With privacy being a major concern among the public and a top risk for both private and government entities, University Compliance Services distributes the Privacy Matters @ WWU newsletter to highlight important privacy developments and to provide a centralized platform where University Privacy Owners and stakeholders can connect on privacy topics in an effort to strengthen Western’s Privacy Program.

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Growth in Comprehensive Privacy Laws Across the United States

Individual State Legislation

As technology and threats to data privacy advance at a growing rate, states are responding by passing comprehensive privacy laws to protect their consumers. California was the first to successfully pass legislation, the California Consumer Protection Act, which became effective January 1, 2020. Since then, 17 other states have done the same. As of May 20, 2024, there are 14 additional states with active comprehensive privacy bills, with two passing so far. Washington has attempted unsuccessfully to pass its Privacy Act multiple years in a row which was not re-introduced this past session. Click here to see a chart of the list of state bills and enacted laws with a comparison of key provisions.

Federal Legislation

There is a large number of privacy-related bills being reviewed at the federal level, but one particular comprehensive privacy law is gaining momentum. The American Privacy Rights
The Act (APRA) was proposed just this past April by two Washington State congresswomen. This bill would provide a private right of action and preempt non-sectoral state privacy laws. Click here to view a cheat sheet to the application and provisions of the APRA.

**Do these laws apply to Western?**

No. These individual state comprehensive privacy laws and the APRA currently exempt government entities. However, the substantial growth in privacy laws reflects an increasing recognition of the impact of rapid technological advancement, threats, and data breaches. The growth in privacy laws also demonstrates a shift towards a more privacy-conscious world where individuals view the protection of their personal information as a fundamental right that should be prioritized. Consumers expect entities to do more, not only protect their data, but to provide them with opportunities to have stronger controls over their data (e.g., required consent, privacy notices, opt-in/out options).

With the increase in public expectations and daily occurrences of privacy/security breaches, entities, including universities, are increasingly subject to class action laws suits which can lead to substantial financial and reputational harm.

- Loyola v. Whitworth University (2023)
- Boje v. Mercyhurst University (2023)
- Segal et al. v. University of Minnesota (2023)
- Benton-Hill v. The University of Rochester (2023)
- Bazanhe Fikuru v. Roosevelt University (2023)
- Diaz v. Oakwood University (2022)

**If these comprehensive privacy laws don't apply to Western, what are our responsibilities?**

There are a number of sectoral privacy laws that WWU is obligated to follow, but there are a number of situations where there are no legal protections for personal data or the current laws are outdated and haven’t caught up with technological advances leaving agencies and data vulnerable.

The state Office of Privacy and Data Protection (OPDP) recognizes the impact on state agencies if appropriate controls are not in place to fill in these legal gaps. In absence of a comprehensive state privacy law, the OPDP has developed a Data Privacy Protection Policy expected to be approved June 13, 2024. More information about this policy will be provided after it is published by OPDP.

In addition, the individual state privacy laws apply to most of WWU’s commercial vendors, so indirectly Western is obligated to appropriately evaluate its third parties’ compliance and establish strong data sharing agreements.
Professional Development Opportunities

Artificial Intelligence

If you are interested in learning more about AI governance, OneTrust provides a free AI governance masterclass that you can access live and on-demand.

Protecting Student Privacy

The Department of Education provides series of FERPA on-demand training modules.

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Please send in your comments, newsletter content suggestions, and questions to compliance.matters@wwu.edu

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Risk, Ethics, Safety, and Resilience