



STATE PRIVACY OFFICER PEER GROUP Overview

Privacy Complaints Process

This resource provides a sample overview of a privacy complaint process. Documentation of this process is typically through a policy that includes definitions, citation to applicable legal authorities, and a general explanation of how an agency processes privacy complaints.

The following example is provided for informational purposes only. State health departments should edit this sample to match their communication style and meet any legal requirements or agency expectations.

Special thanks to Heidi Graham, Privacy Officer, Idaho Department of Health and Welfare, for providing the document upon which this sample and the corresponding examples are based.

Privacy Complaints

Individuals may file a complaint with the Department's Privacy Officer if they are dissatisfied with a Department decision regarding their confidential information or if they think that their confidential information may have been inappropriately used or disclosed.

[include any additional processes the individual may use to file a privacy complaint at the agency or state level]


Definitions

A "privacy complaint" is a statement made by an individual to either the Department's Privacy Officer or [describe additional state-level processes if relevant] that involves disagreement with a Department decision regarding confidential information or concern over use and disclosure of health information.

Relevant Legal Citations

[Include references to state and federal law applicable to agency's privacy complaint process]

As an example: Section 007 of IDAPA rule chapter 16.05.01, "Use and Disclosure of Department Records," addresses District Court appeals, complaints, and requests for reconsideration. The rule contains detailed citations to federal law and



regulations regarding these matters. In addition to appeals to District Court, the rule specifically addresses complaints to the Privacy Officer, complaints to the Secretary of Health and Human Services that involve the use and disclosure of health information, and the timing for filing such complaints.

Initiating the Privacy Complaint Process

[Describe how an individual may file a privacy complaint with your agency step-by-step, including the person responsible for completing each step.]

For example: The below description will provide you with an overview of the Department's process for privacy complaints.

1. Individuals may file a complaint with the Department's Privacy Officer.
2. Individuals must complete the Department's Privacy Complaint form that states the specific information regarding the complaint, including:
 - The person making the complaint, and
 - A detailed description of the complaint (date, place, and nature of privacy complaint).
3. The privacy complaint must be sent to: ADDRESS or E-MAIL.
4. The privacy complaint must be filed within [insert number of] days of when the individual became aware of the potential violation unless good cause is proven to the Privacy Officer.
5. No person shall be punished or retaliated against for filing a complaint.

Processing Privacy Complaints

[Describe how the privacy complaint process proceeds step-by-step within your agency, including the person responsible for completing each step and, if applicable, the timeframe for completion.]

For example:


General Privacy Complaint Process

1. Any staff member who receives a completed Complaint form should route that form directly to the Department's Privacy Officer.
1. The Privacy Officer will review the information to see if it is complete. If necessary, the Privacy Officer will collect missing information from complainant. If the Privacy Officer is unable to collect missing information, the complainant will be sent a letter indicating the complaint is incomplete.
2. The Privacy Officer will conduct a preliminary investigation by making some initial contacts and/or verifying the basic facts of the situation. The Privacy Officer will determine whether the privacy complaint is valid and make a recommendation for its resolution to the Department.
3. If additional research is necessary, the Privacy Officer continues the investigation.
4. Once investigation is complete, the Privacy Officer will make a determination about the privacy complaint. Privacy complaint outcomes include: substantiated privacy complaint, unsubstantiated privacy complaint, or unable to determine based on investigation. A letter is then sent to the individual indicating the outcome of the privacy complaint investigation. The Privacy Officer also maintains a paper and/or electronic file on the matter, as appropriate.
5. If the complaint is substantiated, the Privacy Officer will make recommendations, as appropriate to the applicable Division Administrator regarding actions necessary to resolve the situation and prevent it from recurring. When appropriate, the Privacy Officer will review recommendations with Legal and/or Human Resources.

Incomplete Privacy Complaints

A privacy complaint is considered incomplete if all sections within the form are not completed.

1. The incomplete privacy complaint form will be forwarded to the Privacy Officer.

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2. The Privacy Officer will need to follow up with the individual to get the necessary information or to send an Incomplete Complaint letter to the individual.

Privacy Complaints made to U.S. Department of Health and Human Services

1. If an individual believes his or her health information privacy rights have been violated, they may file a complaint with the U.S. Secretary of Health and Human Services.
2. The privacy complaint must be in writing, must name the organization that is the subject of the privacy complaint and must describe the alleged violation.
3. Written privacy complaints must be sent to:
Region [insert applicable roman numeral]
Office for Civil Rights
U. S. Department of Health and Human Services
Address
City, State Zip
4. Complaints filed by e-mail can be sent to OCRComplaint@hhs.gov.
5. The complaint must be filed within 180 days of when the individual became aware of the violation unless good cause is proven to the Secretary of Health and Human Services.

SUPPORTERS



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