

STANDARD ADMINISTRATIVE PROCEDURE

16.99.99.M0.13 Privacy Complaints and Investigations Process

Approved April 27, 2020

Next scheduled review: April 27, 2025

SAP Statement

This standard administrative procedure applies to the Texas A&M University (TAMU) components that have been designated as a TAMU HIPAA Health Care Component (TAMU HIPAA HCC) in Standard Administrative Procedure 16.99.99.M0.01, *Designation as a Hybrid Entity*.

Definitions

[Click to view Definitions](#)

Official Procedure

1. GENERAL

In accordance with 45 CFR Subpart D and 45 CFR § 164.530(d), this procedure provides guidance to The TAMU HIPAA HCC on the appropriate response to complaints from individuals regarding potential HIPAA violations, with the exception of breaches of e-PHI. Breaches of e-PHI are addressed in SAP 16.99.99.M0.15, *Breach or Unauthorized Disclosure of Protected Health Information*.

2. PROCEDURE

2.1. How to File Complaints

2.1.1. Any person who believes there has been a violation of the HIPAA Privacy, Security and Breach Notification Policy has the right to file a complaint with:

- The TAMU Privacy Officer. Complaints can be made orally or in writing, and may be made anonymously.

- The Secretary of the Office for Civil Rights (OCR) within the Department of Health and Human Services. Instructions are found at: <http://www.hhs.gov/ocr/privacy/hipaa/complaints>.

2.2. Retaliation as a Result of Filing a Complaint:

- 2.2.1. Any person who believes there has been a violation of the TAMU HIPAA Policies may file a complaint with the Secretary of the Department of Health and Human Services or the TAMU Privacy Officer.
- 2.2.2. No TAMU employee or workforce member may intimidate, threaten, coerce, discriminate against, or take other retaliatory action against any individual for exercising their rights established under HIPAA, including the filing of a complaint.

2.3. Receipt of Complaints from OCR

- 2.3.1. The TAMU Privacy Officer is the principal point of contact for investigations conducted by the OCR. TAMU HIPAA HCCs that receive inquiries from OCR must direct OCR to the TAMU Privacy Officer.

2.4. Investigation of Complaints:

- 2.4.1. The TAMU Privacy Officer reviews all complaints received, to determine whether a violation of HIPAA Policies and Procedures has occurred. If warranted by the initial review, the TAMU Privacy Officer will initiate an investigation within ten (10) business days after receipt of the complaint.
- 2.4.2. Investigations may include review of documentation, interviews with personnel or other research, as deemed necessary by the TAMU Privacy Officer. Investigations may be conducted in coordination with Office of Research, the Chief Information Security Officer (CISO), the Office of General Counsel (OGC) or law enforcement, as appropriate.
- 2.4.3. The TAMU Privacy Officer, in consultation with the Office of Research, CISO or OGC, as appropriate, will identify an appropriate corrective action plan which aims to mitigate and/or remedy the issue that led to the complaint and to prevent future occurrences
- 2.4.4. All personnel must cooperate fully with the TAMU Privacy Officer, Office of Research, CISO, OGC or law enforcement, as applicable, in the performance of an investigation.
- 2.4.5. Confidentiality of all participants in the reported situation shall be maintained, to the extent reasonably possible, throughout any resulting investigation. The investigator(s) will conduct the necessary and

appropriate investigation commensurate with the level of breach and the specific facts. This investigation may include, but is not limited to, interviewing the individuals involved, interviewing other individuals, obtaining specific facts surrounding the violation/breach and reviewing pertinent documentation.

2.5. Responses to Identified Complainants

- 2.5.1. The TAMU Privacy Officer will provide the complainant with an acknowledgment of receipt via the contact information provided or otherwise on file.
- 2.5.2. Upon conclusion of the investigation, the TAMU Privacy Officer will provide a written response to the complainant within sixty (60) days of filing the complaint.
 - In the event that the review and investigation cannot be completed within sixty (60) days of the filing of the complaint, the TAMU Privacy Officer will, when possible, communicate this determination to the complainant in writing and include an estimated timeframe for completion of the investigation.

2.6. Monitoring and Documentation

- 2.6.1. The TAMU Privacy Officer will document all complaints received and their disposition, if any, as required by the standards established at 45 CFR § 164.530(d) and (j). The TAMU Privacy Officer monitors complaints to identify patterns and develop process improvements to enhance the confidentiality, integrity and availability of PHI.

2.7. Reporting

- 2.7.1. If a policy violation is found, the TAMU Privacy Officer will consult with the Office of Research, CISO, OCG, HCC as appropriate, to determine whether patient, OCR or media notification is required. If the person(s) whose information was involved is not to be notified of the confirmed privacy incident, the TAMU Privacy Officer will document the basis for this decision. If notification is required, the TAMU Privacy Officer will coordinate notice to the affected individuals with the assistance of the unit in question and other appropriate administrative units. Violations that meet the definition of Breach under the HIPAA/HITECH will be reported as required to OCR.

3. VIOLATIONS

The TAMU Privacy Officer has general responsibility for implementation of this procedure. Employees who violate this procedure will be subject to disciplinary action up to and including termination of employment. Anyone who knows or has reason to believe

that another person has violated this procedure should report the matter promptly to his or her supervisor or the TAMU Privacy Officer. All reported matters will be investigated and, where appropriate, steps will be taken to remedy the situation. Where possible, every effort will be made to handle the reported matter confidentially. Any attempt to retaliate against a person for reporting a violation of this procedure will itself be considered a violation of this procedure that may result in disciplinary action up to and including termination of employment.

Contact Office

Office of University Risk, Ethics, and Compliance