

IN-CDPA

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Official Indiana Attorney General implementation guide

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I. Preamble .

Companies collect the personal data of Hoosiers every day. Over 75% of the most frequently visited websites in the United States share visitors' personal data with third party advertisers. From shopping online and social media to healthcare and financial transactions, sharing information is often necessary to participate in daily life. Hoosiers produce valuable economic, health, and social data from multiple devices that they use, which can be stored and shared among countless parties, often without our knowledge or consent. In our data-driven society, the information gathered from our data is analyzed and even used to make decisions about us. Indiana law now ensures that Hoosiers have enough information to make meaningful decisions about who they give their data to and how it will be used. With the passing of the Indiana Consumer Data Protection Act ("CDPA") in 2023, Indiana took the lead as one of the first states to grant its residents control over their personal data. This law gives Hoosiers the right to understand how their data is used and make informed choices about how and with whom their data is sold or used. It also gives them the right to request its deletion or correction when necessary. The law directs the Attorney General's OWe to enforce and protect these important rights. The CDPA benefits both consumers and business owners. Data breaches, identity theft and financial loss are threats to Hoosiers and businesses alike. Consumers have the right to exercise control over their personal data, reducing the odds their data falls into the wrong hands. At the same time, the law establishes requirements that help businesses avoid legal risks and cyberattacks. As many as 60% of small businesses fail within six (6) months of a significant data breach. The

implementation of data privacy and security standards can significantly minimize the risk of a breach and its associated costs. The Indiana Consumer Data Protection Act takes effect on January 1, 2026. This Bill of Rights is a tool to educate Hoosiers on how the new law works, the rights offered to consumers and the obligations placed on applicable businesses. If you believe a business has violated the CDPA, you may file a consumer complaint with the OWe of the Indiana Attorney General. 2

II. Indiana Consumer Data Protection Bill of Rights.

This Consumer Bill of Rights is a summary of your rights as an Indiana resident under the Indiana Consumer Data Protection Act ("CDPA"). Under the CDPA, a "controller" is the person or entity that collects your personal data and determines how it is processed.

1. You have the right to obtain confirmation from a controller as to whether your personal data is being processed by the controller. 2. You have the right to obtain - once a year, free of charge - a copy or representative summary of the personal data you previously provided to a controller. 3. You have the right to correct inaccuracies in the personal data you previously provided to a controller. 4. You have the right to have your personal data deleted by a controller. 5. You have the right to opt out of a controller processing your personal data for targeted advertising, the sale of your personal data, and profiling. 6. You have the right to receive your personal data from a controller in a readily usable format so you can transfer it without hindrance. 7. You have the right to appeal a controller's denial of your request to exercise your rights under the CDPA. 8. You have the right not to be discriminated against by a controller for exercising your consumer rights under the CDPA. 9. You have the right to have your personal data processed by a controller in accordance with state and federal laws that prohibit unlawful discrimination against consumers. 10. You have the right to exercise these consumer rights on behalf of your children. 11. You have the right to expect that your children's data will not be processed by a controller without your consent. 12. You have the right to expect that your sensitive data will not be processed by a controller without your consent, including information that reveals your racial or ethnic origin, religious beliefs, mental or physical health diagnoses, sexual orientation, citizenship, immigration status, identifying genetic or biometric data, and precise geolocation data. 13. You have the right to know a controller's data processing

activities. A controller must provide a reasonably accessible, clear and meaningful privacy notice detailing the categories of personal data being processed, the purpose of the processing, the categories of personal data being shared with third parties, and the categories of third parties with whom personal data is being shared. 14. You have the right to have the collection of your personal data limited to what is adequate, relevant and reasonably necessary to the purpose communicated to you by the controller. 15. You have the right to expect that your personal data will not be used for purposes that are neither reasonably necessary for nor compatible with the purposes communicated to you by a controller, unless the controller obtains your consent. 4

III. Key Definitions.

A. Child. Someone under the age of thirteen (13).

B. Consent. A clear affirmative act that signifies a freely given, specific, informed, and unambiguous agreement.

C. Consumer. An Indiana resident acting in a personal, family, or household context. A person acting as an employee or in a commercial context is not a consumer.

D. Controller. The person or business that makes decisions about how personal data is processed.

E. Personal data. Information that is linked or could reasonably be linked to an individual. If information is not about a person, cannot be linked to a person, or is publicly available, it is not personal data.

