



HMIS Oversight Committee Agenda
January 12, 2022
9:00 a.m. – 11:00 a.m.

Join [Zoom Meeting](#)

Phone: **669 900 6833**

Meeting ID: 278 166 2318 Passcode: 535090

Meetings are public. Homeless and formerly homeless Alameda County residents are especially encouraged to attend. Public Comment will be taken at the beginning of each meeting and is limited to 2 minutes per person. [Click here to learn more about the public participation policy.](#)

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|---|----------------------|
| 1. Welcome (Mike Keller, HMIS OC Co-Chair) | 9:00 – 9:05 |
| 2. Approval of Meeting Minutes, 11/10/21
<i>Action Item</i> | 9:05 – 9:10 |
| 3. HMIS Oversight Public Comment | 9:10 – 9:15 |
| 4. Privacy and Security Policies (Jessica Hanserd)
<i>Update</i> | 9:15 – 9:35 |
| 5. Data Quality and Occupancy Reports (Andy Duong) | 9:35 – 9:55 |
| 6. Longitudinal Systems Analysis (LSA) Report (Patrick Crosby)
<i>Update</i> | 9:55 – 10:05 |
| 7. HMIS OC Workplan & HUD CoC MOU
(Mike Keller & Patrick Crosby)
<i>Action Item</i> | 10:05 – 10:30 |
| 8. Data Quality Action Plan (Tirza White) | 10:30 – 10:45 |
| 9. Point-in-Time Count (Andy Duong)
<i>Update</i> | 10:45 – 10:55 |
| 10. Proposed items for February 12 meeting | 10:55 – 11:00 |
| <ul style="list-style-type: none">• HMIS Lead Monitoring Tool• HMIS Lead Workplan• Data Quality Reports and Data Quality Action Plan• Funders’ Liaison Role• System Performance Measures (SPM)• Updates: HMIS OC Workplan & HUD CoC MOU, PIT/HIC, and LSA Report | |

2021-2022 HMIS Oversight Committee Workplan *

Month	Agenda Item	MOU Item
October	Review Privacy and Security policies	3b
	Review 2021-22 Work Plan	3a
	Longitudinal System Analysis (LSA) report	3c
November	Review 2021-22 HMIS OC Work Plan	3a
	Review HUD CoC and HMIS Lead MOU	5
	Longitudinal System Analysis (LSA) report	3c
January	HMIS OC HMIS OC Work Plan and MOU	3a
	LSA Report	3c
	Privacy and Security Policy update	3b
	Update PIT/HIC	3b
	Data Quality: Action Plan, Reports, & Occupancy	3c
February	HMIS OC Workplan and MOU	3a
	HMIS Lead Workplan	2d
	FY21 System Performance Measures	3b
	HMIS Monitoring Tool and Plan	3c
	Data Quality Action Plan	3c
March	Monitoring tool update	3c
	Finalize/Approve Data Quality Plan	3c
	Plan for HMIS User Group Meetings	3b
	Review Agency Manager Role	3b
	LSA Submission update	3c
April	Approve Monitoring Tool and Plan	3c
	Privacy and Security Policy update	3b
	Review Communication Plan	3b
	Review Agency Onboarding Materials	3c

	Review Training Materials	3c
May	Update on funders/user/consumers input	3b
	Review PIT/HIC data	3b
	Review Data Quality & Occupancy Reports	3a
	Review/update Governance	3c
June	User Group Meetings	3b
	Review/update Governance	
	Review/update training curriculum	3b
	Review HMIS Lead Work Plan Progress	3b
August	Review Agency Onboarding Materials	3c
	Review/finalize Training Curriculum	3b
	Review/update Communications Plan	3b
September	Review/update Governance	
	Input from funders/user/consumers	3b
	Review Data Quality & Occupancy Reports	3a
	Finalize/approve Communications Plan	3b

* Data Quality is proposed as a standing agenda item each month.

MEMORANDUM OF UNDERSTANDING
BETWEEN
ALAMEDA COUNTY HUD CONTINUUM OF CARE
COMMITTEE, (ACTING AS THE CONTINUUM OF CARE
BOARD) AND
ALAMEDA COUNTY DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT, (ACTING AS THE
HOMELESS MANAGEMENT INFORMATION SYSTEM
(HMIS) LEAD

I. Introduction and Purpose

The Alameda County Continuum of Care (the “CoC”) is the governing body organized to carry out the responsibilities required under HUD’s *Homeless Emergency Assistance and Rapid Transition to Housing Continuum of Care Program Interim Final Rule* at 24 CFR Part 578.7(b) (the “Interim Rule”), including designating a Homeless Management Information System (HMIS) lead to operate HMIS. In addition, the CoC is responsible for making decisions about HMIS management and administration as required under 24 CFR Part 580, a separate rule establishing regulations for HMIS issued by HUD as part of the implementation of the HEARTH Act of 2009. The CoC is responsible for ensuring that the HMIS is operated in accordance with the provisions of the new regulations and other applicable laws (24 CFR Part 580.5).

