



Designated Health Care Components of FIU Community (faculty, staff, students)

SUBJECT (R*)	EFFECTIVE DATE (R*)	POLICY NUMBER (O*)
HIPAA: BUSINESS ASSOCIATES	March 3, 2020	1610.020

POLICY STATEMENT (R*)

A Florida International University (“FIU”) Covered Health Care Component may disclose Protected Health Information (“PHI”) to Business Associates to perform functions on behalf, or to provide services to FIU. The Business Associate must sign a written Business Associate Agreement (“BAA”) prior to receiving or accessing any PHI. The BAA sets in writing the expectations and responsibilities of the Business Associate to safeguard PHI. The Business Associate may use or disclose PHI only as permitted per the signed Agreement with FIU or as required by law.

REASON FOR POLICY (O*)

This policy describes the requirements of a BAA and the process of its completion and execution at FIU.

RELATED INFORMATION (O*)

45 CFR Parts 164.502, 164.402

DEFINITIONS (R*)

“Breach” means the acquisition, access, use, or disclosure of Protected Health Information (“PHI”) in a manner not permitted or otherwise compromises the privacy or security of the PHI.

“Business Associate” means any person or entity who is not a member of FIU’s workforce that receives, maintains, creates, or transmits Protected Health Information for or on behalf of FIU. A Business Associate is directly liable for failing to safeguard electronic PHI in accordance with HIPAA Security Rule. Examples of functions involved include: claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, patient safety activities, billing, benefit management, practice management, legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services to or for such covered entity.

“Hybrid Covered Entity” means a single legal entity that performs both covered and non-covered functions. The entity has a defined health care component that engages in HIPAA electronic transactions.

“Health Care Component” means a component or combination of components of a hybrid entity that has been specifically designated by the covered entity because it either performs covered functions; or activities that would make such component a business associate of a component that performs covered functions if the two components were separate legal entities.

“Individually identifiable health information” means information that is a subset of health information., including but not limited to, demographic information collected from an individual, and:

- 1) is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
- 2) relates, either directly or indirectly, to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual; and
 - i. identifies the individual; or
 - ii. may be used to identify the individual

“Protected Health Information” or “PHI” means individually identifiable health information collected or created in the course of the

provision of health care services by a covered entity, in any form (written, verbal or electronic). PHI relates to the past, present, or future physical or mental health or condition of an individual or the past, present, or future payment for the provision of health care to an individual. Protected Health Information however specifically excludes:□

1. Education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. § 1232g (“FERPA”);
2. Records described at 20 U.S.C. § 1232g(a)(4)(B)(iv); and
3. Employment records held by a covered entity in its role as an employer.

“Security Rule” is the part of HIPAA codified under 45 CFR Parts 160 and 164, Subparts A and C.

“Workforce” means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity or business associate, is under the direct control of such covered entity or business associate, whether or not they are paid by the covered entity or business associate.

PROCEDURES (O*)

DESIGNATION OF FIU’S HEALTH CARE COMPONENTS:

- A. FIU engages in certain functions that are covered under HIPAA. FIU has designated the following units that will comprise its Covered Health Care Component:
 - Herbert Wertheim College of Medicine (“HWCOM”) and its component units, excluding research
 - Student Health Pharmacy Services (“SHS”) in its provision of services to non-students
 - College of Arts and Science Center for Children and Families, excluding research.
- B. There are certain FIU units that perform specific business associate type activities and are only included in the FIU Health Care Component to the extent these units are engaged in HIPAA-related activities or provide business associate-type support to the units listed in A. The units performing specific business associate type activities are: FIU Office of General Counsel, FIU Office of Internal Audits, FIU Office of Compliance & Integrity, FIU Division of Information Technology, FIU Office of Human Resources, FIU Foundation, and any other business unit performing business associate type activities for the FIU Health Care Components listed in A. These units are expected to safeguard and follow confidentiality protections of the covered areas to the extent these units have or have access to PHI.
- C. Units that comprise the FIU Health Care Component must adhere to all of FIU’s HIPAA related policies and procedures. Activities or guidance related to HIPAA compliance matters must be reported to the Privacy Official for Health Affairs.
- D. This designation of the health care component is subject to change, as appropriate. Such change is made by the Chief Compliance and Privacy Officer in consultation with the Office of General Counsel and the Director of Compliance & Privacy for Health Affairs.
- E. In some instances, FIU may be a Business Associate of a third party covered entity.
- F. A Business Unit of FIU may be a Business Associate of the Health Care Component of the FIU Hybrid Covered Entity. In situations where FIU is a Business Associate of another Covered Entity or Covered Component of the FIU hybrid entity, FIU must comply with all provisions of the signed BAA with the Covered Entity.
- G. In the event that any member of FIU’s workforce becomes aware of a pattern of activity or practice of the business associate that constitutes a material breach or violation of the BAA, the person should notify the Privacy Official for Health Affairs who will take reasonable steps to cure or end the violation. If such steps are not successful and the business associate cannot or will not remedy the practice identified, FIU will terminate the Agreement, if feasible. If termination is not feasible, the Office of General Counsel for Health Affairs shall be consulted regarding the reporting of the problem to the Department of Health and Human Services, Office of Civil Rights.

HISTORY (R*)

Initial Effective Date: September 1, 2009; **Revision Date(s):** June 8, 2015, December 31, 2017, November 1, 2019, March 3, 2020

RESPONSIBLE UNIVERSITY DIVISION/DEPARTMENT (R*)

Office of Compliance & Integrity – Health Affairs

RESPONSIBLE ADMINISTRATIVE OVERSIGHT (R*)

Compliance & Privacy Official for Health Affairs
 University Compliance Office PC 429
 11200 S.W. 8th Street
 Miami, Florida 33199
 Telephone Number: (305) 348-2216

The University Policies and Procedures Library is updated regularly. In order to ensure a printed copy of this document is current, please access it online at <http://policies.fiu.edu/>.

For any questions or comments, the “Document Details” view for this policy online provides complete contact information.

FORMS/ONLINE PROCESSES (O*)

Links to the above referenced Form(s) available in the "Document Details" Section of the online version of this policy document.

***R = Required *O = Optional**