

Questions from Privacy Law & Donor Data webinar 11th October 2024

Disclaimer: answers given in Q&A are my own opinion and not legal expertise. Please seek legal guidance specific to your organization.

Q: Would the various appends offered by Blackbaud (deceased, email, phone, age etc.) fall into the category of Secondary Use?

A: Yes I believe so, if you don't declare them on your privacy notice. If you do declare them, you are covered (but you may want to offer constituents a chance of opting out of their information being appended, especially if any kind of AI is being used). Please seek legal advice if you're worried Secondary Use will affect you.

Q: Am I as a donor database manager legally responsible for data privacy - or legal in our organization?

A: You as an individual are not legally responsible, your organization is. Legal is there to advise and ensure compliance. If your organization is found in breach of a privacy law it will be fined, not you as an individual. This is separate to legislation about security of data, which already exists in many states or was refreshed in recent privacy law – ie. if you were personally responsible for a data breach or deliberately shared information with a third party for personal gain, obviously you would probably be held liable.

Q: Would we have to comply with other state's laws for our out-of-state donors even if the law doesn't exist in our state?

A: Yes (if the law does not exempt nonprofits and you meet the threshold). Think of it in the same way as complying with privacy laws in other countries if you have constituents overseas.

Q: If someone willingly gives you their birthdate, gender, pronoun, title, race. Can you store that data in the database. Assuming if they gave it to you they are allowing you to use it.

A: Yes you could, but I'd ask first why. What do you plan to do with that information? Can you weigh up the risk of storing it with any potential benefit to using it? And can you ensure you have a robust way of tracking where it came from, when and how the person willingly gave it? If you're not going to use it, graciously thank them and explain it's not your policy to store sensitive information.

Comments: If they wrote it on a form and you have that form

A: If the form asked for sensitive information, you'd need a really strong argument for wanting to collect that info. If someone added extra detail to a form outside the margins but you know for sure it's not information you routinely keep, you'd need to decide what to do – if you don't need it, and it's not in your privacy notice, contact the constituent for a chat to understand their intentions in giving you the extra info. Then shred/delete the form.

Q: Can I share this training video with others in my organization?

A: Absolutely, please do! And please help yourself to resources on my website.

A.D.

Q: Are there any laws in play in Canada?

A: Yes. Canada is somewhere between GDPR and the US and my understanding is its privacy laws largely exempt nonprofits. If this is something you'd like to know more about please email me and I'll connect you with a colleague who knows more than I!