

# CalHHS Data Exchange Framework Policy and Procedure

<b>Subject: Breach Notification</b>	
<b>Status: Final</b>	<b>Policy: OPP-3</b>
<b>Publication Date: December 11, 2023</b>	<b>Version: 1.0.1</b>

## I. Purpose

The privacy, security and integrity of Health and Social Services Information exchanged under the California Health & Human Services Data Exchange Framework ("Data Exchange Framework") are essential. To help maintain the privacy, security and integrity of Health and Social Services Information and promote trust among Participants, each Participant shall notify certain other Participants and the Center for Data Insights and Innovation ("CDII") of a Breach. The purpose of this policy is to set forth the procedure by which Participants will fulfill their Breach notification obligations under the Data Sharing Agreement (the "DSA").

## II. Policy

Breaches can be very serious events with potential for serious impact on Participants and the individuals whose Health and Social Services Information is breached. This policy requires each Participant to identify, notify, investigate and mitigate any Breach and, when detection of a Breach has occurred, to notify CDII and any Participants impacted by the Breach in accordance with the procedures herein.

This policy shall be effective as of January 31, 2024.

## III. Procedures

### 1. OBLIGATIONS OF PARTICIPANT

a. As soon as reasonably practicable after discovering a Breach has occurred, and within any timeframes required by Applicable Law, a Participant shall notify CDII and all Participants impacted by the Breach.

b. As soon as reasonably practicable after discovering a Breach has occurred, and within any timeframes required by Applicable Law, a Participant shall provide a written report of the Breach to all Participants impacted by the Breach. The Participant shall supplement the information contained in the written report as it becomes available and shall cooperate with other impacted Participants. The written report should include sufficient information for the recipient of the notification to understand the nature of the Breach. For instance, such written report should include, to the extent available, the following information:

- i. One- or two-sentence description of the Breach;
- ii. Description of the roles of the people involved in the Breach (e.g., employees, service providers, unauthorized persons);
- iii. The type of Health and Social Services Information Breached;
- iv. Participants likely impacted by the Breach;

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- v. Number of individuals or records impacted/estimated to be impacted by the Breach;
- vi. Actions taken by the Participant to mitigate the Breach;
- vii. Current status of the Breach (under investigation or resolved); and
- viii. Corrective action taken and steps planned to be taken to prevent a similar Breach.

c. Notwithstanding the above, if a Participant is notified, in writing or by oral statement by any law enforcement official or by any other governmental agency (e.g., Federal Trade Commission), that a Breach notification would impede a criminal investigation, and the statement has been documented consistent with Applicable Law or 45 C.F.R. § 164.412(b) in the absence of Applicable Law, then the Participant shall delay the Breach notification for the time period specified by the law enforcement official and as required by Applicable Law. The Participant shall issue a Breach notification promptly once law enforcement determines the notification will not impede a criminal investigation.

d. This Agreement shall not relieve Participants from any other Breach reporting requirements under Applicable Law, including those relating to consumer notifications.

## IV. Definitions

All capitalized terms shall have the meaning set forth in the Data Exchange Framework Glossary of Defined Terms.

## V. References

45 C.F.R. § 164.412(b)

## VI. Version History

No.	Date	Author	Comment
1.0	July 1, 2022	CalHHS CDII	Final
1.0.1	December 11, 2023	CalHHS CDII	Final. Administrative changes to clarify use of certain terms, ensure consistency with the DxF Glossary of Defined Terms, Applicable Law, and all other Policies and Procedures.