The Alameda CoC is part of EveryOne Home, a collective impact effort to end homelessness. It is composed of representatives of organizations including nonprofit homeless providers, victim service providers, faith-based organizations, governments, businesses, advocates, public housing agencies, school districts, social service providers, mental health agencies, hospitals, universities, affordable housing developers, law enforcement, organizations that serve homeless and formerly homeless veterans, and homeless and formerly homeless persons. The HUD Continuum of Care Committee (the “CoC Board”) functions as the Alameda County CoC Board, required by the Interim Rule to act on behalf of the membership to ensure the CoC responsibilities are fulfilled.

The CoC relies upon data collected in the HMIS to understand the extent and nature of homelessness, and how well the system is working to address it, and to report system and project performance to HUD. If implemented well, the HMIS should also support the operation of the housing and service system, including the CoC’s coordinated entry. Under HUD mandates, the CoC must designate a single information system as the official HMIS software for the geographic area, and an HMIS Lead, an entity designated to operate the HMIS (24 CFR Part 580.7). While the CoC must review, revise and approve all policies and plans the HMIS Lead is required to develop, the HMIS Lead must develop written policies and procedures for all Covered Homeless Organizations (CHOs), serve as the applicant to HUD for any HMIS grants, and monitor compliance by all CHOs of the CoC (24 CFR Part 580.9)

Because managing the HMIS is a shared responsibility between the CoC and the HMIS Lead, expectations around each entity’s role must be agreed to and clearly documented, along with any role envisioned for the CoC Board and CoC Lead agency in its relationship to the HMIS.

This MOU describes in detail the roles, responsibilities, and accountability that guide the collaboration for the Alameda County Homeless Management Information System (HMIS) among

the Parties described below, consistent with the Alameda County Continuum of Care/EveryOne Home Governance Charter approved in October of 2017 and 24 CFR Parts 578 and 580.

II. Parties to this Memorandum of Understanding:

1. The Continuum of Care Board (“CoC Board”): HUD Continuum of Care Committee

The Alameda County CoC has designated the HUD Continuum of Care Committee (HUD CoC) to function as the CoC Board. The CoC Board is required by the Interim Rule, and acts on behalf of the membership to ensure the CoC responsibilities are fulfilled. The CoC is responsible for “ensuring that the HMIS for the Continuum of Care is operated in accordance with the provisions of the new regulations and other applicable laws. (24 CFR Part 580.5).

The CoC Committee, acting as the CoC Board, may designate an organization to act on its behalf and/or provide staff support. That entity, identified as the CoC Lead, may undertake the activities of the CoC specified in this MOU.

2. The Homeless Management Information System Lead (“HMIS Lead”): Alameda County Department of Housing and Community Development (HCD)

The Alameda County CoC has designated the Alameda County Department of Housing and Community Development Department as the HMIS Lead to operate the HMIS as required under 24 CFR Part 580.7, for assuring the CoC is compliant with all applicable HUD rules and regulations. HCD administers the HMIS funds provided by the CoC funding as well as the local match.

III. Roles and Responsibilities of Parties

A. Roles and responsibilities of the HUD Continuum of Care Committee (CoC Board) with respect to HMIS:

1. Act on behalf of the membership to ensure HMIS is administered in compliance with HUD CoC regulations.
2. Designate a single Homeless Management Information System (HMIS) for the geographical area (24 CFR Part 578.7(b)(1) and 24 CFR Part 580.5
3. “Designate an eligible applicant to manage the Continuum’s HMIS, which will be known as the HMIS Lead.” (24 CFR Part 578.7(b)(2).
4. “Review, revise and approve the policies and plans required by this part and by any notices issued from time to time (24 CFR Part 580.7),” including but not limited to a privacy plan, security plan, and data quality plan for the HMIS (24 CFR Part 578.7(b)(3).
5. “Ensure consistent participation of recipients and subrecipients in the HMIS.” (24 CFR Part 578.7(b)(4).
6. Analyze and approve the annual review of the HMIS system’s performance and functionality, using HMIS work-plan to measure progress.

B. Roles and Responsibilities of Alameda County Housing and Community Development as HMIS Lead Agency (HMIS Lead):

1. As per 24 CFR 580.9(a), the HMIS lead must ensure the operation of and consistent participation by recipients of funds from the Emergency Solutions Grants Program and from the other programs authorized by Title IV of the McKinney-Vento Act. Duties include

establishing the HMIS; conducting oversight of the HMIS; and taking corrective action, if needed, to ensure that the HMIS is compliant with the requirements of this part.