F. Processing. Refers to almost any action performed with data, including collection, use, storage, disclosure, analysis, deletion, or modification. Processing can be a single action or a set of actions and may be automated or manual. The person or entity that processes data is a "processor."

G. Profiling. Automated processing on personal data to evaluate, analyze, or predict personal aspects about an identified or identifiable individual's economic situation, health, personal preferences, interests, reliability, behavior, location, or movements.

H. Sale of personal data. The exchange of personal data between a controller and a third party for money. It does not include the disclosure of personal data (1) to a processor; (2) to an affiliate of the controller; (3) to a third party providing a service requested by a consumer; (4) that the consumer intentionally made public without restriction; or (5) as an asset in a merger, acquisition, or other similar transaction.

I. Sensitive data. A special category of personal data that triggers additional protection based on its sensitivity. Sensitive data includes information that reveals a person's racial or ethnic origin, religious beliefs, mental or physical health diagnoses, sexual orientation, citizenship, immigration status, identifying genetic or biometric data, and precise geolocation data. All children's data is sensitive data.

Targeted advertising. Displaying an advertisement to a consumer based on personal data obtained from the consumer's activities over time and across nonaffiliated websites to predict the consumer's preferences or interests. It does not include advertisements (1) based on activities on the controller or its affiliates' websites; (2) based on a consumer's current search or visit to a website; or (3) in response to a consumer's request for information. It does not include processing data to analyze advertisement performance or frequency.

IV. Overview of Consumer Rights under the CDPA.

This law applies to Indiana residents acting in a personal, family, or household capacity ("Consumers"), and for-profit businesses that meet the applicable threshold and make decisions regarding the processing of data ("Controllers").

A. Right to Know

- Confirm if a controller is processing your personal data

- Obtain copies or a summary of the personal data the consumer previously provided to a controller

B. Right to Control

- Correct inaccuracies in the consumer's personal data that the consumer previously provided to the controller

- Delete your personal data provided to or held by a controller

- Obtain your personal data in an easily transferable form

C. Right to Protect

- Opt out of processing of your personal data for targeted advertising, the sale of personal data, and profiling

- Protect sensitive data and children's personal data

D. Right to Take Action

- Right to exercise rights without discrimination

- Right to appeal

V. Understanding Consumer Rights.

Understanding your rights under the CDPA allows you to protect your personal data and empowers you to make informed decisions on whether you are willing to share your data and to what extent. However, consumer rights are not without limitations. Manifestly unfounded, excessive, or repetitive requests may be refused, or you may be required to pay a reasonable fee to offset administrative costs.

Right to Know

- Confirm if a controller is processing your personal data
- Obtain copies or a summary of the personal data the consumer previously provided to a controller

Under the CDPA, Hoosiers have a right to know. The right to know includes the right to confirm processing and obtain a copy or representative summary of the personal data you previously provided to the controller once a year, free of charge. Companies subject to the CDPA must also post a privacy notice informing Hoosiers of their data processing practices and how consumers may exercise their privacy rights. The notice must be thorough, easy to find, and easy to understand (accessible, clear, and meaningful). The notice must include the categories of personal data processed, the categories of personal data shared with third parties, the reason for processing, and the categories of third parties that receive the personal data.

- **Right to Confirm Processing.** Hoosiers have the right to know whether a controller is processing their personal data. To confirm processing, Hoosiers can visit the controller's website or place of business and access their privacy notice. The notice must explain how to contact the business to request confirmation about whether it collects, uses, or otherwise processes your personal data.
- **Right to Access Personal Data.** Hoosiers have a right to receive a copy or representative summary of the personal data that they previously provided to the controller. Hoosiers are entitled to this information once a year and in many situations, the copy or summary must be given free of charge and within forty-five (45) or ninety (90) days. Consumers are only entitled to obtain a copy or summary of the personal data they previously provided to a controller. The controller is not obligated to provide data obtained from other sources or data it has inferred about a consumer as a result of processing it. A consumer does not have the option to choose between receiving a copy or summary of their data; this decision is made by the controller depending on the nature of the data and the purposes of processing the data.

