IDAHO STATE UNIVERSITY
POLICIES AND PROCEDURES (ISUPP)
HIPAA Privacy - Hybrid Entity Policy; Designation of ISU as a Hybrid Entity
10010

POLICY INFORMATION
Major Functional Area (MFA): MFA X - Office of General Counsel & Compliance
Policy Title: Hybrid Entity Policy; Designation of ISU as a Hybrid Entity
Responsible Executive (RE): General Counsel
Sponsoring Organization (SO): Office of General Counsel
Dates: Effective Date: April 20, 2012
Revised: May 23, 2013
Annual Review: May 23, 2014

I. INTRODUCTION

Idaho State University – Structure and Composition: Idaho State University (ISU) is a state institution of higher education providing both general education and specialized programs. ISU offers certificates, associate, baccalaureate, masters and doctoral degrees, and post-doctoral residency programs. ISU is governed by the State Board of Education in its role as the Board of Trustees for Idaho State University. In addition to the broad-based program offerings, ISU serves as Idaho’s lead institution for education in the health professions and related biological and physical sciences. ISU delivers statewide comprehensive academic programming, professional continuing education, basic and applied research and specialized public service in the health sciences. ISU is a single legal entity comprised of separate departments and clinics, some of which provide “covered functions” as “health care components” of ISU, as these terms are defined below.

II. POLICY STATEMENT

To define ISU as one legal entity, specifically a hybrid entity, and identify ISU’s health care components, in accordance with the privacy and security regulations (the “Privacy and Security Standards”) promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the Health Information Technology for Economic and Clinical Health Act of 2009 (the “HITECH Act”). This Hybrid Entity Policy specifically addresses the requirements of 45 C.F.R. §§ 164.103 and 164.105.

III. AUTHORITY AND RESPONSIBILITIES

A. HIPAA Background: A legal entity that performs both covered and non-covered functions may designate itself as a hybrid entity under HIPAA. A hybrid entity may exclude from its covered entity status the following non-covered functions: (1) non-health care components of the organization (e.g., the university’s academic programs), and/or (2) health care components of the facility that do not engage in electronic transactions (e.g., a clinic that provides health care services but does not bill for its services). All covered health care components of the designating legal entity must comply with HIPAA.
B. A hybrid entity also may include a non-covered health care provider in its health care component, but if it does so, such non-covered health care component must comply with HIPAA. Additionally, a hybrid entity has the discretion as to whether or not to include business associate-like divisions within the health care component.

C. A hybrid entity must designate as part of its covered functions any component that would meet the definition of a covered entity if it were a separate legal entity. For example, a health clinic that performs covered functions and that conducts covered transactions electronically (e.g., electronic claim submission) must be designated as a health care component of the facility, and will be subject to the Privacy and Security Standards.

D. ISU has designated itself a hybrid entity in accordance with 45 C.F.R. §§ 164.103 and 164.105.

IV. DEFINITIONS

A. Covered function – Those functions of a covered entity the performance of which makes the entity a health plan, health care provider, or health care clearinghouse.

B. Hybrid entity – A single legal entity:
1. That is a covered entity;
2. Whose business activities include both covered and non-covered functions; and
3. That designates its health care components, documents the designation and establishes appropriate firewalls in accordance with HIPAA between covered and non-covered functions.

C. Health care component – A component or combination of components of a hybrid entity designated by the hybrid entity in accordance with 45 C.F.R. 164.105(a)(2)(iii)(C).

V. PROCEDURES TO IMPLEMENT

A. Procedures:
1. ISU has determined that it performs both covered functions (e.g.: outpatient services, including medical and dental care) and non-covered functions (e.g.: academic departments conducting teaching activities).
2. By the adoption and implementation of this policy, ISU designates itself as a hybrid entity.
3. This policy replaces the prior ISU hybrid entity designation contained within the “Policy Statement on HIPAA” adopted July 29, 2011.
   a. In adopting this Policy, ISU approves this hybrid entity designation.
   b. Attachment A – Lists the ISU health care components, including business associate-like division(s) that are designated as part of the health care component.
   c. Attachment A designating ISU’s health care components shall be retained for at least six (6) years following any decision to terminate any division or department
from the health care components. Designations should be retained indefinitely for on-going health care components.

4. Hybrid Entity Safeguard Requirements: As a covered entity that is a hybrid entity, ISU must ensure that a health care component of the entity complies with the applicable requirements of HIPAA. Firewalls must be implemented between health care functions and non-health care functions. ISU shall operationally segregate all non-covered functions from the covered functions. In particular, ISU will ensure that:

a. Each health care component does not disclose PHI to another (non-health care) component of the covered entity in circumstances in which HIPAA would prohibit such disclosure if the health care component and the other component were separate and distinct legal entities;

b. Business associate-like departments or divisions designated as part of the health care component:
   i. Do not use or disclose PHI that it creates or receives from or on behalf of the health care component in a way that is prohibited by HIPAA’s Privacy Standards; and
   ii. Comply with the HIPAA Security Standards.

c. Where possible, staff and office space should be segregated between covered and non-covered functions.

d. If a person performs duties for both the health care component in the capacity of a member of the workforce of such component and for another component of the entity in the same capacity with respect to that component, such workforce member must not use or disclose PHI created or received in the course of or incident to the workforce member’s work for the health care component in a way prohibited by the HIPAA Privacy and Security Standards.

VI. ATTACHMENTS
10010 Attachment A – ISU Health Care Component Designation

VII. REFERENCES
45 C.F.R. §§ 164.103, 164.105

PRESIDENTIAL CERTIFICATION

________________________________________     Date:____________________
Approved by Arthur C. Vailas                      
President, Idaho State University

OGC use only:
Received by OGC on __________________ by ________ (initial).
Published to ISUPP on __________________ by ________ (initial).
Attachment A

ISU Health Care Component Designation

The following business associate-like department(s) are considered part of the health care components of ISU:

- ISU Information Technology Services personnel assigned to the ISU health care components

The following clinics, departments and programs are considered health care components of ISU:

- Audiology Clinic
- Dental Hygiene Clinic (Pocatello)
- Dentistry Clinic (Meridian)
- Physical and Occupational Therapy Clinic (Pocatello)
- Pocatello Family Medicine
- Speech, Language and Hearing Clinics (Pocatello and Meridian)
- Student Health Centers (Pocatello and Idaho Falls)

The following is a Business Associate of an outside Covered Entity:

- Idaho Center for Disabilities Evaluation