



Client Advisory | October 2010

Privacy and Data Protection Issues for Nonprofit Organizations

Nonprofit organizations face the same privacy and data protection challenges and requirements that apply to any business. As compared with for-profit enterprises, nonprofits also must often face these challenges and meet these requirements with smaller budgets and fewer resources, and with staff that may not be experienced in addressing privacy and data protection issues. Moreover, in the event of a data breach, nonprofits may suffer even greater harm than some for-profit enterprises if they lose trust and confidence of current or prospective donors and other supporters.



*Theodore P. Augustinos
Partner*

For further information concerning our representation of nonprofit organizations on privacy and data protection matters, please contact Ted Augustinos, a member of our Privacy and Data Protection Group and our Breach Response Team, and of our Tax Exempt Organizations Practice Group. Ted may be reached at 860.541.7710 or taugustinos@eapdlaw.com.

In the past few years, nearly all U.S. jurisdictions and many foreign jurisdictions have imposed a variety of obligations on entities that collect, use and store “personal information,” which generally is defined to include a person’s name, together with a driver’s license or other state-issued identification number, bank or credit card number, or financial account number. The federal government and some states have also adopted requirements designed to protect “personal health information,” which is commonly defined to include any information about a person’s physical or mental health condition, the provision of health care, or payment for health care services. In addition to these governmental regulations, the credit card industry also imposes numerous data security requirements on any entity that accepts or processes credit card payments.

Most nonprofits collect, use and store “personal information” concerning their patrons and donors, as well as their staff. Many also collect, use and store “personal health information,” at least with respect to staff. Such organizations now must have comprehensive, written information

security programs, which include administrative, technical and physical safeguards for protecting the confidential information of employees, donors and others. In the event the privacy of such information is compromised, the organization also must be prepared immediately to comply with the “data breach” laws that have been adopted by almost all states and some foreign jurisdictions.

Our firm’s Tax Exempt Organizations Practice Group works closely with the firm’s Privacy and Data Protection Group to assist our nonprofit clients in complying with the myriad requirements that now pertain to privacy and data protection. We have assisted clients in developing the required policies, procedures and programs to comply with applicable legal, regulatory and contractual requirements. We also have worked with nonprofit organizations of all sizes and types throughout the United States in a variety of data breach situations, helping our client to manage the crisis, provide required notices to governmental agencies and affected individuals, and institute remedial measures to assist those affected individuals.

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Theodore P. Augustinos, Partner

+1 860 541 7710

taugustinos@eapdlaw.com

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