Right to Control

- Correct inaccuracies in your personal data held by a controller
- Delete your personal data held by a controller
- Obtain your personal data in an easily transferable form

The CDPA gives Hoosiers ways to exercise control over their personal data, giving them choices that foster a greater sense of security. Allowing Hoosiers to direct how companies handle their personal data not only helps ensure its accuracy but also reduces the risk of misuse or exploitation.

- **Right to Correct Inaccuracies.** Hoosiers have a right to correct inaccuracies in the personal data that the consumer previously provided to a controller. The right to correct inaccuracies is limited to the specific personal data the individual previously provided to the company, not all data the company may have.
- **Right to Delete:** Hoosiers have the right to request that companies subject to the CDPA delete their personal data. The right to delete applies more broadly than the right to correct inaccuracies. A consumer can request that a controller delete any personal data the company holds about them no matter its source.
- **Right to Portability.** Hoosiers have the right to easily move their personal data to different platforms. To the extent technically practicable, the right of portability ensures Hoosiers receive a copy of their data in a readily usable format. This gives Hoosiers the ability to move their personal data from one service provider to another without technical issues. 8

Right to Protect

- Opt out of processing of your personal data for targeted advertising, the sale of personal data, and profiling
- Protect sensitive data and children's personal data

Businesses collect an enormous amount of personal data through simple online interactions like visiting a website or making a purchase. This information is valuable to third parties who can use a person's location, browsing history, purchase history and financial information to create an entire profile of a person. This information can be sold and shared with countless entities around the world, creating more possibilities for data to be leaked. The CDPA gives Hoosiers the right to protect their personal data by putting limits on the processing and sale of their data.

- **Right to Opt Out.** Hoosiers are given the right to opt out of certain types of processing that Indiana has deemed to be the most invasive. When someone opts out, it tells a controller that they do not agree to specific processing activities. Opting out requires a consumer to take some sort of action, such as clicking a button or checking a box. The CDPA gives Indiana residents the right to opt out of their personal data being processed for (a) targeted advertising; (b) the sale of personal data; and (c) profiling. If a controller sells personal data to third parties or uses it for targeted advertising, that fact must be clearly and conspicuously disclosed to a consumer along with a mechanism for them to opt out.

o **Targeted Advertising.** The definition of targeted advertising includes not only what targeted advertising is, but also what it is not. In general, the right to opt out of targeted ads means that Hoosiers can choose whether to receive advertisements specifically tailored to them based on browsing history and other online activity over time, across nonaffiliated websites or apps. Targeted advertising does not

include advertisements (1) based on activities on the controller or its affiliates' websites; (2) based on a consumer's current search or visit to a website; or (3) in response to a consumer's request for information.

o Sale of Personal Data. The sale of personal data involves a controller giving a consumer's personal data to a nonaffiliated third party for money, which can put consumers at risk of identity theft, unwanted communications, and scams. It is not considered a "sale" if a controller shares personal data with its processors, affiliates, and other companies that assist in fulfilling an order or delivering a product to the consumer.

o Profiling. The right to opt out of profiling gives consumers the ability to choose whether their personal data can be processed to evaluate and predict behavior and preferences to support legal and other significant decisions related to financial and lending services, housing, insurance, education, employment, health care, or other necessities. Profiling can create a more individualized experience online, but because it relies on generalizations it may be inaccurate and biased.

• Sensitive Data and Children's Personal Data. Consumers also have the right to protect their sensitive data, which includes any personal data of a known child (under the age of 13). Unlike the opt-out rights where a controller can process data in certain ways unless a consumer objects, sensitive data cannot be processed unless the consumer (or their parent or guardian) provides consent (opt-in). Consent requires a consumer to take clear, affirmative action, such as providing a written statement, to unambiguously communicate agreement. Sensitive data that requires opt-in consent for processing includes any personal data of a known child and personal data that reveals:

- o Racial or ethnic origin
- o Religious beliefs
- o Mental or physical health diagnosis
- o Sexual orientation
- o Citizenship
- o Immigration status
- o Identifying genetic or biometric data
- o Precise geolocation data

Right to Take Action

- Right to exercise rights without discrimination
- Right to appeal

Right against Discrimination. Consumers have the right not to be discriminated against for invoking their CDPA rights. This means that a controller cannot treat a consumer who has chosen to exercise a right differently than a consumer who does not exercise a right. Discrimination in this context can be denying goods or services, charging different prices or rates, or providing a lower level of quality of services. The CDPA also restricts the processing of personal data in violation of state or federal laws that prohibit unlawful discrimination.

