



Policies and Procedures, Changes to Policies and Procedures, and Documentation #1660.080

INITIAL EFFECTIVE DATE:	LAST REVISION DATE:	RESPONSIBLE UNIVERSITY DIVISION/DEPARTMENT
October 13, 2020	February 29, 2024	Office of Compliance and Integrity

POLICY STATEMENT

Florida International University’s (FIU) Director of Compliance and Privacy for Health Affairs (Director), with the Office of Compliance and Integrity, or designee, in consultation with the FIU Health Insurance Portability and Accountability Act (HIPAA) Hybrid Designated Health Care Component (Components) Privacy Coordinators, will develop, implement, and modify HIPAA Privacy Rule Policies and Procedures with respect to Protected Health Information (PHI) that are designed to comply with the standards, implementation specifications, or other requirements of the federal and state regulations and will take into account the size and the type of activities that relate to PHI created, used, or disclosed by each Component.

As a University-wide policy and procedure, this policy and procedure takes precedence over any Component-specific policies, procedures, or protocols that conflicts with this policy and procedure, unless prior approval is obtained from the Office of Compliance and Integrity.

Components may maintain HIPAA documentation in either paper or electronic form, provided that any format is sufficiently protected to ensure it will be retrievable throughout the required retention period of seven (7) years from the date of its creation, or the last effective date, whichever is later. Unless otherwise indicated in FIU Privacy or Security Rule Policy and Procedure, each Component Privacy Coordinator will be responsible for maintaining all HIPAA documentation relevant to his/her Component.

All Component Workforce members shall receive mandatory HIPAA Privacy and Security Rule training. (FIU Policy and Procedure #1660.075) (HIPAA Privacy and Security Rule Training)

Component Workforce members who fail to adhere to this policy and procedure may be subject to civil and criminal penalties as provided by law, and/or administrative and disciplinary action. (FIU Policy and Procedure #1660.085) (Sanctions)

Each Component must designate a HIPAA Privacy Coordinator and a HIPAA Security Coordinator. (FIU Policy and Procedure #1660.070) (Designation of HIPAA Privacy Officer and Component Privacy and Security Coordinators)



FIU reserves the right to amend, change or terminate this policy and procedure at any time, either prospectively or retroactively, without notice. Any ambiguities between this policy and procedure and the other policies and procedures should be Accordingly made consistent with the requirements of HIPAA and state law and regulation.

SCOPE

This policy applies to FIU’s Health Care Components that are contained within FIU’s HIPAA Hybrid Designation (FIU Policy and Procedure #1610.005), its Workforce members and Business Associates as defined in this policy and FIU Policy and Procedure #1660.015 regarding Business Associate Agreements.

REASON FOR POLICY

To address and explain the administrative requirements to maintain compliance with the federal Health Insurance Portability and Accountability Act (HIPAA), federal law, and Florida state statutes with respect to the development and maintenance of HIPAA, federal law, and Florida state statute policies and procedures, and the creation and maintenance of required documentation.

DEFINITIONS

TERM	DEFINITIONS
Administrative Officer	Means the Component Workforce member responsible for financial management, human resources administration, management of facilities and equipment, and other administrative functions required to support the teaching and research missions of the FIU HIPAA Hybrid Designated Health Care Component. The Administrative Officer is the senior administrative staff position in the department, Division or Office and provides continuity as academic leadership changes.
Availability	Means the property that data or information is accessible and useable upon demand by an authorized person.
Business Associate	Generally, an entity or person who performs a function involving the use or disclosure of Protected Health Information (PHI) on behalf of a covered entity (such as claims processing, case management, utilization review, quality assurance, billing) or provides services for a covered entity that require the disclosure of PHI (such as legal, actuarial, accounting, accreditation). NOTE: A business associate relationship exists when an individual or entity, acting on behalf of an FIU HIPAA Component(s), assists in the performance of a function or

