



Reap the Benefits of a Document Retention Policy

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While often overlooked or placed on the back-burner by many businesses, developing and implementing a well-constructed document retention policy (“DRP”) can play a meaningful role in any business, including in its compliance efforts, limiting liability risk in litigation, and improving efficiencies.

A proper DRP establishes and describes how the business expects its employees to manage its business records by clearly identifying the types of records that must be preserved and specifying the period of time such records must be retained.

Many of these expectations are informed by legal requirements established under federal, state and local laws, contractual obligations, and sanctions. A DRP can help ensure a business does not violate such laws, breach such contractual obligations, or incur such sanctions.

A DRP often proves to be critical in the event of litigation. Obtaining a favorable outcome in a dispute could very well depend on the business’s ability to produce a record. On the flipside, if a business is unable to produce a record during litigation because it was destroyed, a clear and consistently-applied DRP can serve as evidence that the business’s destruction of the record was reasonable, reducing the likelihood of court-imposed civil discovery sanctions.

A DRP improves businesses efficiencies. By distinguishing between “business records” (that must be retained) and “disposable business information,” a DRP discourages the unnecessary preservation of

records that have no valid business purpose and are not subject to any legal or regulatory requirement requiring such records be kept, saving the business on expensive electronic and physical storage costs. A DRP often reduces the time employees spend locating and identifying business records, allowing them to expend their time and efforts toward other important tasks of the business.

While listing a record retention schedule for all business records is outside the scope of this article, below are some general retention period guidelines for certain business records:

Record	Retention Period
I-9 Forms	The later of 3 years after hiring or 1 year after separation
W-2 and W-4 Forms	As long as the document is in effect plus 4 years
Articles of Incorporation, Bylaws, Corporate Minutes	Permanent
Tax Returns	At least for 6 years until the extended statute of limitations for assessment expires if a tax return was filed
Audit Reports from CPAs	Permanent

Every business can benefit from working with its advisors to develop and implement an effective DRP, including promoting compliance with law, limiting liability risk in litigation, and increasing efficiencies.

Brian Bowen is a Murphy Austin Of Counsel attorney who provides tax and business advice to closely held business entities and individuals on issues relating to formation of business entities, operation of partnerships, limited liability companies and corporations, business reorganizations, business sales and acquisitions, and business succession.

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Murphy Austin is a premier commercial law firm based in Sacramento with practices focused on business, tax and real estate transactions, construction, commercial litigation, labor and employment, employee benefits and executive compensation, nonprofits, trust and estate planning. Murphy Austin attorneys place the highest value on meaningful client relationships.

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