



Navigating State Law

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TELL US IN THE CHAT:

What do you hope to
get out of today's
training?

Agenda

- Introductions
- Overview of AISP & DISC
- Disclaimer & Roadmap Preemption
- State Law Examples
- Questions



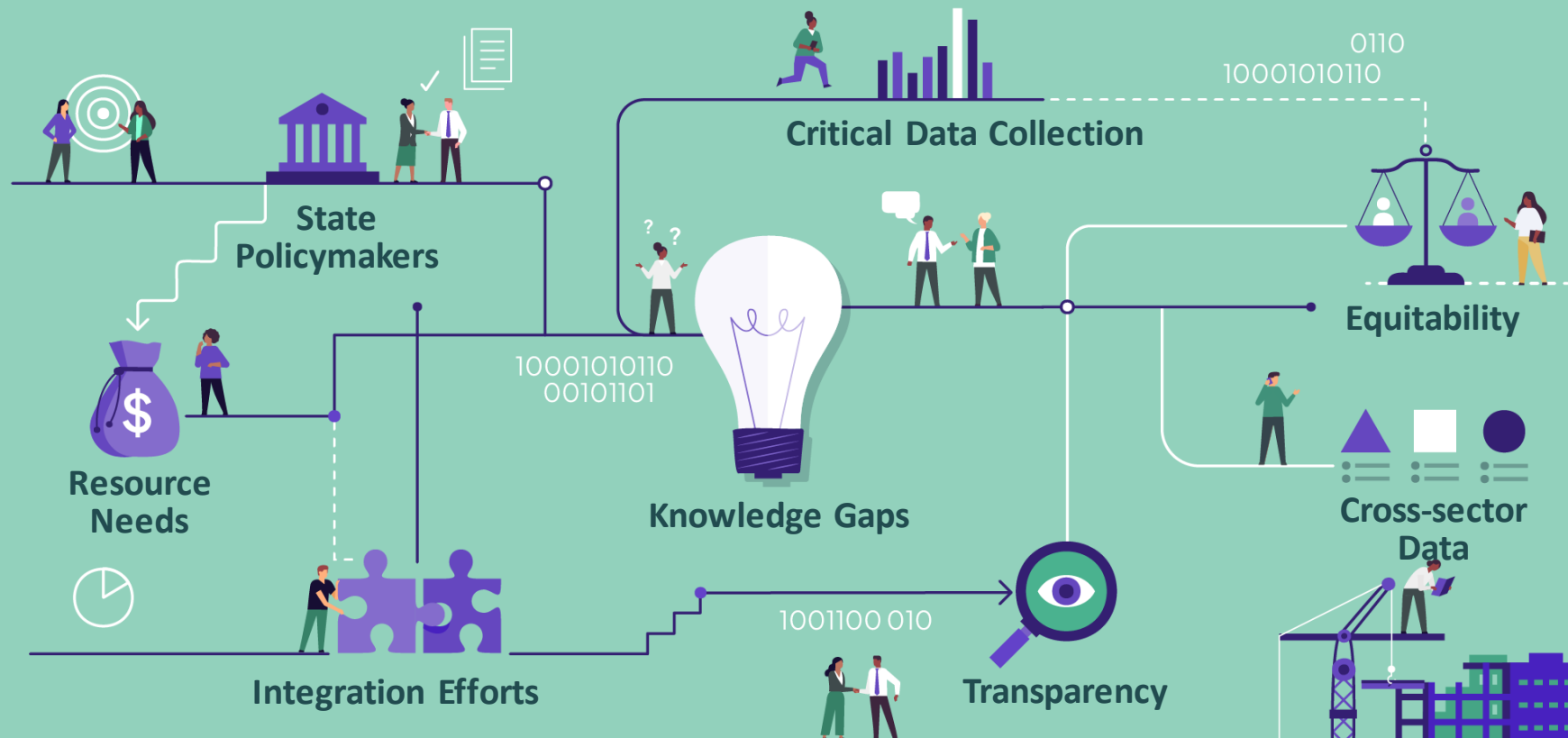
**Helping state and
local governments
collaborate and
responsibly use
data to improve
lives.**

LEARN MORE →

www.aisp.upenn.edu



The Data Integration Support Center (DISC) at WestEd provides expert integrated data system planning and user-centered design, policy, privacy, and legal assistance for public agencies nationwide.



