



## Privacy Administration

### Policy # 1.7

### Sanctions

Original Effective  
Date: 6/21/2016

Revised Date:  
5/19/2017

**Purpose:** Ensure that appropriate disciplinary action (sanction) is applied to workforce members who do not comply with to the Privacy Policies for safeguarding PHI.

**Policy:**

Travis County appropriately disciplines employees and workforce members in a manner appropriate for the gravity of the violation for any violation of these Privacy Policies. Sanctions may include counseling, re-training, verbal or written warnings, reassignment to a job that does not have access to PHI, suspension of access to PHI, suspension of employment, and immediate termination of employment. These are implemented, in conjunction with other applicable polices related to personnel actions, like Chapter 9 of the Travis County Code, the Civil Service rules and regulations, Juvenile Probation Personnel Policies and any other relevant departmental disciplinary policies.

Workforce members who knowingly and willfully violate state or federal law for improper use or disclosure of a patient's information may be subject to criminal investigation and prosecution or civil monetary penalties.

Sanctions also apply to workforce members who fail to complete training.

**Procedures:**

Commissioners Court Departments

1. Travis County, through its Privacy Officer or Human Resources Management Division (HRMD) fully investigates the circumstances around an alleged privacy or security violation after making a notification to the attention of the workforce member's Department head.
2. The Privacy Officer consults with HRMD prior to beginning any investigation, and reviews applicable County policies. If it is determined that HRMD is the more appropriate body to handle an alleged policy violation, then the Privacy Officer will provide technical assistance.
3. If it is determined by investigating parties, in consultation with the Privacy Officer, Security Officer, or Legal Counsel, that a violation or breach has occurred, the Privacy Officer and HR employee relations evaluate the investigative information to determine severity of the violation and to recommend the appropriate discipline.
  - The potential impact to Travis County of any violation or breach is considered in determining appropriate sanctions against workforce members. Other factors considered are the type of violation, the workforce member's willingness to timely and fully cooperate with the persons

responsible for investigating the violation, and the cause or motivation that caused the violation, such as:

<u>Violation Type</u>	<u>Cause or Motivation</u>
Errors in handling restricted or sensitive information or in maintaining security measures	<ul style="list-style-type: none"> <li>• Unintentional</li> <li>• Lack of Training</li> <li>• Failure to Complete Training</li> <li>• Inexperience</li> <li>• Poor Judgement</li> <li>• Poor Process</li> </ul>
Policy Violation	<ul style="list-style-type: none"> <li>• Intentional, but not malicious</li> <li>• Concern for Individual</li> <li>• Carelessness</li> </ul>
Policy Violation with intent or gross negligence	<ul style="list-style-type: none"> <li>• Malicious intent</li> <li>• Curiosity (snooping)</li> <li>• Financial Gain</li> <li>• Revenge</li> <li>• Protest</li> <li>• Gross Negligence</li> </ul>

4. An intentional violation of these privacy policies must be established by clear evidence (i.e., evidence that the disclosure was intentional and deliberate and that such workforce member knew that the action violated HIPAA or the policies and procedures as set forth in this manual).
5. Workforce members who fail to cooperate in a timely and fully cooperative manner with requests from parties investigating violations or breaches will be sanctioned as though the violation was intentional.
6. The sanction for an unintentional failure to comply with these policies or procedures varies, depending on the relevant facts and circumstances. At a minimum, the workforce member is required to meet with the Privacy Officer to review the violation and demonstrate, to the satisfaction of the Privacy Officer, that he or she understands the relevant policies and procedures.
7. If a workforce member has previously violated these policies and procedures, the following procedures apply:
  - Second offense of unintentional noncompliance: The Workforce Member receives a written reprimand to be filed in such workforce member's personnel file.
  - Subsequent offenses: A pattern of repeated violations results in the workforce member's transfer to another position, suspension or termination.
8. If the Privacy Officer is the workforce member who has committed the violation, the Privacy Officer's supervisor or other appropriate official of Travis County, such as the Commissioners Court, determines and imposes sanctions for the Privacy Officer.

9. All workforce member sanctions will be documented and retained for a period of at least 6 years from the date of its creation or the date when it was last in effect, whichever is later. An unproven or unsubstantiated allegation of a violation does not require documentation unless it is pursuant to another requirement under these policies such as a complaint.

#### Non-Commissioners Court Departments.

1. Travis County Covered Components appropriately and consistently discipline workforce members who are found to violate these Privacy Policies or the Security Policies in accordance with this sanctions policy.
2. Covered Components investigate the circumstances of the policy violation and determine whether or not improper uses or disclosures requiring further mitigation of harm have occurred (see the policy entitled, [Mitigation from Harm Resulting from PHI Breaches](#)). The Privacy Officer is available to assist, as requested.
3. Departments record all disciplinary actions taken in the workforce member's employment records. The Privacy Officer is made aware of the sanctions in general terms for purposes of documenting corrective action.

#### Sanctions against Workforce Members not directly employed by Travis County

1. Commissioners Court Departments:

If a workforce member not directly employed by Travis County violates the County's HIPAA Privacy or Security policies and procedures, then the Privacy Officer, in consultation with appropriate parties, such as the Purchasing Agent or County Attorney, considers the impact to the organization, causes and motivations related to the violations, and recommends to Department Heads over Covered Components appropriate corrective actions which may include retraining, termination or modification of contracts, or termination or modification of volunteer agreements.

Non-Commissioners Court Departments:

If a workforce member not directly employed by Travis County violates the County's HIPAA Privacy or Security policies and procedures, then the Elected or Appointed Official or their designee, in consultation with appropriate parties, such as the Purchasing Agent or County Attorney considers the impact to the organization, causes and motivations related to the violations, and recommends to takes corrective actions which may include retraining, termination or modification of contracts, or termination or modification of volunteer agreements. The Privacy Officer is available for technical assistance.

2. Covered Components inform the Privacy Officer of sanctions taken against workforce members not directly employed by Travis County. The Privacy Officer documents these actions.