



**OFFICE OF INFORMATION SERVICES  
Information Security and Privacy Office**

**Operational Policy**

<b>Policy title:</b>	Uses and Disclosures of Individual Information		
<b>Policy number:</b>	DHS-100-003		
<b>Original date:</b>	07/12/2009	<b>Last update:</b>	03/06/2017
<b>Approved:</b>	Dr. Reginald Richardson, DHS Deputy Director		

**Purpose**

This policy is one of a series that describes Department of Human Services (DHS) requirements and expectations for the necessary collection, use, and disclosure of confidential information about individuals in order to provide services and benefits to individuals, while maintaining reasonable safeguards to protect the privacy of information.

**Description**

This policy describes the privacy rights of individuals receiving benefits and services from DHS, including the right to receive information through alternate means or at alternate locations, what information may be released, who may receive the information, and what is required for an authorization to release individual information. The policy also describes an individual’s right to file complaints regarding the use or disclosure of their personal information.

**Applicability**

This policy applies to all DHS staff including employees, volunteers, trainees and interns and agency contractors.

As keepers of the public trust, all agency employees have a responsibility to comply with state and agency policies, administrative rule, and state and federal law. The agency takes this responsibility seriously and failure to fulfill this responsibility is not treated lightly. Employees who fail to comply with state or agency policy, administrative rule, or state and federal law may face progressive discipline, up to and including dismissal from state service.

**Policy**

1. Individuals have the right to access, inspect and obtain information about themselves or information that DHS uses in whole or part to make decision about them, unless an access restriction is authorized by law or policy.
2. DHS shall document all requests, their outcomes and information released as appropriate.
3. Individuals are not required to give a reason for making a request,
4. DHS shall deny requests for access to information not held by the agency.
5. Requested information about individuals shall be disclosed if:
  - a. The identity of the person or entity requesting the information has been verified.

- b. The requestor has established their authority to obtain the information that is requested.
  - c. The requested information does not conflict with this policy or federal or state statute or rule.
6. If DHS maintains information about an individual in a record that includes information about other people, the individual is only authorized to see their own information. If the information is about both the individual and other people, DHS shall take steps to ensure the information about others is protected.
  7. DHS shall disclose written accounts requested under ORS 179.505 within five (5) business days.
  8. DHS shall respond to requests for access to information no later than 30 calendar days after receiving the request. If DHS is unable to act within the 30 calendar day limit, DHS may extend the response time up to 30 additional calendar days, if the request does not involve the release of protected health information (PHI).
  9. If DHS grants or denies an individual's request for access to information, in whole or in part, DHS shall inform the individual of the access decision.
  10. If DHS grants access to requested information, in whole or in part, DHS shall accommodate reasonable requests in the form or format and in the manner requested by the individual such as mail, email, telephone, or at alternate locations.
    - a. If requesting communication by alternate means or at alternate locations, the individual shall be specific about their request.
    - b. If not readily available as requested, DHS shall provide the information in a readable hardcopy format, electronic format or such other format as agreed to by DHS and the individual.
    - c. DHS may provide the individual with a summary of the requested information instead of providing access.
    - d. DHS may provide an explanation of the information if the individual agrees.
    - e. DHS shall grant access to the requested information at a time and place convenient for the individual and DHS.
  11. If DHS denies access to requested information, in whole or in part, in a record or file containing PHI, DHS shall, within 30 days:
    - a. Offer the individual access to any information to which access is not being denied; and
    - b. Provide the individual with a denial written in plain language, that includes:
      - A. The basis for the denial.
      - B. An explanation of the individual's review rights, including information about how the individual may exercise these rights if the reason for the denial is due to danger to the individual or another person.
      - C. Information about how the individual may file a complaint with DHS.
      - D. The electronic link to the privacy policy and Notice of Privacy Practice (NPP) available for the individual's information and reference.
  12. DHS may charge fees in accordance with federal and state statute and rule and DHS policy.
    - a. Any person, who requests a copy of information, an explanation, or a written summary of information, is responsible for paying a reasonable, cost-based fee, unless the fee is waived pursuant to DHS policy.
    - b. DHS charges fees for all records based on the scale established in the agency's public records policy.
    - c. Charges related to releases of PHI should be reviewed by the Information Security and Privacy Office.

