By the Book: Enforcing Compliance in Records Management Programs

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The success of an organization's records and information management (RIM) program is largely contingent upon compliance as well as the strength of the manager. The vision of a records manager is to run a program in perfect harmony with all the laws and regulations of the jurisdiction and to have all organizational employees on board. In reality, records managers face adversity on a daily basis, and this vision is more of a dream due in large part to bureaucratic hierarchy, decentralized control and lack of enthusiasm or knowledge for the program. These prevailing attitudes need to be reversed for a records and information management program to be successful.

Several components related to enforcement of compliance begin with basic ethics and the fundamentals of records management. First, is starting with a solid foundation of having an organizational-wide records management policy in place, current record retention schedules along with the support of upper levels of management. Next is routine training and leadership guidance at every level of employment within the organization, whether public or private. Some of the subject areas for training and guidance include mitigating risk, retention policies, participation, and technology (Braude, 2016). Depending on if the organization is a public or private institution, the Freedom of Information Act (FOIA) or the Sarbanes-Oxley law will be part of the governance training.

Records management programs policies should include a provision for defensible disposition to protect them from potential litigation. Courts normally do not get involved in records retention issues, although they will rely on the statutes and laws that specify retention when discussing court cases. The courts "focus on the reasonableness of the records destruction decision, based upon the particular facts and circumstances of the case (Skupsky, 1994 p. 42)." An example of when a court might rule on records disposition is in a dispute over document

production during discovery. Having a valid retention schedule and documentation of

destruction to prove that responsive records did not exist, an organization will not have to worry

about being taken to court.

Compliance is more than just ensuring that employees are trained and following retention

schedules. Compliance also means a RIM program's "culture and collective processes meet

legal, regulatory and ethical requirements. Companies find out whether their compliance

programs are adequate through highly publicized investigations or court cases that have

devastating effects (Gable, 2005, p.29)." It can be difficult to determine what laws apply to a

particular company as some are mandatory and some are optional, and one size does not fit all

(Gable, 2005).

Compliance standards include, but are not limited to, depending on the industry:

Sarbanes-Oxley, HIPAA (Health Insurance Portability and Accountability Act), FOIA (Freedom

of Information Act), Security and Exchange Commission SEC 17a-4, Department of Defense

DoD 5015.2, International Standards Organization ISO 15489, etc. Knowing these laws will tell

you what is expected, but not how to accomplish compliance (Gable, 2005, p 30).

"A retention schedule is a formal policy defining an organization's legal, regulatory, and

business requirements for records retention and destruction (Cisco, 2008, p.31)." Once these are

in place, they should be reviewed regularly for revisions such as changes to laws that affect

retention or policy and procedure changes. Departments can then use the schedule to manage the

records in the office, with limited input from the organization's records manager.

The first and most important component is to assemble a cross-department team and

outline a clear vision of what is to be communicated via the policy. When records managers

names and faces are seldom seen, it is easier for employees to identify with CEO's and

department heads, thus when information comes from these sources, employees are more likely to pay attention and adhere to the directives. "There needs to be a cascading set of goals from top to bottom that are both supportive and complementary (Andolsen, 2007, p.40)." Their input is also valuable from the perspective of being an expert in different aspects of the organization, such as legal or IT. It is likely what they contribute to the policy is going to have a different point of view based on their technical specialty.

Too often, staff only discover the records management section after a crisis has occurred. "When senior leaders support records management implementation, the organization is strengthened and the results clear (Maurer, 2013, p.42)." In the article *Mapping the Way Toward Record Compliance*, Maurer (2013) outlines the starting points for a records manager to follow when implementing a compliance policy.

Whether employees consciously understand it or not, everyone is managing records on a daily basis, and yet they are not trained to be records managers. It can be as automatic as categorizing or deleting email, filing completed invoices in a safe place in anticipation of a future audit or organizing a shared network drive into easily identifiable folders. Thus, what the employees are doing can actually be counterintuitive to the organization's goals and create unnecessary risk.

As Wright stated "Elements of an organization's culture can also lead to dysfunctional outcomes, even when those organizations present outward images of wellness (2013, p. 16)." This is where records management training is essential. Deleting emails that contain business records can lead to spoliation, keeping financial records too long in case they are audited can put the company at risk of an even bigger discovery request for records, and deleting network files or moving them around may be in contrast to record retention policies. "An organization's records

management culture will need to evolve to close the gap caused by embedded personal work habits and department silos if it is to have a successful enterprise-wide records management program (Daum, 2007, p. 43)."

Training employees and enforcing compliance can be frustrating because they may not be familiar with industry-specific vocabulary. The best way to keep them engaged is to be creative and to make the training easily understandable. Try to incorporate games or challenges, and share simple tips in such a way that the employee will retain the information. This can be done in the form of one-page topical cheat-sheets that employees can hang up at their desks for reference. Check-lists are also an effective way to train employees (Maurer, 2013). The repetition of utilizing the steps from top to bottom will serve as a training tool, and as a constant reminder of task deadlines such as retention and disposition.

The records manager will play a significant role in ensuring compliance and leading the department and the organization as a whole. Knowing, and to some extent fearing the risks associated with non-compliance will ensure that, "organizations prioritize compliance efforts and make decisions on how to apportion human and financial resources (Gable, 2005, p. 34)."

A popular argument is that if regular employees are given the education on how to retain and dispose of their records that there isn't a need for a formal records manager. As in any department, not just records, managers and leaders are expected to maintain a balance between the department or program they are in charge of as well as the staff. Hedlin (2008, p.175) states "As the program head, your behavior sets the tone and conveys messages whether you intend them or not. When carrying a group forward, your attitude is as significant as your actions, and may have more impact on those you are responsible for managing." They possess traits such as a desire to lead, self-confidence, industry-related knowledge, and a strong sense of responsibility.

The manager is there to create a task structure and influence workers to become productive

(Robbins, DeCenzo, & Coulter, 2016).

       Compliance requires input and diligence from every employee in an organization in

order to create a successful records and information management program. Building a strong

team of support is crucial. Knowing proper records retention and disposal will almost eliminate

the possibility of violations or litigation, and will give the program legitimacy.

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