Right to Appeal. If a controller refuses to grant a CDPA request, consumers have a right to appeal. The appeal process must be easy to access and should be similar to the process in which the consumer submitted their original request. Within sixty (60) days, consumers are entitled to receive a decision on their appeal. If the appeal is denied, consumers must be given a way to contact the Office of the Indiana Attorney General to submit a consumer complaint.

VI. How to Exercise Your Rights.

The confusion of navigating privacy notices and consent requests can be overwhelming and cause people to feel helpless to protect their data. The CDPA requires companies to provide easy access for individuals to exercise their rights and must ensure equal treatment for all who do so. Controllers must provide at least one safe and reliable way to submit a request to exercise privacy rights. This process must be clearly described in a controller's privacy notice. The logistics of submitting requests are left to the controller but should be done in a manner similar to the way a consumer would normally interact with the business. Note that a consumer's request may be denied by a controller if it is manifestly unfounded, excessive, or repetitive. The controller bears the burden of demonstrating the manifestly unfounded, excessive, or repetitive nature of the request. Consumers must be given a response to their request within forty-five (45) days. Controllers can extend the response time by an additional forty-five (45) days but must notify the consumer of the extension within the first forty-five (45) days. 11 Consumers may have to provide additional identifying information to a company so it can verify the consumer's identity before a request is granted. A controller cannot make a person create a new account to exercise their rights but may require them to sign in to an existing account.

VII. Step-by-Step Guide.

1. Determine if CDPA Applies.

Check the company's privacy notice to determine if it collects or processes personal data, keeping in mind that the CDPA only applies to entities that do business in Indiana, or produce products or services that are targeted to Indiana residents, and that control or process enough personal data to meet the law's threshold requirements. Additionally, remember the CDPA generally does not apply to:

- The state, state agencies, or political subdivisions
- Contractors of the state, state agencies, or political subdivisions when acting on behalf of these entities
- Financial institutions
- HIPAA covered entities
- Nonprofits
- Higher education institutions
- Public utilities

2. Request Access to Your Data .Contact the company to ask what personal data it has collected about you. Instructions on how to submit your request should be outlined in the privacy notice. Many businesses provide an online form, email address, or mailing address for submitting requests.

3. Request Data Deletion or Correction if Needed .If your personal data is inaccurate or you want it deleted, submit a formal request through a method designated in the privacy notice.

4. Opt-Out Request. 12 If you do not want your personal data used for targeted advertising or profiling or sold to third parties, submit an opt-out request.

5. Appeal a Denied Request .If a company denies your CDPA request, you may appeal the decision through the company's appeal process. The appeal process should be made available to you when your request is denied. The appeal process should also be outlined in the privacy notice.

6. File a Complaint with the Indiana Attorney General if Needed.

If a company fails to honor your request or otherwise violates the CDPA, you can report the company to the OWe of the Indiana Attorney General.

VIII. FAQs.

Q: When do businesses have to start complying with the CDPA?

A: Businesses are required to comply with the CDPA when it goes into eWect on January 1, 2026.

Q: What companies must comply with the CDPA?

A: The CDPA generally applies to individuals and companies that do business in Indiana or produce products or services that are targeted to Indiana residents during the applicable calendar year and either: (i) Control or process the personal data of 100,000 or more Indiana residents; or (ii) Control or process the personal data of at least 25,000 Indiana residents

and derive more than 50% of their gross revenue from the sale of personal data. However, there are exemptions for certain entities including financial instructions, HIPAA covered entities, nonprofits, higher education institutions, and public utilities even if they meet the threshold requirements. 13

Q: Does CDPA apply to the government and nonprofit organizations?

A: No, the CDPA does not apply to 501(c)(3), 501(c)(6) or 501(c)(12) nonprofit organizations, the state, or any state agencies, including any bodies, authorities, boards, bureaus, commissions, districts, or agencies of any political subdivision.

Q: Are any businesses exempt from CDPA compliance?

A: Yes, even if they meet the threshold requirements above, the CDPA generally does not apply to financial institutions, HIPAA covered entities, nonprofit organizations, higher education institutions, or public utilities.

Q: What is the diZerence between a Controller and Processor?