	<p>activity involving the creation, use, disclosure, or access of PHI. This includes, but not limited to, claims processing or administration, data analysis, utilization review, quality assurance, billing, benefit management or repricing.</p> <p>NOTE: A Business Associate may include any individual or entity that receives PHI from a HIPAA Component in the course of providing legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, software support, or financial services. A Business Associates does not, however, include HIPAA Component workforce members.</p>
Code of Federal Regulations	Also known as CFR is the codification of the general and permanent regulations promulgated by the executive departments and agencies of the federal government of the United States.
Component	Means a component or combination of components of a hybrid entity designated by the hybrid entity (Florida International University). Those programs designated by FIU that must comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "Components". Components of FIU are required to comply with the Administrative Simplification provisions of HIPAA because the Components perform a covered function.
Confidentiality	Means data or information is not made available or disclosed to unauthorized persons or processes.
Covered Entity	An entity that is subject to HIPAA. <ol style="list-style-type: none"> 1. a health plan; 2. a health care clearinghouse; and/or 3. a health care provider who transmits any health information in electronic form in connection with a transaction covered by this subchapter.
Disclosure	Means the release, transfer, provision of access to, or divulging in any other manner of protected health information outside of the entity holding the information.
Electronic Protected Health Information (ePHI)	PHI in electronic form. See also: <u>PHI</u> .
Florida Statutes	Also known as F.S. are the codified, statutory laws of Florida; it currently has 49 titles. A chapter in the Florida Statutes represents all relevant statutory laws on a particular subject.

Health Care	Means the care, services, or supplies related to the health of a patient, including: <ol style="list-style-type: none"> 1. preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling, service, assessment, or procedure with respect to the physical or mental condition, or functional status, of a patient or that affects the structure or function of the body; and 2. sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.
Health Care Component	See “Component”
U.S. Department of Health and Human Services	Also known as HHS is a cabinet-level executive branch department of the U.S. federal government created to protect the health of the U.S. people and providing essential human services.
Health Information	Means any information, whether oral or recorded in any form or medium, that is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and relates to the past, present, or future physical or mental health or condition of an patient; the provision of health care to an patient; or the past, present, or future payment for the provision of health care to an patient.
HIPAA	Means the Health Insurance Portability and Accountability Act of 1996.
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.
Implementation Specifications	Means specific requirements or instructions for implementing a standard.
Patient	The person who is the subject of the PHI.
Privacy Coordinator	Means an FIU Workforce member, appointed by the director, manager, or supervisor of a HIPAA Designated Component to conduct and/or coordinate with necessary and appropriate Workforce members all HIPAA Privacy Rule activities and actions within the Component, including but not limited to tracking HIPAA training activities; coordinating HIPAA Privacy Rule implementation; participating in HIPAA Privacy and Security Rule violation investigations, as necessary and appropriate, communicating with the Director of Compliance and Privacy for Health Affairs, the HIPAA Security Officer, and the Office of General Counsel, as necessary and appropriate, regarding HIPAA Privacy and Security Rule activities and concerns; conducting and reporting monitoring activities; participate in assessments; and responding to, tracking and

	documenting HIPAA Privacy Rule activities. Maintain ongoing communication with the Director of Compliance and Privacy for Health Affairs and the HIPAA Security Officer.
Protected Health Information (PHI)	Means any 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: <ol style="list-style-type: none"> 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.
Privacy Rule	The regulations at 45 CFR 160 and 164, which detail the requirements for complying with the standards for privacy under the administrative simplification provisions of HIPAA.
Standards	Means a rule, condition, or requirement: <ol style="list-style-type: none"> 1. Describing the following information for products, systems, services, or practices: <ol style="list-style-type: none"> i. Classification of components; ii. Specification of materials, performance, or operations; or iii. Delineation of procedures; or 2. With respect to the privacy of PHI.
Secretary	Means the Secretary of the Department of Health and Human Services or any other officer or employee of HHS to whom the authority involved has been delegated.
Standard	Means a rule, condition, or requirement: <ol style="list-style-type: none"> 1. Describing the following information for products, systems, services, or practices: <ol style="list-style-type: none"> a. Classification of components; b. Specification of materials, performance, or operations; or c. Delineation of procedures; or 2. With respect to the privacy of protected health information.
Use	With respect to patient identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.
Workforce	Means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity (FIU HIPAA Component) 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.

ROLES AND RESPONSIBILITIES

1. **Compliance Oversight:** The Office of University Compliance and Integrity (University Compliance)
 - Evaluates all federal and state healthcare privacy laws, regulations, rules and ordinances (Rules) to ensure compliance with the Rules.
 - Develops and maintains all required University-wide Privacy Rule policies, procedures and associated forms.
 - Develops and maintains HIPAA health care Privacy Rule training modules and ensures appropriate Workforce members complete the required training.
 - Performs audits and assessments of the Components to ensure their compliance with the Privacy Rules and associated FIU Policies and Procedures.
 - Partners with the Division of Information Technology HIPAA Security Officer to ensure compliance with all federal and state healthcare privacy and security laws, regulations rules, and ordinances.