2. Develop written HMIS policies and procedures in accordance with § 580.31 for all Covered Homeless Organizations (CHOs) (24 CFR Part 580.9).
3. Execute a written HMIS Participation Agreement with each CHO, which includes the obligations and authority of the HMIS Lead and CHO (24 CFR Part 580.9), the requirements of the security plan with which the CHO must abide (24 CFR Parts 580.31), the requirements of the privacy policy with which the CHO must abide, the sanctions for violating the HMIS Participation Agreement (e.g., imposing a financial penalty, requiring completion of standardized or specialized training, suspending or revoking user licenses, suspending or revoking system privileges, or pursuing criminal prosecution), and an agreement that the HMIS Lead and the CHO will process Protected Identifying Information consistent with the agreement. The HMIS Participation Agreement may address other activities to meet local needs. (24 CFR Part 580.9).
4. Serve as the applicant to HUD for grant funds to be used for HMIS activities for the Continuum of Care's geographic area (24 CFR Part 580.9), as directed by the Continuum, and, if selected for an award by HUD, enter into a grant agreement with HUD to carry out the HUD-approved activities.
5. Monitor and enforce compliance by all CHOs with the requirements of this part and report on compliance to the Continuum of Care and HUD.
6. The HMIS Lead must submit a security plan (see § 580.35), a data quality plan (see § 580.37), and a privacy policy (see § 580.31(g)) to the Continuum of Care for approval within [the date that is 6 months after the effective date of the final rule to be inserted at final rule stage] and within 6 months after the date that any change is made to the local HMIS. The HMIS Lead must review and update the plans and policy at least annually. During this process, the HMIS Lead must seek and incorporate feedback from the Continuum of Care and CHO. The HMIS Lead must implement the plans and policy within 6 months of the date of approval by the Continuum of Care.
7. Provide staffing for HMIS.
8. Provide standard and customized reports, and technical support, as applicable and requested by participating agencies in accordance with the mutually adopted customization policy.
9. Develop and implement HMIS-related training for end users, including regular Privacy and Security training and software training. Develop written procedures and job aides for users.
10. Review data quality monthly and take necessary actions per mutually adopted data quality assurance policy to maintain input of high-quality data from all HMIS-utilizing agencies. Report to the COC Committee on data quality and quality assurance activities *on a quarterly basis*.
11. Solicit HMIS user feedback through using a variety of mechanisms, such as on-line forums, surveys and user groups, such as the HMIS User Group. The User Group will work with the HMIS Lead to: 1) Provide recommendations on use of software and software enhancements; 2) Troubleshoot frequent data quality errors; 3) Recommend modifications to HMIS staff created reports; and 4) improve coordinated entry workflow.
12. To the extent possible, ensure that CoC projects using an alternate data collection system (such as Domestic Violence providers) are compliant with maintaining a "comparable database" and collecting the necessary HMIS data elements.

13. Generate reports on HMIS data and additional data available to present results to HUD CoC Committee for gap analysis. Configure and maintain the HMIS to be an effective performance management system that is capable of measuring progress in meeting the system and project performance measures established through the EveryOne Home's Results Based Accountability (RBA) Committee.
 14. Develop an effective communication plan to reach all HMIS participants to communicate changes to policy and procedures.
 15. Develop an annual work plan for the HMIS System for review and final approval by HUD CoC. The annual work plan will be presented along with the HMIS budget proposal to the Board of Supervisors, including costs and funding sources.
- C. Joint Responsibilities of the HUD CoC Committee (CoC Board) and Alameda County Housing and Community Development (HMIS Lead)**
1. Participate in the HUD Continuum of Care Committee, and its HMIS-related sub-committees, including the HMIS Oversight Subcommittee.
 2. Support the implementation of, and compliance with local HMIS policies such as, data quality and security, participation, and customization.
 3. Collaborate to design and modify the configuration of HMIS projects, such that it meets program reporting and system analysis needs.
 4. Participate in the EveryOne Home Results Based Accountability (RBA) Committee in using the HMIS to develop system performance measures, data dashboards, and other analytical tools that follow HUD HMIS standards and meet community needs.
 5. Analyze system and programmatic data for trends, costs, performance, compliance, and progress on the Alameda CoC Plan to End Homelessness.
 6. Work collaboratively with other committees in analyzing annual reports from HMIS, including the Longitudinal Analysis report (formerly AHAR), System Performance Measures, PIT Count, and HIC chart.
 7. Establish the HMIS Oversight Subcommittee, that will act as a liaison between the HUD CoC Committee and the HMIS Lead Agency, with the following responsibilities:
 - a. Review data quality reports and recommend a quality improvement program to the HUD CoC.
 - b. Ensure compliance with federal requirements.
 - c. Support and protect the rights and privacy of service users.
 - d. Recommend to the HUD CoC a policy and set of procedures that will guide decisions about customization including establishing: A) a process through which a Contributing HMIS Organization (CHO) may request that project configuration, custom data collection fields, and/or assessments be built into the HMIS; B) the criteria upon which those requests are evaluated; and C) guidance for CHOs to appropriately manage requests for custom data collection fields and assessments.
 - e. Collaborate with the HMIS lead on all HMIS policies the HMIS Lead is required to develop, including Privacy, Security, and Data Quality Plans as required by federal

regulation.

