

The Sedona Conference
Commentary on BYOD: Principles and Guidance for
Developing Policies and Meeting Discovery Obligations
(May 2018)

More than ever before, organizations are permitting or encouraging workers to use their own personal devices to access, create, and manage the organization's information—often after hours and outside the office. This practice is commonly referred to as Bring Your Own Device or BYOD, and is often accomplished through a BYOD program that includes formal or informal rules and guidelines. The *Commentary on BYOD* is designed to help organizations develop and implement workable—and legally defensible—BYOD policies and practices. The commentary also addresses how creating and storing an organization's information on devices owned by employees impacts the organization's discovery obligations.

The first two principles and related commentary address determining whether a BYOD program is the right choice for an organization, followed by basic information governance requirements for BYOD—security, privacy, accessibility, and disposition—from the perspective of both domestic and global organizations. The remaining principles and commentary address preparing for and responding to discovery obligations under the prevailing U.S. approach to discovery.

- Principle 1: Organizations should consider their business needs and objectives, their legal rights and obligations, and the rights and expectations of their employees when deciding whether to allow, or even require, BYOD.
- Principle 2: An organization's BYOD program should help achieve its business objectives while also protecting both business and personal information from unauthorized access, disclosure, and use.
- Principle 3: Employee-owned devices that contain unique, relevant ESI should be considered sources for discovery.
- Principle 4: An organization's BYOD policy and practices should minimize the storage of—and facilitate the preservation and collection of—unique, relevant ESI from BYOD devices.
- Principle 5: Employee-owned devices that do not contain unique, relevant ESI need not be considered sources for discovery.

The full text of *The Sedona Conference Commentary on BYOD: Principles and Guidance for Developing Policies and Meeting Discovery Obligations* is available free for individual download from The Sedona Conference website at https://thesedonaconference.org/publication/Commentary_on_BYOD.

©2018 The Sedona Conference.

Reprinted courtesy of The Sedona Conference.