2. **HIPAA Components:**
 - Each FIU HIPAA Hybrid Designated Component must designate a Privacy Coordinator responsible for overseeing and ensuring the Component’s implementation and compliance with the HIPAA Privacy Rule, FIU’s associated HIPAA Privacy Policies and Procedures, and any applicable state laws and/or regulations governing the confidentiality, integrity and availability of PHI and electronic PHI (ePHI), including, but not limited to participating in the development, and maintenance of FIU HIPAA Privacy Rule Policies, Procedures, and associated forms, and retaining all required Component HIPAA Privacy Rule Policy and Procedure documentation.

RELATED RESOURCES

References

- 45 CFR §164.310
- 45 CFR §164.501
- 45 CFR §164.502
- 45 CFR §164.504
- 45 CFR §164.530
- Florida Statute §456.057
- Florida Statute §95.11

Related Policies

- FIU Policy # 1610.005 (Designated Health care Components of FIU Community)



- FIU Policy and Procedure #1660.070 (Designation of HIPAA Privacy Officer and Component Privacy and Security Coordinators)
- FIU Policy and Procedure #1660.015 (Business Associate Agreements)
- FIU Policy and Procedure #1640.015 (Notice of Privacy Practices)
- FIU Policy and Procedure #1660.075 (HIPAA Privacy and Security Rule Training)
- FIU Policy and Procedure #1660.085 (Sanctions)

CONTACTS

For further information concerning this policy, please contact the FIU Office of Compliance and Integrity at (305) 348-2216, compliance@fiu.edu, hipaaprivacy@fiu.edu, or the appropriate Component Privacy Coordinator.

HISTORY

Initial Effective Date: October 13, 2020

Review Dates (*review performed, no updates*): n/a

Revision Dates (*review performed, updates made to document*): October 13, 2020; February 29, 2024.



Policies and Procedures, Changes to Policies and Procedures, and Documentation #1660.080a

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PROCEDURE STATEMENT

I. Policies and Procedures

Each Component must designate a Privacy Coordinator responsible for overseeing and ensuring the Component’s implementation and compliance with the HIPAA Privacy Rule, FIU’s associated HIPAA Privacy Policies and Procedures, and any applicable federal law, and Florida state statutes governing the confidentiality, integrity and availability of PHI and electronic PHI (ePHI), and assisting with the development and maintenance of FIU HIPAA Privacy Rule Policies and Procedures and the creation and maintenance of required documentation. Privacy Coordinators may delegate and share duties and responsibilities with Workforce members as necessary and appropriate but retain oversight responsibility. (FIU Policy and Procedure #1660.070) (Designation of HIPAA Privacy Officer and Component Privacy and Security Coordinators)

- A. Florida International University’s (FIU) Director of Compliance and Privacy for Health Affairs (Director of Compliance), Office of Compliance and Integrity, or designee, in consultation with the Component Privacy Coordinators will develop, implement, and modify FIU HIPAA Privacy Rule Policies and Procedures with respect to PHI that are designed to comply with the standards, requirements, implementation specifications, and other requirements of federal and state regulations, and will take into account the size and the type of activities that relate to PHI created, used, or disclosed by each Component.
- B. The Director of Compliance, or designee, will ensure all FIU HIPAA Privacy Rule Policies and Procedures are created in the approved FIU policy and procedure format and the initial implementation date is clearly identified on each policy and procedure.
- C. The Director of Compliance, or designee, will ensure that all proposed HIPAA Privacy Rule Policies and Procedures are reviewed and approved through the FIU approval process, are posted and readily available on the Office of Compliance and Integrity policy website, and other FIU websites as approved by the FIU Chief Compliance and Privacy Officer, Office of Compliance and Integrity.

- D. FIU HIPAA Privacy Rule Policies and Procedures will be available to be printed in hardcopy directly from approved FIU websites, and in hardcopy upon request from the Office of Compliance and Integrity, and the Health Care Components.
- E. As an FIU-wide HIPAA Privacy Rule Policy and Procedure approved by the HIPAA Steering Committee, the Office of Compliance and Integrity, and the Office of General Counsel, and which has been reviewed and approved through the formal FIU approval process, this Policy and Procedure, and all other FIU HIPAA Privacy Rule Policies and Procedures, take precedence over any conflicting Component-specific privacy policies, procedures, and protocols, unless specifically approved by the Director of Compliance.
- F. Component Privacy Coordinators are also expected to develop privacy policies, procedures, and/or protocols supplementing the FIU HIPAA Privacy Rule Policies and Procedures when Component-specific privacy policies, procedures, or protocols are needed. Component-specific privacy policies, procedures, and protocols must be reviewed and approved by the Director of Compliance, and through the established FIU review and approval processes.
- G. Component Privacy Coordinators will ensure that Component-specific privacy policies, procedures, and protocols are created in the approved FIU policy and procedure format and the initial implementation date is clearly identified on each policy and procedure.
- H. Component Privacy Coordinators will ensure that all approved Component-specific privacy policies, procedures, and protocols are posted and readily available on the Office of Compliance and Integrity policy website, and any other FIU websites as approved by the FIU Chief Compliance and Privacy Officer and the appropriate Component Administrative Officer(s).
- I. Component-specific privacy policies, procedures, and protocols will be available to be printed in hardcopy directly from approved FIU websites and in hardcopy upon request with the Office of Compliance and Integrity and the Health Care Components.