8. Review data quality reports and take appropriate action to ensure accountability and improved performance of CHOs and system per approved policies.
9. Conduct an annual review of the HMIS system's performance and functionality, using HMIS work-plan to measure progress. Criteria will be discussed with HMIS Lead.
10. Revisit license users' policies and collaborate when additional funding is needed to expand programs and users.

IV. DURATION AND RENEWAL

1. Except as provided in the TERMINATION section, the duration of the MOU shall be for an initial five- year term from June 6, 2018, through June 6, 2023.
2. This agreement may be renewed by written agreement of both parties.

V. AMENDMENTS/NOTICES

The MOU may be amended in writing by the parties and is in effect upon signature of all parties. Notices shall be mailed, emailed or delivered to:


1. Chair of the HUD CoC Committee
2. Director of Alameda County Department of Housing and Community Development

VI. TERMINATION

Any party may terminate this MOU at a date prior to the renewal date specified in the MOU by giving 120 days written notice to the other party. The termination shall be effective on the date specified in the notice of termination.

In addition, if any of the Parties to this Memorandum of Understanding shall fail to fulfill in a timely and proper manner its obligations under this agreement, or if the Parties shall violate any of the covenants, agreements, or stipulations of this agreement, any of the Parties shall thereupon have the right to terminate this agreement by giving written notice of such termination and specifying the effective date thereof, which shall be at least 120 days before the effective date of such termination.

Signatures:




Chair, HUD CoC Committee, on behalf of the
Alameda County Continuum of Care (CoC Board)



Date



Director, Alameda County of Housing and
Community Development (HMIS Lead)



Date

Privacy Notice

For organizations in the Oakland-Berkeley-Alameda County Continuum of Care

In order to serve you, this organization may collect, use, and share your information. This organization has a responsibility to protect your information and privacy. This Privacy Notice summarizes this organization's Privacy Policy.

What information do we collect?

We collect information that can identify you, such as:

- Your name, address, date of birth.
- Contact information.
- Identification numbers.
- Photos or videos.
- Information about services you received.

Why do we use and share your information?

We use and share your information to:

- Provide or coordinate services.
- Collect payments.
- Run the organization.
- Create data that can't identify you.
- Support research.
- Follow local, state, and federal laws.
- Follow court orders.
- Keep you or others safe.
- Respond to threats and ensure public safety.

Is your consent needed to use or share information?

We will ask for your consent to use or share your information for any purposes not listed above, or if the law requires it.

How do we protect your privacy?

In addition to following local, state, and federal laws, we will:

- Assist you if you need help or translation, as required by law.
- Explain and share this Privacy Notice and its Privacy Policy.
- Only collect the information it needs.
- Have a plan for keeping information in good order and deleting old data.
- Share the least amount of information needed to complete a task.
- Allow you to review and correct your information and explain if your request is denied.
- Have a plan and train staff to handle questions, complaints, or a data breach.

The Privacy Policy can be changed at any time. Changes can apply to information that has already been collected.

Read this organization's Privacy Policy online at [\[www.orgwebsiteaddress\]](#) or ask a staff member for a printed copy.

Oakland–Berkeley–Alameda County Continuum of Care Homeless Management Information System

Each Covered Homeless Organizations (CHO) who participates in the CA-502 CoC must decide to adopt the CA-502 CoC Privacy Policy (Policy) and the CA-502 COC Privacy Notice in whole or adapt them to include stricter protections, as necessary.

HIPAA-covered entities may be exempt. CHOs must also comply with federal, state, and local laws that require additional confidentiality protections, where applicable.

The following Policy recognizes the broad diversity of CHOs that participate in the CA-502 CoC HMIS, and the differing programmatic and organizational realities that may demand a higher standard for some activities. Some CHOs (e.g., such as those serving victims of domestic violence, runaway youth, or persons with substance use disorder) must implement higher levels of privacy standards because of the nature of the clients they serve and / or service provisions. Others (e.g., large emergency shelters) may find higher standards overly burdensome or impractical. Unless exempt, CHOs must meet the minimum privacy standards described in the following Policy. This approach provides a uniform floor of protection for clients at-risk of or experiencing homelessness with the possibility of additional protections for CHOs with additional needs or capacities.

Please send any **questions, concerns, or other feedback** to jessica@hanserdhealth.com and SWarner@acgov.org .