Our roles



We are:

Data evangelists

Connectors, community builders,
thought partners, cheerleaders,
and data sharing therapists

Focused on ethical data use
for policy change



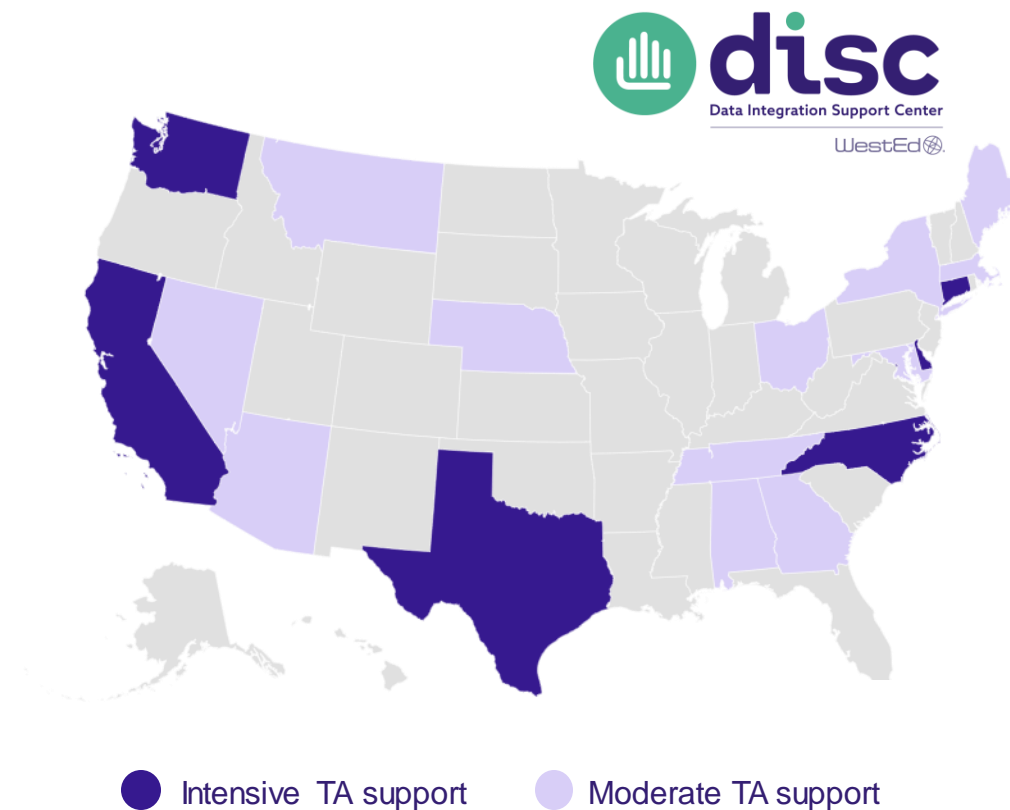
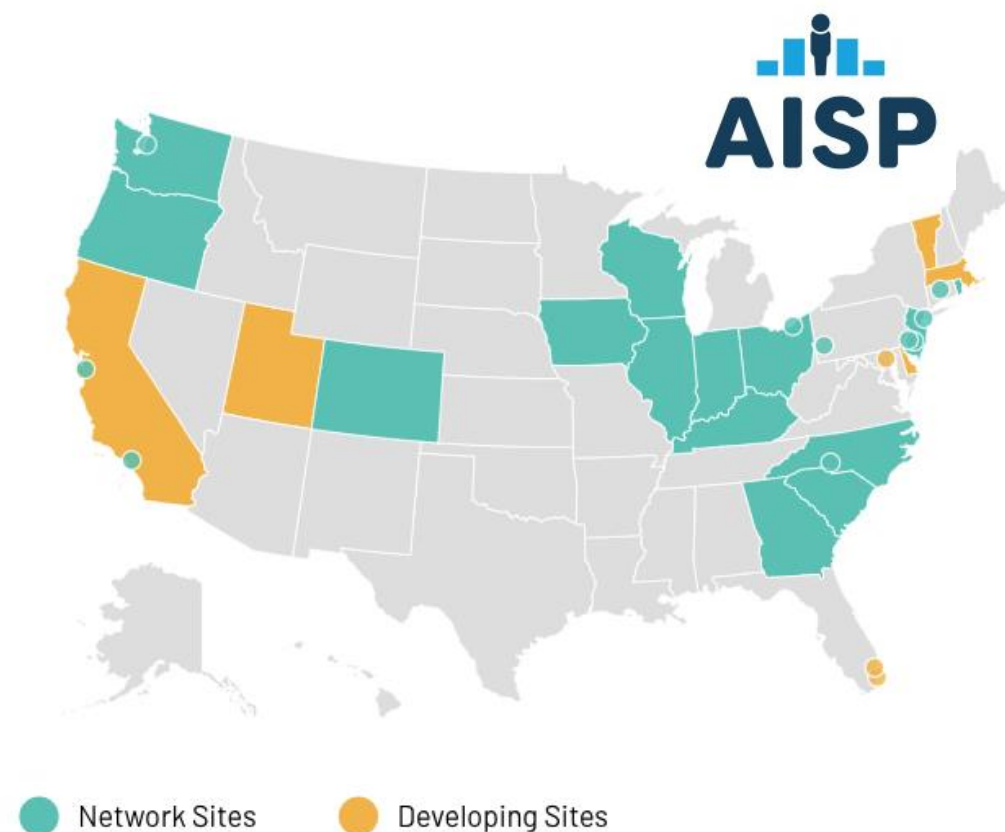
We are not:

Data holders or intermediaries

A vendor or vendor recommenders

Focused on academic research

Our Networks



What we do

AISP

Peer Network

Guidance & Standards

Training & Consulting

Advocacy & Communications

Actionable Research

DISC

Planning & User-Centered Design

Legislative Analysis

External Legal Supports

Privacy

System Security

Our approach

Data sharing is as relational
as it is technical.



We don't just need to integrate data;
we need to integrate people.

When we talk about IDS, what do we mean?

- We're talking about the whole person, not tech solutions
- Efforts that link administrative data across sectors or agencies and over time
- Efforts that curate data that are relevant and high-quality
- Efforts that serve as a public utility (not research for research's sake)
- Efforts that have defined governance structures (data only used for approved uses)



When we bring data together, we can better:

Understand	Understand the complex needs of individuals and families
Allocate	Allocate resources where they're needed most to improve quality and equity of services
Measure	Measure long-term impacts of policies and programs
Engage	Engage in transparent, shared decision-making about how data should (and should not) be used

LEGAL DISCLAIMER



- Not Legal Advice
- Training will only cover **federal law**
- Laws change, this is based on the law at the time of the training
- Consult your general counsel for specific legal questions

ESSENTIAL QUESTIONS



How do state laws governing data sharing and integration align with federal regulations and frameworks, and what implications do these alignments or discrepancies have for legal compliance?



What are common state-specific legal frameworks and regulations governing data sharing and integration, and how do they vary across different states?



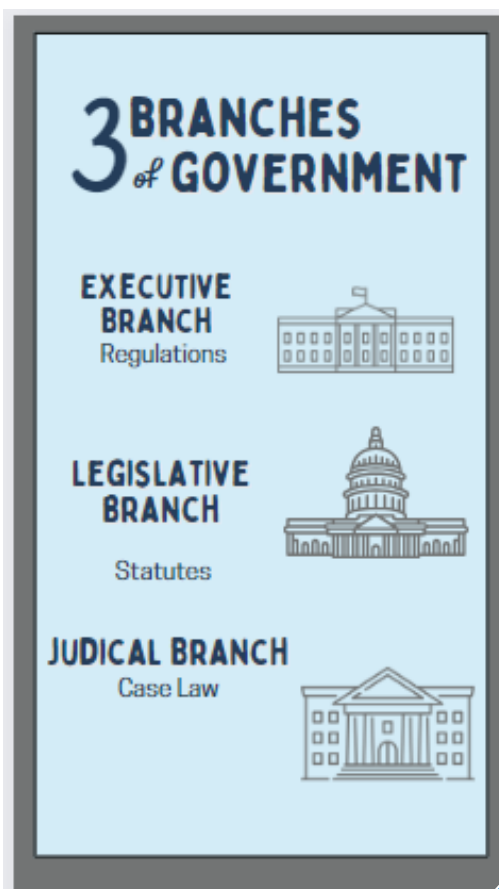
What strategies and best practices can be employed to address the challenges and mitigate the risks associated with the patchwork of state regulations on data privacy and security?

