I. INTRODUCTION

Idaho State University (ISU) is a state institution of higher education providing both general education and specialized programs. 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 policy specifically addresses the requirements of 45 C.F.R. §§ 164.103 and 164.105.

III. AUTHORITY AND RESPONSIBILITIES

A. A legal entity that performs both Covered Functions 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 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.
C. ISU has designated itself a Hybrid Entity in accordance with 45 C.F.R. §§ 164.103 and 164.105.

IV. DEFINITIONS

A. Covered Functions – 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), and has designated itself as a Hybrid Entity.
   a. Attachment A lists the ISU Health Care Components, including business associate-like division(s) that are designated as part of the Health Care Component.
   b. 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.

2. 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 protected health information (“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 non-health care component were separate and distinct legal entities; this includes the separation of academic and research functions from Health Care Component functions, even if performed by the same person.
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 and Security Standards; and

ii. Comply with the HIPAA Privacy and Security Standards.

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

d. ISU recognizes that healthcare functions performed within a covered Health Care Component must be separated from academic or other functions of ISU performed by personnel. If a person performs duties for both the Health Care Component in the capacity of a member of the workforce and also performs work 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 member's work for the Health Care Component in a way prohibited HIPAA regulations.

3. ISU has established a HIPAA Privacy Officer. The HIPAA Privacy Officer is authorized to develop and implement procedures for all covered entities at ISU and for those ISU departments that provide Covered Functions. The HIPAA Privacy Officer is also responsible for receiving and responding to complaints related to PHI; ensuring workforce members are trained appropriately; auditing workforce compliance with all policies and procedures; implementing sanctions against students, employees, or volunteers; and for maintaining overall compliance with HIPAA regulations throughout all Health Care Components and those departments that perform Covered Functions.

4. ISU has established a HIPAA Security Officer. The HIPAA Security Officer is responsible for the implementations of policies and procedures to ensure compliance with the HITECH Act throughout all healthcare.

5. ISU will maintain a HIPAA Advisory Committee (HAC) that is responsible for approving all procedures as relates to the creation, storage and transmission of ePHI or PHI within any ISU covered entity, or ISU department that performs any Covered Function. The HAC will include but is not limited to the following: the HIPAA Privacy Officer, the HIPAA Security Officer, the ISU Chief Information Officer, a director of clinical operations, and the manager of ISU networking. The HAC will meet at least monthly.

VI. ATTACHMENTS
Attachment A – ISU Health Care Component Designation

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

Approved by Arthur C. Vailas
President, Idaho State University
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
- Office of General Counsel insofar as they perform services for the ISU Health Care Components
- ISU business or financial departments insofar as they perform services on behalf of ISU Health Care Components

The following clinics, departments and programs are considered Health Care Components of ISU:

- Audiology Clinic
- ISU Athletic Training Department
- Dental Hygiene Clinic (Pocatello and Idaho Falls)
- Dentistry Clinics (Pocatello and Meridian)
- Physical and Occupational Therapy Clinic (Pocatello)
- Speech, Language and Hearing Clinics (Pocatello and Meridian)
- University Health Center