Updated 01/05/22

Oakland–Berkeley–Alameda County Continuum of Care
Homeless Management Information System
CA-502 Standard Privacy Policy

All Continuums of Care (CoC) are responsible for the oversight and operation of a Homeless Management Information System. The Oakland-Berkeley-Alameda County CoC recognizes its responsibility to safeguard the privacy of information collected about people experiencing homelessness. At the same time, the CA-502 CoC affirms its support for sharing HMIS data to facilitate and enhance care coordination, reimbursement for services, homeless system planning, and public knowledge of homelessness. This Policy describes standards for the privacy of personal information collected and stored in the HMIS and elsewhere in print or electronic formats within the CA-502 CoC network. The standards protect the confidentiality of personal information while allowing for reasonable, responsible, and limited uses and disclosures of data. This Policy is based on principles of fair information practices recognized by the information privacy and technology communities.

The following sections discuss the CA-502 CoC HMIS privacy standards in close alignment with the federal HUD HMIS Privacy and Security Standards.

1 Definitions and Scope

1.1. Definitions

- **Covered Homeless Organization (CHO):** Any organization (including its employees, volunteers, affiliates, contractors, and associates) that records, uses, discloses or processes PII on clients at-risk of or experiencing homelessness. This definition includes both organizations that have direct access to the CA-502 CoC HMIS, as well as those formally partnering organizations who do not but do record, use, or process PII of target population clients.
- **Disclose:** Activities in which a CHO shares PII externally with other entities.
- **Homeless Management Information System (HMIS):** A local information technology system used to collect, store and report client-level information about individuals who are seeking services to resolve homelessness or the risk of homelessness.

Sharing HMIS data enhances care coordination, while facilitating reimbursement for services, homeless system planning, and improved public knowledge of homelessness. The HMIS system is designed to improve effectiveness and efficiency for clients, CHOs, provider agencies, jurisdictions, other systems of care, funders, and the community. Improved knowledge gained from HMIS about various communities with special needs

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and their service usage aides with providing a more effective and efficient service delivery system.

CA-502 uses Clarity by BitFocus for its HMIS software.

- **Information Sharing Authorization (ISA-H):** This a consent form used for housing and homeless prevention services that allows for the consumer's PII to be shared with CHOs and other providers that assist clients who are at-risk of or experiencing homelessness.

This consent form is required for any use or disclosure that is not listed as allowable in the CHOs privacy notice. For CHOs that adopt the CA-502 standard Privacy Policy and Privacy Notice in whole, this form will be rarely needed.

- **Participating CHOs:** A list of CA-502 participating CHOs can be found at https://acgov.org/cda/hcd/documents/roi_providers.pdf.
- **Personally Identifiable Information (PII):** Any information maintained by or for a CHO about a client at-risk of or experiencing homelessness that: (1) identifies, either directly or indirectly, a specific individual; (2) can be manipulated by a reasonably foreseeable method to identify a specific individual; or (3) can be linked with other available information to identify a specific individual.

Set forth below is a non-exhaustive list of information that may constitute PII on its own or in combination with other information:

- | | |
|--------------------------------|---|
| • Full name | • Personnel number |
| • Home address | • Vehicle identifier or serial number |
| • Business Contact Information | • Photograph or video identifiable to an individual |
| • Personal email address | • Biometric information |
| • Social security number | • Medical information |
| • Passport number | • Criminal history |
| • Driver's license number | • Other information related to an individual that may directly or indirectly identify that individual (e.g., salary, performance rating, purchase history, call history, etc.) [10] |
| • Certificate number | |
| • Credit card numbers | |
| • Date of birth | |
| • Telephone number | |
| • Log in details | |

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Updated 01/05/22

CA-502 Standard Privacy Policy

- **Privacy Notice:** A consumer facing document maintained and published by each CHO that describes its policies and practices for the processing of PII, the reasons for collecting information and uses and disclosures that are allowable. Consent may be assumed for uses and disclosures that are described as allowable in the Privacy Notice. The Privacy Notice must be posted at each intake desk (or comparable location) and on the CHO's public website.
- **Process:** Any operation or set of operations performed on PII, whether by automated means, including but not limited to collection, maintenance, use, disclosure, transmission, and destruction of the information.
- **Record:** Activities internal to any given CHO that involve creating a hard copy or electronic record of data that includes PII.
- **Use:** Activities internal to any given CHO that involves interaction with PII.

1.2 Applying this Policy

This Policy applies to any CHO that records, uses, or processes personally identifiable information (PII) for the Oakland–Berkeley–Alameda County Continuum of Care (CA-502) Homeless Management Information System (HMIS), except for HIPAA covered entities as noted below. All PII maintained by a CHO in print or electronic formats is subject to these standards.

