

Management Directive
November 20, 2008
Revised April 6, 2009

Accessing Confidential Personal Information
Maintained by the State (Revised)

1. **Protecting the Privacy of Ohioans.** The State of Ohio is dedicated to developing and implementing information access policies and controls that enhance and ensure the privacy and security of Ohio's citizens who have information stored in the State's personal information systems.
2. **Previous Management Directive Regarding Accessing Confidential Personal Information.** On November 20, 2008, I issued a Management Directive on accessing sensitive personal information. Subsequently, the 127th General Assembly passed Substitute House Bill 648 ("H.B. 648"), which amends certain provisions of the Ohio Revised Code including sections 1347.15, 1347.99 and 5703.211. As a result of the bill's passage, these provisions have both similar and conflicting provisions with the November 20, 2008 Management Directive. Consequently, this revised Directive sets forth the process that all executive agencies, boards and commissions (collectively, "state agencies") shall follow to implement section 1347.15 of the Revised Code and revises and replaces, in its entirety, the Management Directive, "Accessing Sensitive Personal Information Maintained by the State," issued November 20, 2008.
3. **The State Is Developing a Plan to Facilitate the Implementation of Ohio Revised Code Section 1347.15.** The Chief Legal Counsel for several state agencies are working in concert with Ohio's Chief Privacy Officer and the Ohio Attorney General, (hereinafter "Interagency Working Group") to develop common definitions, guidance and best practices to assist state agencies in implementing section 1347.15 of the Ohio Revised Code. The guidance developed by the Interagency Working Group will assist agencies in avoiding under-application of section 1347.15 (which will create implications for privacy protection for the public), and over-application of the statute (which will increase the cost of compliance to state agencies and increase the risk of non-compliance by employees of the agency). The Interagency Working Group intends to release its guidance to state agencies in the near future. In the meantime, state agencies should follow the process outlined below to best prepare their agencies for full implementation of section 1347.15.
4. **Implementation Steps**
 - a. **Evaluation of Systems.** Most state agencies have started evaluating systems for personal information as a result of the original issuance of the original management directive and those efforts should continue. The threshold analysis requires evaluation of the State's systems of records to determine which systems contain personal information.
 - b. **Access Policies Development.** Each state agency shall develop access policies – the criteria, list, references, procedures and requirements identified in section 1347.15(B) of the Revised Code – for the state agencies' confidential personal information systems. Since these access policies must be incorporated into rules promulgated by state agencies in accordance with section 1347.15(B), they are a necessary precursor to drafting administrative rules. State agencies will need to complete the access policies development process before they can file a rule that conforms to section 1347.15(B) of

the Revised Code. While the approach for developing these policies may vary, based on the needs of each agency, the policies must identify the personal information systems that are covered.

- c. *Prioritization of Systems.*** State agencies should prioritize their personal information systems so that the access policies – the criteria, list, references, procedures and requirements identified in section 1347.15(B) of the Revised Code – are implemented first for those systems that pose the greatest risk to privacy. Access policies for individual systems may be implemented as an internal administrative practice prior to the filing of any administrative rule, so that privacy protections will be in place during the development, passage and initial implementation of such rules. In evaluating and prioritizing each personal information system, state agencies shall consider such factors as the amount of personal information about individuals, the number of individuals with information in the system and the number of employees of the agency who have access to the system.
- d. *Identification of Confidential Personal Information.*** Agencies have requested clarification of what the term “confidential personal information” means pursuant to section 1347.15(A)(1) of the Revised Code. The Interagency Working Group will issue guidance concerning what information broadly falls within this definition. State agencies should continue their efforts to identify and document the agency-specific types of information which may be considered “confidential personal information” pursuant to section 1347.15 of the Revised Code.
- e. *Development of Administrative Rules.*** Before filing an administrative rule, each state agency’s Chief Legal Counsel (or the person acting in that capacity) shall review the draft rule for compliance with section 1347.15 of the Revised Code. The legal review of the draft rule should consider any common definitions and guidance published by the Interagency Working Group. All access policies must be carefully and accurately drafted before development of administrative rules, and any draft rules should only apply to systems for which evaluations and policy development have been completed. In developing administrative rules, agencies should take particular caution to ensure that all proper access to confidential personal information systems is incorporated within an administrative rule so that agencies can complete necessary business functions without violating section 1347.15 of the Revised Code.
- f. *Implementation Plan.*** Each state agency shall complete an implementation plan using the template as developed by the State Chief Privacy Officer. Agencies may complete the implementation plan on a divisional basis as appropriate and determined by the state agency based on the size, functions and structure of the agency. The DPPOC for each state agency must report to the director of the state agency by May 15, 2009, on the status of the implementation of section 1347.15 of the Revised Code and the date by which implementation of the statute is expected to be completed. Each agency director shall be responsible for diligently pursuing compliance with section 1347.15 of the Revised Code and assuring that the statute is implemented in a timely manner. All agencies shall provide a copy of their implementation plan to the Chief Privacy Officer upon request.
- g. *Development and Implementation of Training and Awareness Policies.*** With the promulgation of final administrative rules under section 1347.15(B), each state agency shall implement the training requirement in paragraph (C)(2) of section 1347.15 of the Revised Code and the awareness requirements of section 1347.15 (D).