*
- *Do not delete, destroy, alter or modify existing documents.*
- *Continue to preserve documents until you receive a Legal Hold Release.*
- *When the Legal Hold is released, review the preserved records.*
 - *Destroy any records whose retention period expired during the Legal Hold.*
 - *Continue to keep the remaining records until the end of their designated retention period.*

Rethinking Records Retention Schedules

Traditional Approach

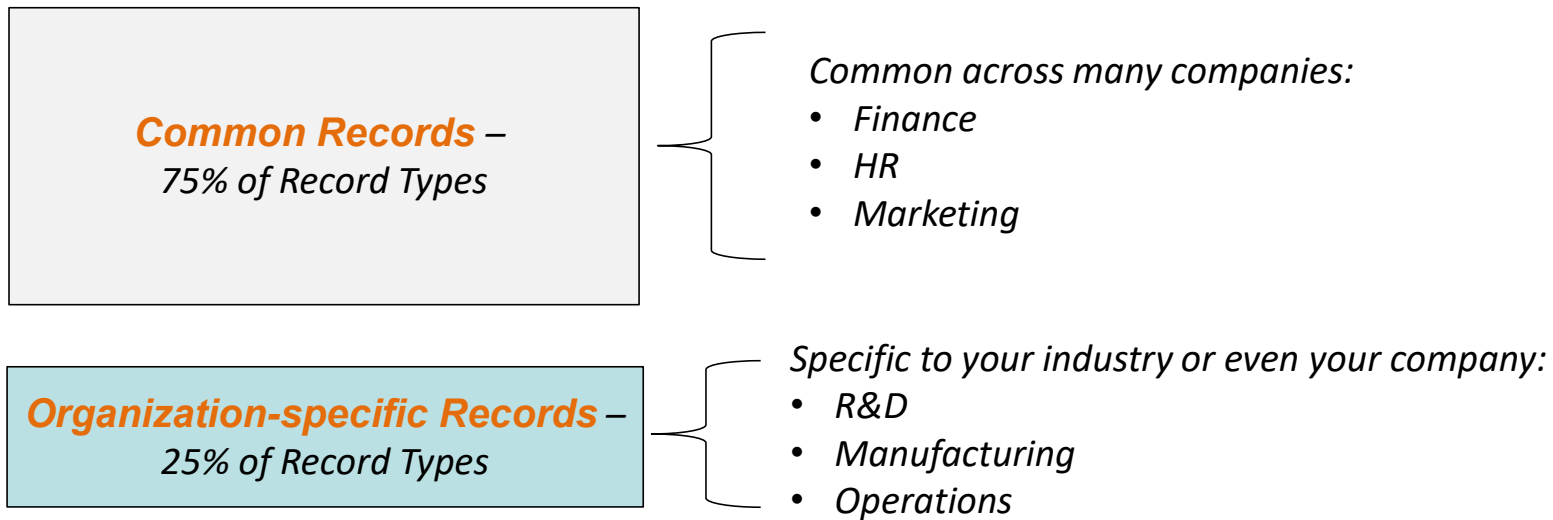
- Retention biased towards paper records
- Focuses almost entirely on legal and regulatory record retention, for the most part excluded business value.
- Dictates policies to business units, does not engage them
- Records program is a stand-alone entity
- Once policy is published little or no audit



Modern Approach

- Includes a **comprehensive** list of record types **across all media**
- Records identified based on legal and regulatory requirements *and* **business value**
- Represents a consensus across key stakeholders and business units on what to save for how long and what can be deleted
- Lends itself to be **integrated** with privacy, eDiscovery, and other compliance frameworks
- Includes processes to demonstrate it is being followed, making it **defensible**

Have We Captured All The Record Types?



Source: Contoural, Inc.

Strategies to Increase Comprehensiveness Quality and Maturity

*Electronic Survey-only
Industry Average
Participation Rate:
2% to 8%. Risks
missing information*

*60 minute interviews
with groups of 1 to 5
people produce the
highest quality data,
which can be
supplemented with
online surveys*



“Minimal Spanning Tree” Interviews – Collecting the most information with the fewest interviews.



“Deep Dive” on documents and records for accuracy and completeness

Source: Contoural, Inc.



Involve the business on both ends – data collection and schedule validation. Participation is good for buy-in and compliance when the schedule is rolled out.

Globalizing Your Records Management Program

Identify Differences from the U.S. and other countries

- Update Policies, Process, Procedures, Retention Schedules
- Regional and Country Exceptions, Local Practices
- Define Change Management & Communication Plans (localization)
- Define a Schedule to Roll-Out Changes
- Connect through the Organization – No Surprises
- Follow-Up Regularly
- Rinse, Repeat

Governance Structure & Organizational Structure

Define a global framework

Set-up or augment a governing steering committee

Define roles & job descriptions

Define country specific differences in roles

Setting up a liaison for each business unit / country

Define communication, audit and review processes

Data Retention Policy vs. Records Retention Policy and Schedule

New Data Retention Policy

- *Legal and Regulatory Retention and Disposition Requirements*
- *Business Value*
- *Personal Information*

vs.

Record Retention Policy and Schedule

- *Legal and Regulatory Retention Requirements*
- *Business Value*

When Record Retention and Privacy Requirements Collide

So how do you keep business records and information for as long as the business utility exists, but only keep personal information “no longer than necessary” and be able to delete on demand?