Any CHO that is covered under the Health Insurance Portability and Accountability Act (HIPAA) is required to comply with HIPAA and is not required to comply with the privacy standards in this Policy if the CHO determines that a substantial portion of its PII about clients at-risk of or experiencing homelessness is protected health information as defined in the HIPAA rules. Exempting HIPAA-covered entities from this Policy's privacy standards avoids all possible conflicts between the two sets of rules.

This Policy gives precedence to the HIPAA privacy and security rules because:

1. The HIPAA rules are more finely attuned to the requirements of the health care system;
2. The HIPAA rules provide important privacy and security protections for protected health information; and
3. Requiring a CHO to comply with or reconcile two sets of rules would be an unreasonable burden.

It is possible that part of a CHO's operations may be covered by this Policy while another part is covered by the HIPAA standards. A CHO that, because of organizational structure, legal

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requirement, or other reason, maintains personal information about a client at-risk of or experiencing homelessness that does not fall under this Policy (e.g., the information is subject to the HIPAA health privacy rule) must describe that information in its privacy notice and explain the reason the information is not covered. The purpose of the disclosure requirement is to avoid giving the impression that all personal information will be protected under this Policy if other standards or if no standards apply. [2]

2 Allowable HMIS Uses and Disclosures of Personally Identifiable Information (PII)

Client consent for any uses and disclosures defined in this section is assumed when CHOs post the Privacy Notice at each intake desk (or comparable location) that explains generally the reasons for collecting HMIS information, and the uses and disclosures allowable.

2.1 Mandatory Uses and Disclosures

Per the 2004 HMIS Data and Technical Standards, HUD requires two mandatory disclosures regardless of their inclusion in the Privacy Notice:

- Participants' access to their own information
- Disclosures for oversight of compliance with HMIS data privacy and security standards

2.2 Permitted Uses and Disclosures

Per the 2004 HMIS Data and Technical Standards, HUD permits the following uses and disclosures of PII. If any of these uses and disclosures is not listed in the Privacy Notice, consent is required:

1. To provide or coordinate services for an individual or household;
2. For functions related to payment or reimbursement for services;
3. To carry out administrative functions, including but not limited to legal, audit, personnel, oversight, contractual obligations, and management functions; or
4. For creating deidentified PII.

2.3 Additional Permissions

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Per the 2004 HMIS Data and Technical Standards, HUD also permits the following uses and disclosures of PII without participant consent, provided that these additional uses and disclosures are listed in the Privacy Notice. If any of these uses and disclosures is not listed in the Privacy Notice, consent is required:

2.3.1 Uses and disclosures required by law

A CHO may use or disclose PII when required by law to the extent that the use or disclosure complies with and is limited to the requirements of the law. For example, information may need to be disclosed to the Department of Health and Human Services to make sure that a client's rights have not been violated.

2.3.2 Uses and disclosures to avert a serious threat to health or safety

A CHO may, consistent with applicable law and standards of ethical conduct, use or disclose PII if:

1. The CHO, in good faith, believes the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of an individual or the public; and
2. The use or disclosure is made to a person reasonably able to prevent or lessen the threat, including the target of the threat.

2.3.3 Uses and disclosures about victims of abuse, neglect, or domestic violence

A CHO may disclose PII about an individual whom the CHO reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority (including a social service or protective services organization) authorized by law to receive reports of abuse, neglect, or domestic violence under the following circumstances:

1. Where the disclosure is required by law and the disclosure complies with and is limited to the requirements of the law; or
2. If the individual agrees to the disclosure; or
3. To the extent that the disclosure is expressly authorized by statute or regulation; and the CHO believes the disclosure is necessary to prevent serious harm to the individual or other potential victims; or if the individual is unable to agree because of incapacity, a law enforcement or other public official authorized to receive the report represents that the PII for which disclosure is sought is not intended to be used against the individual and that an immediate enforcement activity that depends upon the disclosure would be

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materially and adversely affected by waiting until the individual is able to agree to the disclosure.

A CHO that makes a permitted disclosure about victims of abuse, neglect or domestic violence must promptly inform the individual that a disclosure has been or will be made, except if:

1. The CHO, in the exercise of professional judgment, believes informing the individual would place the individual at risk of serious harm; or
2. The CHO would be informing a personal representative (such as a family member or friend), and the CHO reasonably believes the personal representative is responsible for the abuse, neglect, or other injury, and that informing the personal representative would not be in the best interests of the individual as determined by the CHO, in the exercise of professional judgment.

2.3.4 Uses and disclosures for academic research purposes

A CHO may use or disclose PII for internal quality improvement or evaluation conducted by an individual or institution that has a formal relationship with the CHO if the analysis is conducted either:

- By an individual employed by or affiliated with the CHO for use in a research project conducted under a written research agreement approved in writing by a program administrator (other than the individual conducting the research) designated by the CHO;
- By an institution for use in a research project conducted under a written research agreement approved in writing by the CoC Board.

