

Data Privacy And Protection Efforts Start With A Company Policy, But Don't End There

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If your company has a data privacy policy in place, make sure you live up to its provisions. Failure to do so makes it more likely that the Federal Trade Commission (“FTC”) will pursue an enforcement action against the company for engaging in a “deceptive practice” under Section 5 of the FTC Act.

What can you do to prevent this from happening? A recent [article](#), referencing an FTC enforcement action, suggests the following:

- Conduct risk assessments
- Use “reasonable methods” to prevent/detect unauthorized access to personal information
- Train employees
- Employ proper response measures

If your business is a financial institution, or your company maintains personal health information, specific Federal laws (Graham-Leach-Bliley, HIPPA) directly impact your obligations with respect to data security and personal health information, respectively.

State laws also deal with data privacy and breach notification of “personal information”. The definition of what amounts to “personal information” may not be uniform from state to state but generally includes a person’s first name/initial and last name in combination with any of the following:

- Social Security number
- Driver’s License number
- Tax ID
- Financial Account information

Always keep in mind that the purpose of data privacy laws/regulations is primarily to prevent the unauthorized access, use, modification or disclosure of protected information. As you develop a data privacy policy and move forward with training, compliance and response efforts in the event of a breach, these goals should be paramount.

In the event a breach occurs, the time period for notifying affected parties that their personal data has been accessed, used, modified or disclosed are generally set by state law. If there is a need to involve law enforcement, this may also impact legal obligations with respect to breach notice.

A data privacy policy should also address issues related to a company’s online interaction with the public through websites, mobile devices and other means, and how these interactions may impact or involve personal information.

Addressing the myriad of legal obligations that impact data privacy is crucial for any company. A well-drafted policy is a start, but can only prove effective if it serves as the engine of larger effort that includes training, monitoring, compliance efforts and robust breach/resolution procedures.

Link to original article: <http://commercialcounselor.com/data-privacy-and-protection-efforts-start-with-a-company-policy-but-dont-end-there/>

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