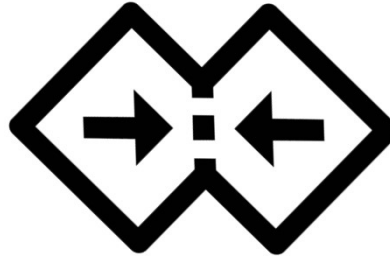
Use your records retention schedule processes to help.

Just as you work through the business and legal need for other records, do the same for your records containing personal information.



Data Retention Policy vs. Records Retention Policy and Schedule

*New Data Retention
Policy*



*Record Retention Policy
and Schedule*

- *Legal and Regulatory Retention Requirements*
- *Business Value*
- *Add personal information*
- *Add legitimate business purpose process*

You do not need a new document – irrespective of the title of the document/s, they provide the same information: the length of time you must keep records.

Information Governance vs. Data Governance

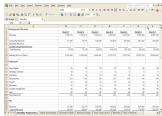
Media



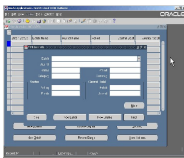
- Paper



- Semi-structured
 - E-mail
 - IM/Text Messages
 - Wikis
 - Social Media



- Unstructured
 - Files
 - Images



- Structured
 - Relational and other databases

Information Governance

Data Governance

Information Governance Skills

- Records Management
- eDiscovery and Litigation Readiness
- Privacy
- Behavior Change Management
- Enterprise Content Management
- Archiving
- Defensible Disposition
- Enterprise Rollout
- Project Management
- Communication

Data Governance Skills

- Data Architect
- Data Analyst
- Privacy Workflow
- Information Security
- Relational Databases
- Big Data and Non-relational Systems
- Data Modeling
- Data Integration
- Data Warehousing
- Project Management
- Communications

The Joint Program Hidden Win



Records compliance drives better information management, which drives higher employee productivity.

ACC Records Management University Additional Content

In-house Tales from the Trenches – 20-minute On-Demand Recordings

- *Building Shared Records Program Ownership Across Legal, IT and the Business Units*
- *Getting Legal, IT, and Everyone Else to Agree on What Email, Files and Other Information to Save and Not Save*
- *How To Develop Program Support (and Funding) from Senior Management*
- *Key Lessons I Learned in Executing My Records Program*
- *How We Unstuck Our Records Program*
- *How We Learned to Have Records Play Well With Privacy and Other Compliance Programs*

About Contoural

Largest independent strategic consulting services provider serving more than 30% of the Fortune 500 plus many small and mid-sized companies. Services including records and information management, litigation readiness and control of sensitive information consulting services. Sponsor of the ACC Information Governance Network.

Independent – *Contoural does not sell any products, provide document storage services or offer “reactive,” matter-specific discovery services.*

Cross Functional – *Our engagements incorporate a combination of legal, compliance, records management, information technology, security and change management best practices.*

Flexible – *Contoural services can be tailored either for some part of a specific project or an entire enterprise-wide program.*

Experienced – *Contoural has served more than 30% of the Fortune 500, a number of federal agencies, as well as numerous mid-sized companies and public entities. Our consultants average more than 24 years of experience in their respective field.*

Real Impact – *Contoural services provide measurable impact on real-world business needs.*

Additional Content: Recorded ACC LegalQuickHit

Creating a Data Retention Policy to Meet Privacy Requirements

Kerry Childe
Senior Consultant

Mark Diamond
President/CEO

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The slide features a white background with a blue header and footer. The title is in a bold, dark blue font. The speakers' names and titles are listed in a smaller, dark blue font. The Contoural logo is positioned in the bottom right corner. A horizontal band at the bottom of the slide shows a blue-tinted image of snow-capped mountains.

ACC LegalQuickHit: Creating a Data Retention Policy to Meet Privacy Requirements 9/15/22. Recording available:

- *ACC Information Governance Network Home Page*
- *Email info@contoural.com*
- *Link:*
<https://accinhouse.zoom.us/rec/share/9mg0E8KopLVrdqezHJ5er2EsTn2q0M2avARkQlctHy899LMBShDJgSMVDPoFgg.TE0SMiWeMeUjKvb>

New Content: Creating a Data Retention Policy for Privacy



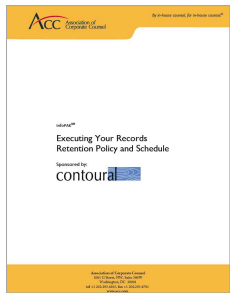
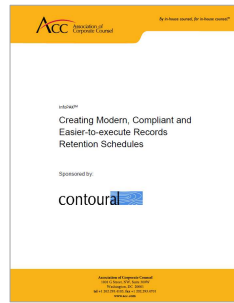
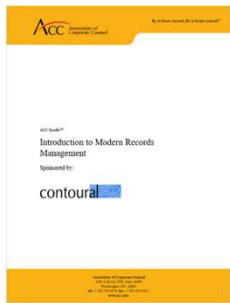
Creating a Data Retention Policy to Meet Privacy Requirements

Email info@contoural.com



Additional Content

Contoural complimentary content and additional resources at www.contoural.com or email info@contoural.com



- **Guide:** *Introduction to Modern Records Management*
- **InfoPAK:** *Creating Modern, Compliant and Easier-to-Execute Records Retention Schedules*
- **InfoPAK:** *Executing Your Records Retention Policy and Schedule*
- **Article:** *Upgrading Your Traditional, Paper-centric Records Program to Be More Modern, Compliant and Useful*

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Questions



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