A written research agreement must:

1. Establish rules and limitations for the processing and security of PII during the research;
2. Provide for the return or proper disposal of all PII at the conclusion of the research;
3. Restrict additional use or disclosure of PII, except where required by law; and
4. Require that the recipient of data formally agree to comply with all terms and conditions of the agreement.

A written research agreement is not a substitute for approval of a research project by an Institutional Review Board, Privacy Board, or other applicable human subjects protection institution.

Any research/ evaluation on the nature and patterns of homelessness at the CA-502 CoC-wide level that uses PII HMIS data may be conducted only based on specific agreements between

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researchers and the entity that administers the HMIS. These agreements must be approved by the CA-502 CoC Board and must reflect adequate standards for the protection of data confidentiality.

2.3.5 Disclosures for law enforcement purposes

A CHO may, consistent with applicable law and standards of ethical conduct, disclose PII for a law enforcement purpose to a law enforcement official under any of the following circumstances:

- In response to a lawful court order, court-ordered warrant, subpoena, or summons issued by a judicial officer, or a grand jury subpoena;
- If the CHO believes in good faith that PII disclosure is necessary to report specified types of criminal conduct to law enforcement to seek remediation. This Policy allows for the disclosure of PII to report crimes that occurred on the CHO's premises (e.g., crimes that cause harm to the CHO's premises, personnel, participants served, or other members of the public). Examples of criminal conduct covered include assault or bodily harm of any type, harassment, credible threats of violence, theft, destruction of property, and manufacture/production or distribution of controlled substances on CHO premises. It is not intended to cover minor infractions such as personal possession or use of controlled substances, unless covered elsewhere in this Policy (i.e., Section 2.3.2).
- If the official is an authorized federal official seeking PII for the provision of protective services to the President or other persons authorized by 18 U.S.C. 3056, or to foreign heads of state or other persons authorized by 22 U.S.C. 2709(a)(3), or for the conduct of investigations authorized by 18 U.S.C. 871 and 879 (threats against the President and others); and the information requested is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought. [3]

3 Uses and Disclosures of PII that Require Consent

Consent must be obtained using the Information Sharing Authorization (ISA-H) form in any of the following circumstances:

- For any use or disclosure other than what is included in section 2
- For any use or disclosure that is not listed in the CHO's privacy notice

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4 Privacy Requirements and Responsibilities

All CHOs involved with the CA-502 CoC HMIS must comply with the privacy requirements described here with respect to:

1. Data collection limitations;
2. Data quality;
3. Purpose and use limitations;
4. Openness;
5. Access and correction; and
6. Accountability.

A CHO must comply with federal, state, and local laws that require additional confidentiality protections. All additional protections must be described in the CHO's privacy notice. A CHO must comply with all privacy protections in this Policy and with all additional privacy protections included in its privacy notice, where applicable.

A CHO may maintain a common data storage medium with another organization (including but not limited to another CHO) that includes the sharing of PII. When PII is shared between organizations, responsibilities for privacy may reasonably be allocated between the organizations. Organizations sharing a common data storage medium and PII may adopt differing privacy policies as they deem appropriate, administratively feasible, and consistent with this Policy, which allows for the de-duplication of clients at-risk of or experiencing homelessness at the CoC level.[5] Those differing privacy policies may mean that one CHO has a more rigorous privacy standard, but each policy must, at minimum, meet and not contradict the privacy standards set forth herein. In addition, CHOs must maintain documentation regarding changes to their privacy policies.

4.1 Data Collection Limitation

A CHO may collect PII only when appropriate to the purposes for which the information is obtained or when required by law. A CHO must collect PII by lawful and fair means and, where appropriate, with the knowledge of the individual.

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A CHO must post a sign at each intake desk or comparable location (e.g., on a clipboard in the field) that explains generally the reasons for collecting this information and how to obtain a copy of its privacy notice. Staff must also verbally explain this information. [4]

4.2 Data Quality

PII collected by a CHO must be relevant to the purpose for which it is to be used. To the extent necessary for those purposes, PII must be accurate, complete, and timely, as defined by the CA-502 Data Quality Monitoring Plan. A CHO must develop and implement a plan to dispose of, or remove identifiers from, PII that is not in current use seven years after the PII was created or last changed (unless a statutory, regulatory, contractual, or other requirement mandates longer retention). [5]

4.3 Purpose Specification and Use Limitation

A CHO may use or disclose PII only if the use or disclosure is allowed by this Policy. This Policy *limits the disclosure of PII to the minimum necessary to accomplish the purpose of the disclosure.*

A CHO processing PII for the purposes of the CA-502 CoC HMIS must agree to additional restrictions on the use or disclosure of the client's PII at the request of the client, where it is reasonable to do so. This may include, but is not limited to, using de-identified client information when coordinating services through the HMIS.