Federalism

Federal
State
Local



Branches of Federal Government



Executive Branch → Enforce Laws

- United States Code

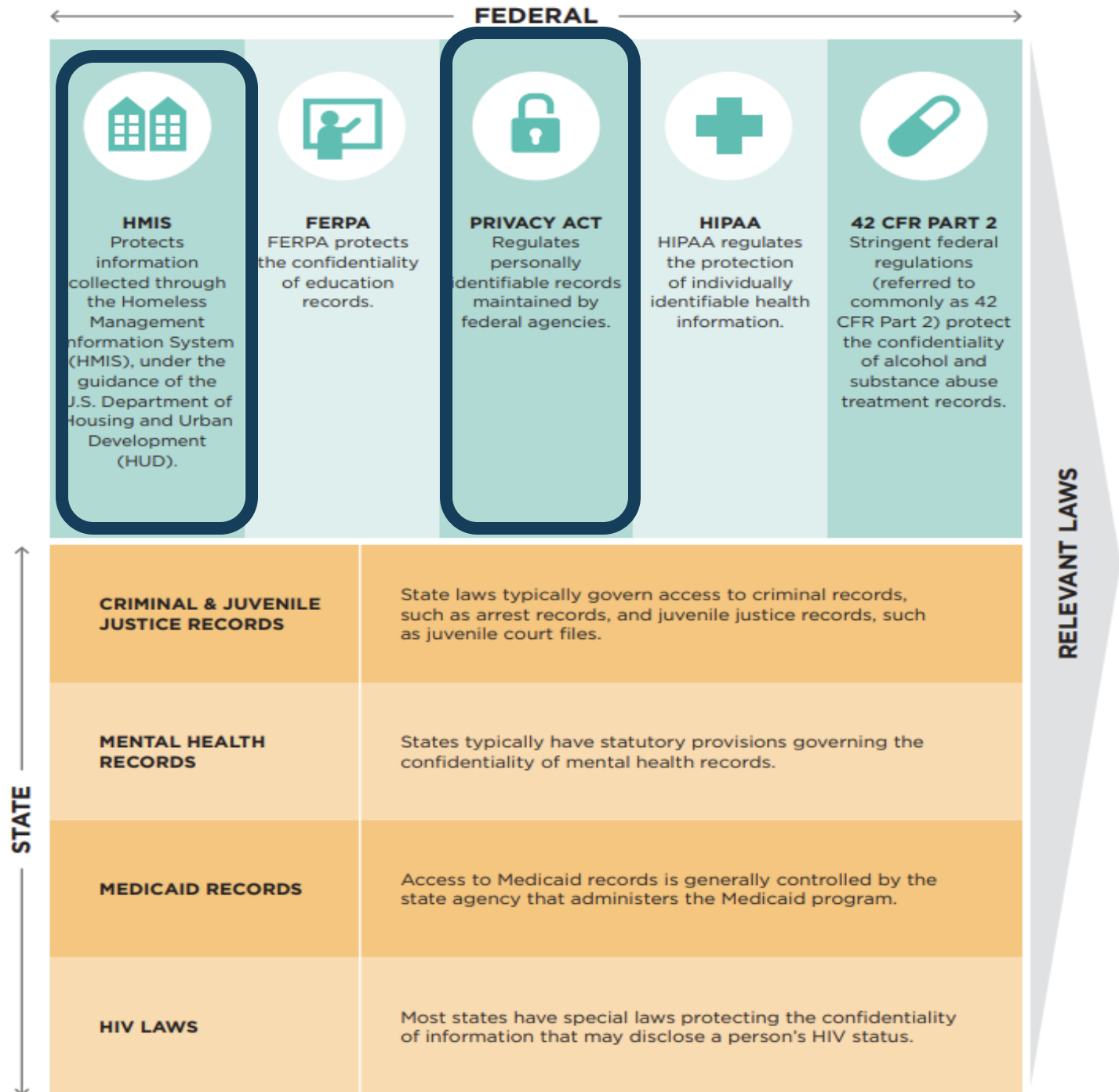
Legislative Branch → Create Laws

- Code of Federal Regulations

Judicial Branch → Interpret Laws

- District, Court of Appeals, Supreme Court Opinions

State & Federal Laws



How do these laws interact?



