



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

Operational Policy

Policy title:	Enforcement, Sanctions, and Penalties for Violations of Individual Privacy		
Policy number:	DHS-100-009		
Original date:	03/31/2003	Last update:	03/06/2017
Approved:	Dr. Reginald Richardson, Deputy Director DHS		

Purpose

This policy is one of a series that describes Department of Human Services (DHS) guidelines and expectations for the necessary creation, receipt, maintenance, use, transmission or disclosure of protected 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 responsibilities of DHS and the DHS workforce related to knowing, understanding, and complying with state and federal privacy statutes and rules and DHS policies and the sanctions and penalties that may be incurred for failure to comply.

Applicability

This policy applies to all DHS staff including employees, volunteers, trainees, interns, partners, and 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. All DHS staff shall guard against improper use or disclosure of individual information through education, awareness and training, and regular review of policy.
 - a. Any individual subject to this policy who is uncertain about whether a use or disclosure is allowed shall consult with a DHS supervisor.
 - b. The DHS|OHA Privacy Compliance Officer is a resource for any member of the DHS staff who cannot resolve a disclosure question and may be consulted directly.
2. DHS staff shall be aware of their responsibilities under federal and state statute and rule, and DHS privacy policies.
3. Supervisors shall assure that staff who have access to protected information are informed of their responsibilities related to communication and storage of information regardless of format: hard copy, electronic or verbal.

4. DHS staff, volunteers and interns shall take DHS privacy and security training within 30 days of starting work and take annual refresher training.
5. DHS staff who knowingly and willfully violate federal or state statute or rule, or DHS policy for improper use or disclosure of an individual's information are potentially subject to criminal investigation and prosecution, civil litigation, or civil monetary penalties or imprisonment.
6. If DHS fails to enforce privacy safeguards, DHS as a state agency may be subject to administrative and civil monetary penalties by the Oregon State Department of Justice or the U.S. Department of Health and Human Services, including federal funding penalties.
7. Neither DHS as an entity, a DHS employee, or any other person or entity subject to this policy will intimidate, threaten, coerce, discriminate against, or take any other form of retaliatory action against any individual for:
 - a. Filing a complaint with DHS or with the U.S. Department of Health and Human Services as provided in DHS policies.
 - b. Testifying, assisting, or participating in an investigation, compliance review proceeding, or hearing relating to DHS privacy policies.
 - c. Reporting a privacy incident.
8. Neither DHS as an entity, a DHS employee, or any other person or entity subject to this policy will intimidate, threaten, coerce, discriminate against, or take any other form of retaliatory action against any individual for opposing any unlawful act or practice, provided that:
 - a. The individual (including another DHS employee) has a good faith belief that the act or practice being opposed is unlawful; and
 - b. The behavior of the individual opposing the unlawful act or practice is reasonable and does not involve the use or disclosure of an individual's protected information in violation of federal or state statute or rule, or DHS policy.
9. DHS staff or a business associate may disclose individually identifiable information provided:
 - a. They believe in good faith that DHS has engaged in conduct that is unlawful or otherwise violates professional or clinical standards; or
 - b. Care, services, or conditions provided by DHS potentially endanger one or more individuals, workers, or the public; and
 - c. The disclosure is to a health oversight agency, Department of Health and Human Services (DHHS) representative or an attorney.
10. DHS staff or business associates may disclose individually identifiable information to law enforcement officers in compliance with federal and state statute and rule and DHS policy.
11. DHS shall follow all federal and state statutes, rules, and all Oregon Department of Administrative Services statewide policies.

References

[National Institute of Standards and Technology \(NIST\) Special Publication 800-111](#)
[NIST Special Publication 800-88](#)
[Privacy/Security Glossary of Common Terms](#)
[DHS 100-002 Uses and Disclosures of Individual Information](#)

Forms referenced

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

Contact

Information Security and Privacy Office (ISPO)

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dhs.privacyhelp@state.or.us

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

Medical Privacy, Complaint Division

200 Independence Avenue, SW

Washington, D.C. 20201

Toll free Phone: 877-696-6775

Phone: 866-627-7748

TTY: 886-788-4989

Email: OCRComplaint@hhs.gov

Policy history

Version 1 DHS 100-009 established 03/31/2003

Version 2 DHS 100-009 07/01/2009

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Keywords

Privacy, Responsibility, Employee responsibility, Enforcement, Sanctions, Discipline

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