- d. If a fee is to be charged, individuals shall be given an estimate of fees and agree to pay the fee's prior to information being produced.
13. DHS may terminate its agreement to an alternate location or method of communication if:
  - a. The individual agrees to or requests termination of the alternate location or method of communication; or
  - b. DHS is unable to contact the individual at the location or in the manner requested; or
  - c. If the individual fails to respond to payment requests if applicable.
14. If DHS terminates its agreement to an alternate location or method of communication DHS shall inform the individual that it is terminating the agreement and of the reason for the termination.
15. DHS shall comply with the Address Confidentiality Program, upon request by a program participant under ORS 192.836.
16. Individuals have the right to submit a complaint if they believe that DHS has improperly used or disclosed their protected information, or if they have concerns about the privacy policies of DHS or DHS compliance with their policies. DHS shall give individuals the specific person or office and address for submitting a complaint.
17. DHS does not require individuals to waive their rights to file a complaint as a condition of eligibility for benefits or services.
18. DHS shall not intimidate, threaten, coerce, discriminate against, or take any other form of retaliatory action against any person filing a complaint or inquiring about how to file a complaint.
19. Each DHS program shall develop a process to review and determine action on complaints filed with DHS.
20. DHS staff shall use the MSC 2099, a similar form approved by the Privacy Compliance Officer, or an otherwise legally sufficient form to obtain authorization for disclosure of information. Information may be released for any purpose by an individual or the person legally authorized to act on behalf of the individual.
  - a. An individual may only authorize the release of the individual's own information or another individual for whom that person is legally authorized to act.
  - b. If a person legally authorized to act on behalf of the individual signs the authorization form instead of the individual, a description or explanation of the representative's authority to act for the individual, including a copy of applicable documentation court document appointing the representative, shall also be provided.
  - c. If DHS is the individual's representative, custodian, or guardian the agency signature authority on the authorization form shall follow DHS rules and policy.
  - d. If the information is PHI or relates to health care, the representative shall be a person legally authorized to act on behalf of the individual.
  - e. An attorney representing an individual is not the same as a person legally authorized to act on behalf of the individual.
  - f. Uses and disclosures shall be consistent with the signed authorization.
  - g. Authorizations shall be voluntary.
21. DHS may explain to the individual that the agency makes program determinations based on the information available and that without a signed authorization, DHS may be unable to verify income or resource information, and may be unable to refer the individual to other services.
22. When the authorization involves health information, DHS may not require an individual to sign an authorization form in order to receive treatment or to provide a basis for payment or eligibility for

medical services or benefits. However, DHS may require the individual to sign an authorization concerning health information for the following reasons:

- a. DHS may require medical documentation of eligibility for medical assistance programs and may require the individual to sign an authorization if needed to help determine the applicant's eligibility for enrollment in the program; or
- b. DHS and its contracted health care providers may require the individual to sign an authorization before providing health care that is solely for the purpose of creating protected health information for disclosure to a third party, such as in a juvenile court proceeding where a parent is required to obtain a psychological evaluation by DHS and the evaluator, as a condition of conducting the evaluation, requires the parent to sign an authorization to release the evaluation report to DHS; or
- c. Before providing research-related treatment, a DHS health care provider may require the individual to sign an authorization for the use or disclosure of health information for such research.

23. If DHS staff has questions about whether specific information can be disclosed, contact the DHS|OHA Privacy Compliance Officer.

### **References**

[ORS 179.505](#)

[ORS 192.820-192.868](#)

[OAR 407-014-000 to 407-014-0070](#)

### **Forms referenced**

[MSC 2090 DHS|OHA Notice of Privacy Practices](#)

[MSC 2099 Authorization for Use and Disclosure of Information](#)

### **Contact**

Information Security and Privacy Office (ISPO)

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U. S. Department of Health and Human Services, Office for Civil Rights

Medical Privacy, Complaint Division

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Washington, D.C. 20201

Toll free Phone: 877-696-6775

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TTY: 886-788-4989

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### **Policy history**

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