FEDERAL



STATE

What if there is a conflict?

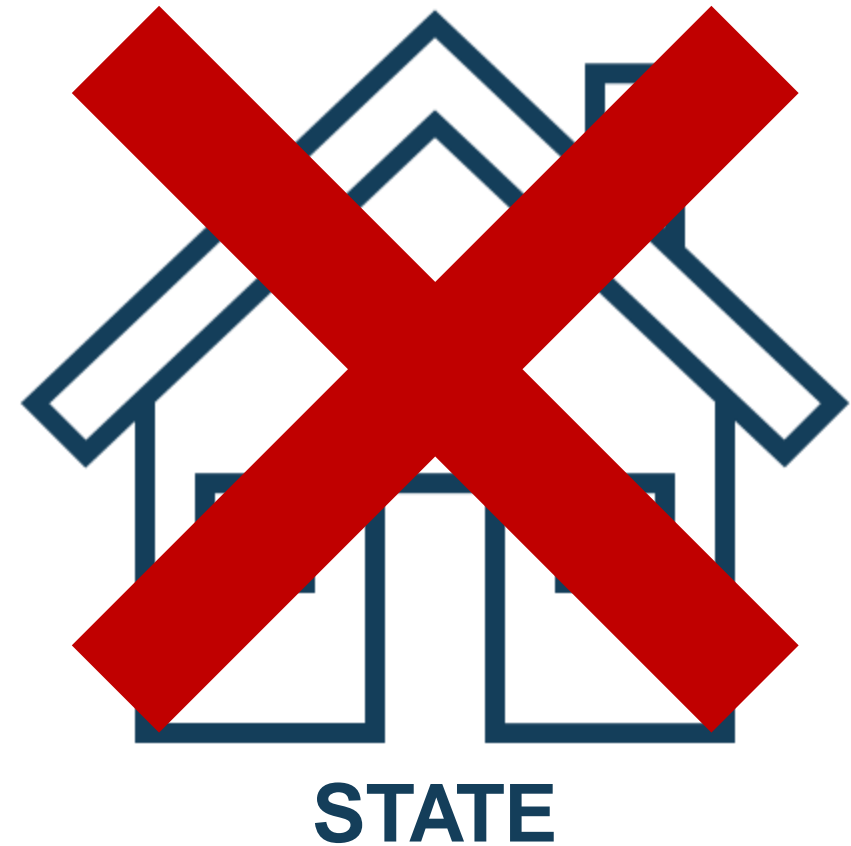


FEDERAL



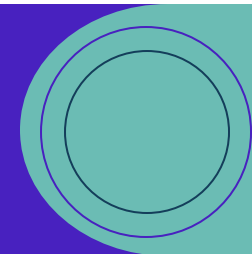
STATE

Preemption





Federal Examples



What are Homeless Management Information Systems (HMIS)? What rules apply to HMIS?

Homeless Management Information Systems (HMIS) are community-based systems to collect counts of individuals and families experiencing homelessness

Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009 (Pub. L. No. 111-22, 123 Stat. 1669 (2009))

HMIS Privacy and Security Standards (69 FR 45888)

Protects the **confidentiality of personal information**

What do the HUD rules protect ?

Protected **personal information (PPI)** that is created or maintained by or for a covered homeless organization about a living homeless individual

(Section 4.1.1 of HMIS Privacy Standards)



Violence Against Women Act (VAWA) 34 U.S.C. 12291(b)(2)



VAWA requires all grantees and subgrantees receiving VAWA funding from the Department of Justice, Office on Violence Against Women, to protect the confidentiality and privacy of persons receiving services

Can only share information in these three circumstances

- Consent (written, informed, time limited)
- Statute
- Court Order

Conflict of Law

VAWA V. HUD

A Domestic violence shelter is subject to both VAWA and HUD rules. Which would trump and why?