A: A controller is the company that collects your data and decides how the data is used. A processor works with the controller by processing data on its behalf. For example, when ordering a product online, the retailer selling the product would typically be the controller. Once the item is purchased, your data may be sent to a company that delivers the product to you on behalf of the retailer. The delivery company would be considered the processor.

Q: What is not considered personal data under the CDPA?

A: Personal data does not include publicly available information or information that is not about a person or that cannot be linked or linkable to a person (including aggregate and de-identified data). Publicly available information is information lawfully made available from federal, state, or local government records, such as property records and certain criminal records. It also includes information that a business reasonably believes is made available to the general public through widely distributed media, the consumer, or someone the consumer disclosed the information to without restriction.

Q: Can I submit one request to have all my personal data deleted from every company that has it?

A: No. Under the CDPA, you must submit a deletion request directly to each individual company or organization that holds your personal data. There is currently no single, centralized way to delete all your data from every company at once. 14 However, once a controller receives a valid request, it is required to delete your personal data unless an exception applies.

Q: How long does a controller have to respond to my request?

A: When a consumer exercises a right, the controller must respond without undue delay, but no later than within forty-five (45) days. However, the law recognizes that a response may take longer so it allows the response period to be extended for an additional forty-five (45) days so long as the controller informs the consumer of the extension within the original 45-day response period. In total, a controller has ninety (90) days to respond.

Q: Do these privacy rights apply to me even if I didn't purchase anything from a company?

A: Yes, CDPA's privacy rights apply regardless of whether you have made a purchase so long as the company holds your personal data and is subject to the law.

Q: Is there a fee to make a privacy request under the CDPA?

A: No, there is generally no fee to exercise your privacy rights under the CDPA. In limited circumstances, a company may charge a fee if a consumer makes excessive or repetitive requests for information.

Q: Can a controller deny my request?

A: Yes, under limited circumstances specified in the CDPA, controllers can deny your request. For example, a controller may deny your request if it would restrict their ability to:

- Comply with federal, state, or local law
 - Comply with a government investigation
 - Provide a product or service requested by a consumer
 - Respond to or prevent security incidents, identity theft, or other illegal activities
- When a controller denies a consumer request, it must contact the consumer within forty-five (45) days, explain the reason for the denial and provide instructions on how to appeal. For more exceptions, see Indiana Code § 24-15-8-1. 15

Q: What if a controller denies my request or doesn't respond to my request?

A: If a controller denies your request to exercise your consumer rights, you have the right to appeal. When a controller denies a request, it must also provide instructions for how to appeal the decision. If you are not given instructions, review the business' privacy notice, which must also include instructions on how to appeal. If a business has not responded to your request or informed you of an extension within forty-five (45) days, you should notify the business in writing. If a business still fails to respond after this step, you should file a consumer complaint with the OWice of the Indiana Attorney General.

Q: Can I exercise consumer rights on behalf of my child?

A: Yes, a child's parent or legal guardian can invoke their child's privacy rights by submitting a request with the controller specifying the rights the consumer wishes to invoke on behalf of the child.

Q: Can I exercise consumer rights on behalf of someone else other than my child?

A: Without a power of attorney or other legal authorization to act on behalf of another person, you may not exercise the consumer rights of someone other than your child. Controllers are only obligated to comply with authenticated consumer requests. If a controller is unable to verify a consumer's identity, it may request additional information before complying with the request.

Q: Can a company process my child's data?

A: Controllers can process the personal data of a child that they know to be under the age of thirteen (13) only if they get consent from the child's parent or guardian in accordance with and to the extent required by the federal Children's Online Privacy Protection Act (15 U.S.C. § 6501 et seq.).

Q: Where can I find a business's privacy notice?

A: Businesses subject to the CDPA must have a privacy notice that is easy for people to locate and access. On many websites, a link to the privacy notice is located at the bottom of each web page. If a business does not have a website, it must still have a copy of its privacy notice available for you to access. 16

Q: Will exercising my privacy rights affect my ability to use a service or make a purchase?

A: No. Companies cannot deny you goods or services or charge you more just for exercising your CDPA rights.

Q: What can I do if I think a business is violating Indiana's CDPA?

A: You can submit a complaint with the Office of the Indiana Attorney General. The easiest way to submit a complaint is online at: <https://www.in.gov/attorneygeneral/consumer-protection-division/file-a-complaint/>