Operational Policy

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<th>Policy title:</th>
<th>Enforcement, Sanctions, and Penalties for Violations of Individual Privacy</th>
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<td>Approved:</td>
<td>Dr. Reginald Richardson, Deputy Director DHS</td>
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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)
Phone: 503-945-6812 (Security)
503-945-5780 (Privacy)
Fax: 503-947-5396
dhsinfo.security@state.or.us
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
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Privacy, Responsibility, Employee responsibility, Enforcement, Sanctions, Discipline

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