II. Changes to Established Policies and Procedures

- A. Whenever a change in federal or Florida state statutes, including the standards, requirements, and implementation specifications necessitates a change(s) to an FIU HIPAA Privacy Rule Policy and/or Procedure, the Director of Compliance, or designee, in consultation with the Privacy Coordinators, will promptly modify the required FIU HIPAA Privacy Rule Policy(ies) and Procedure(s) to reflect the required

change(s), and when necessary and appropriate, obtain approval through FIU established approval process.

- B. The Director of Compliance, or designee, in consultation with the Privacy Coordinators, may change an FIU HIPAA Privacy Rule Policy(ies) and Procedure(s) that does not materially affect the content of the Notice of Privacy Practices as long as the revised policy(ies) and procedure(s) comply with the HIPAA standards, requirements, and implementation specifications and prior to the effective date of the change(s), the revised policy(ies) and procedure(s) is/are properly documented as required by the HIPAA Privacy Rule.
- C. The Director of Compliance, or designee, will ensure all updated FIU HIPAA Privacy Rule Policies and Procedures clearly identify the initial implementation date and any subsequent modification dates.
- D. The Director of Compliance, or designee, will implement the revised HIPAA Privacy Rule Policy(ies) and Procedure(s), and ensure they are posted on the Office of Compliance and Integrity website and all other approved websites where the HIPAA Privacy Rule Policies and Procedures are posted.
- E. The Director of Compliance, or designee, and the Privacy Coordinators will ensure appropriate Component Workforce members receive the necessary and appropriate training regarding any material changes to the FIU HIPAA Privacy Rule Policy(ies) and Procedure(s) and will document the training, (FIU Policy and Procedure #1660.075) (HIPAA Privacy and Security Rule Training).
- F. If a change in federal or Florida state statutes materially affects the content of the Notice of Privacy Practices (Notice), the Director of Compliance, or designee, will promptly make the appropriate modifications to the Notice and promptly distribute the updated Notice to the required FIU Health Care Components as identified in the HIPAA Hybrid Designation for patient distribution and posting. (FIU Policy and Procedure #1640.015) (Notice of Privacy Practices)
- G. When a Component(s) changes a HIPAA Privacy Rule practice(s) that is stated in the Notice, which requires corresponding change(s) to an FIU HIPAA Privacy Rule Policy(ies) and/or Procedure(s), or approved Component-specific privacy policy, procedure, or protocol, the Component(s) may make the changes effective for PHI the Component(s) created or received prior to the effective date of the Notice revision, if previously included in the Notice is a statement reserving its right to make such a change in privacy practices.

III. Documentation

- A. The Chief Compliance and Privacy Officer, the Director of Compliance, or designee will maintain the FIU HIPAA Privacy Rule Policies and Procedures posted on the Office of Compliance and Integrity website where they may be accessed, and hardcopies may be printed. Components may post the FIU HIPAA Privacy Rule Privacy Policies and Procedures and any approved Component websites and make hardcopies of the same available upon request.
- B. Components may maintain HIPAA documentation in either paper or electronic form, provided that any format is sufficiently protected to ensure it will be retrievable throughout the required record retention period. Unless otherwise indicated in FIU Privacy or Security Rule Policies and Procedures, each Component Privacy Coordinator will be responsible for maintaining all HIPAA documentation relevant to his/her Component.

IV. Record/Documentation Retention

- A. If a communication, action, activity, or designation is required to be documented in writing, the document or record owner (i.e., the Office of Compliance and Integrity or the Component) will maintain such writings, or an electronic copy, for seven (7) years from the date of its creation or the last effective date, whichever is later.
- B. FIU, its Components and Business Associates must keep all policies and procedures, records and compliance reports and submit them to the Secretary of the Department of Health and Human Services (HHS), in the time and manner prescribed by the Secretary, to enable the Secretary to determine if FIU, the Components, and/or Business Associates have complied with or is complying with the requirements of HIPAA.