When a client has requested additional restrictions, a CHO, in the exercise of professional judgment, must provide a response. The response must include whether the CHO will agree to the request; and reasonable alternatives, if any, if the CHO determines the request cannot be reasonably accommodated. [6]

4.4 Openness

A CHO must publish a privacy notice describing its policies and practices for the processing of PII and must provide a copy of its privacy notice to any individual upon request. If a CHO maintains a public web page, the CHO must post the current version of its privacy notice on the web page. A CHO must post a sign stating the availability of its privacy notice to any individual who requests a copy.

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This Policy may be amended at any time and amendments may affect PII obtained by a CHO before the date of the change. An amendment to this Policy regarding use or disclosure will be effective with respect to information processed before the amendment, unless otherwise stated.

CHOs are obligated to provide reasonable accommodations for persons with disabilities throughout the data collection process. This may include but is not limited to, providing qualified sign language interpreters, readers, or materials in accessible formats such as Braille, audio, or large type, as needed by the individual with a disability. See 24 CFR 8.6; 28 CFR 36.303. Note: This obligation does not apply to CHOs who do not receive federal financial assistance and who are also exempt from the requirements of Title III of the Americans with Disabilities Act because they qualify as “religious entities” under that Act.

In addition, CHOs that are recipients of federal financial assistance shall provide required information in languages other than English that are common in the community, if speakers of these languages are found in significant numbers and come into frequent contact with the program. See HUD Limited English Proficiency Recipient Guidance published on December 18, 2003 (68 FR 70968). [7]

4.5 Access and Correction

In general, a CHO must allow an individual to inspect and to have a copy of any PII about the individual. A CHO must offer to explain any information that the individual may not understand. A CHO must consider any request by an individual for correction of inaccurate or incomplete PII pertaining to the individual. A CHO is not required to remove any information but may, in the alternative, mark information as inaccurate or incomplete and may supplement it with additional information.

A CHO may reserve the ability to rely on the following reasons for denying an individual inspection or copying of the individual’s PII:

1. Information compiled in reasonable anticipation of litigation or comparable proceedings;
2. Information about another individual (other than a health care provider or CHO);
3. Information obtained under a promise of confidentiality (other than a promise from a health care or CHO) if disclosure would reveal the source of the information; or

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4. Information, the disclosure of which would be reasonably likely to endanger the life or physical safety of any individual. A CHO can reject repeated or harassing requests for access or correction.

A CHO that denies an individual's request for access or correction must explain the reason for the denial to the individual and must include documentation of the request and the reason for the denial as part of the PII about the individual. [8]

4.6 Accountability

A CHO must establish a procedure for accepting and considering questions or complaints about its privacy and security policies and practices. A CHO must require each member of its staff (including employees, volunteers, affiliates, contractors, and associates) to sign annually a confidentiality agreement that acknowledges receipt of a copy of the CHO's current privacy notice and that pledges to comply with the privacy notice. [9]

In the event of an unlawful privacy or security breach, CHOs are required to notify the HMIS Administrator within 3 business days. The HMIS Administrator will respond within 3 business days of receiving the notification. The HMIS Administrator will provide a written response or corrective action plan as appropriate. Corrective actions may include notifying the consumer, downgrading system access, terminating user privileges, and disciplinary actions up to and including termination.

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- [1] Federal Register/Vol. 69. No. 146/Friday, July 30, 2004/Notices SEC. 4.1.1 pg. 45928
- [2] Federal Register/Vol. 69. No. 146/Friday, July 30, 2004/Notices SEC. 4.1.2 pg. 45928
- [3] Federal Register/Vol. 69. No. 146/Friday, July 30, 2004/Notices SEC. 4.1.3 pg. 45928-45929
- [4] Federal Register/Vol. 69. No. 146/Friday, July 30, 2004/Notices SEC. 4.1.3 pg. 45929
- [5] Federal Register/Vol. 69. No. 146/Friday, July 30, 2004/Notices SEC. 4.2.2 pg. 45929-45930
- [6] Federal Register/Vol. 69. No. 146/Friday, July 30, 2004/Notices SEC. 4.2.3 pg. 45930
- [7] Federal Register/Vol. 69. No. 146/Friday, July 30, 2004/Notices SEC. 4.2.4 pg. 45930
- [8] Federal Register/Vol. 69. No. 146/Friday, July 30, 2004/Notices SEC. 4.2.5 pg. 45930-45931
- [9] Federal Register/Vol. 69. No. 146/Friday, July 30, 2004/Notices SEC. 4.2.6 pg. 45931
- [10] U.S. Department of Housing and Urban Development Privacy Policy, July 2020 pg. 6

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