Conflict of Law

VAWA preempts HUD rules because they are more restrictive

VAWA V. HUD

A Domestic violence shelter is subject to both VAWA and HUD rules. Which would trump and why?

Conflict of Law State Example

Washington State Example

A university wants to share mental health treatment records of a Medicaid recipients to a researcher.

What laws apply?



Washington State Example

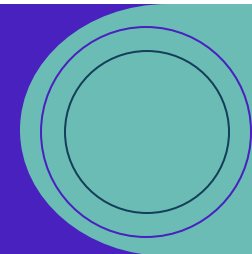


- Mental Health Treatment records get additional protection under Washington State Law
- Washington has its own rules around Medicaid
- Medicaid is also PHI
- Apply the most protective law

FEDERAL LAWS	STATE LAWS
42 U.S.C. § 1320b–7(b)	Wash. Rev. Code Ann. § 42.48.020
42 CFR §§ 431.301-302; 435.945	Wash. Admin. Code § 182-503-0100
45 CFR § 164 et seq. (HIPAA)	Wash. Rev. Code Ann. § 42.56.070 (Public Records Act)
	Wash. Rev. Code Ann. § 42.48.020 (a) (General State Research Exception)



State Privacy Laws



There is no uniform federal privacy law governing data sharing and integration

Congress has not yet passed an overarching federal privacy framework
(unlike the EU's GDPR)

States fill in the gaps

California's Privacy Protections

California Consumer Privacy Act (CCPA)

Provides California residents the following rights:

The **right to know** about the personal information a business collects about them and how it is used and shared;

The **right to delete** personal information collected from them (with some exceptions);

The **right to opt-out** of the sale or sharing of their personal information; and

The **right to non-discrimination** for exercising their CCPA rights.

The **right to correct** inaccurate personal information that a business has about them; and

The **right to limit** the use and disclosure of sensitive personal information collected about them.

Applies only to businesses; does not generally apply to nonprofits or government agencies.

California Information Practices Act (Civ. Code 1798)

Requires state agencies to:

Limit collection and maintenance of personal information only to the extent "necessary to accomplish a purpose of the agency required or authorized" by law.

Maintain the source of information on a person unless it is the person themselves.

Include certain disclosures on collection forms.

Obtain consent for disclosures unless certain exceptions apply. (Certain inter-agency disclosures are allowed; Certain research purposes are allowed)

The Act includes the **breach notifications** for "computerized information"

Student Online Personal Information Protection Act (SOPIPA)

Companies are prohibited from:

Disclosing student information unless it is for legitimate scholastic purposes or for legal/judicial compliance.

Sharing student data with a third-party vendor

Targeted advertising

Creating a profile for **commercial** purposes

Selling personal information

Companies are required to **delete** student data upon request

Applies to any company that markets to or has actual knowledge that it stores data of K-12 students in California must comply with SOPIPA. (Websites, mobile apps, online services)

State Privacy Protections

Consumer rights

Right to access

Right to correct

Right to delete

Right to opt out of certain processing

Right to portability

Right to opt out of sales

Right to opt in for sensitive data processing

Right against automated decision-making

Private right of action

Business Obligations

Opt-in default (requirement age)

Notice/transparency requirement

Risk assessments

Prohibition on discrimination (exercising rights)

Purpose/processing limitation

States Regulation of Student Data

- 1 regulate local- and/or state-level education agencies
- 2 regulate companies that collect and use student data California
- 3 some combination of 1 and 2 New York
Utah

Tips to Mitigate Risks & Resolve Conflicts



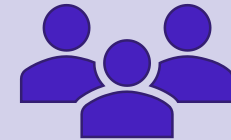
Apply the
most
restrictive
law



Get consent



Apply data
security
principles



Implement
effective
governance

Questions?

Closing Reflections

TELL US IN THE CHAT:

What is a key idea that
you are taking away
from this training?



Thank you.

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For more trainings like this, check out: <https://disc.wested.org/disc-aisp-legal-professionals-workshops/>

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