

## I. Policy Statement

As a virtual charter school, VLACS treats the personal and sensitive data of its students and staff members seriously. In the unlikely event of data being lost or shared inappropriately, VLACS will take appropriate action to minimize any associated risk as soon as practicable. This policy outlines the steps VLACS will take in response to a data security breach.

## II. Types of Breach

For students, a data breach occurs when there is an unauthorized release or access of the personally identifiable information.

Student Personally identifiable information includes<sup>1</sup>:

- (a) The student's name;
- (b) The name of the student's parent(s) or other family members;
- (c) The address of the student or student's family;
- (d) A personal identifier, such as the student's social security number, student number, biometric record, driver's license number, or other government identification number;
- (e) Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;
- (f) Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
- (g) Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates; or

A data breach also occurs when there is an unauthorized disclosure of an individual's first name or initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted<sup>2</sup>:

- (a) Social security number.
- (b) Driver's license number or other government identification number.
- (c) Account number, credit card number, or debit card number, in combination with any required security code, access code, or

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<sup>1</sup> 34 C.F.R. § 99.3

<sup>2</sup> RSA 359-C:19

password that would permit access to an individual's financial account.

Data breaches can be caused by a number of factors, including, but not limited to the following:

- Loss or theft of data or equipment on which data is stored;
- Inappropriate access controls allowing unauthorized use;
- Equipment Failure;
- Human error and employee negligence;
- Unforeseen circumstances such as fire or flood; or
- Hackers gaining access to data through malicious attacks.

### **III. Immediate Containment/Recovery**

In the event that a VLACS employee discovers a possible data breach, the following steps should be taken:

1. The person who discovers/receives a report of a breach must immediately inform the Chief Executive Officer ("CEO"). If the breach occurs or is discovered outside normal working hours, this should be done as soon as is practicable.
2. The CEO or his designee will ascertain whether a breach has occurred and whether it is still occurring. If so, steps must be taken immediately to stop or minimize the effects of the breach.
3. In the case of a breach, VLACS will quickly take appropriate steps to recover any losses and limit the damage, which may include, but are not limited to:
  - a. Attempting to recover lost equipment;
  - b. The use of back-ups to restore lost/damaged/stolen data; and
  - c. If the data breach includes any entry codes or IT system passwords, then these must be changed immediately and the relevant agencies and members of staff informed.

### **IV. Investigation**

In the case of a breach, the CEO will designate a response team to investigate the breach. The response team should immediately determine the status of the breach and whether it is still ongoing. The response team will ascertain whose data was involved in the breach, the potential effect on the data, the cause of the breach, and what further steps need to be taken to remedy the situation. The investigation should consider:

- The type of data;

- Its sensitivity;
- What protections are in place (e.g. encryption);
- What has happened to the data;
- Whether the data could be put to any illegal or inappropriate use;
- How many people are affected;
- What type of people have been affected and whether there are wider consequences to the breach.

A record will be made of the nature of the breach and the actions taken to mitigate it. The investigation should be completed urgently and, whenever possible, within 72 hours of the breach being discovered/reported.

The response team will document all mitigation efforts for later analysis.

## **V. Notification**

Some individuals/agencies may need to be notified as part of the initial containment and after the investigation is completed. The chief executive officer, in collaboration with the response team will determine, based on the severity of the breach, whether a legal responsibility exists to notify any individuals and/or the New Hampshire Attorney General's Office.

Pursuant to RSA 359-C:20, where there is a determination that a legal obligation to notify an affected individual exists, any notification of a security breach will include the following:

- (a) A description of the incident in general terms;
- (b) The approximate date of the breach;
- (c) The type of personal information obtained as a result of the breach; and
- (d) The telephonic contact information of an individual on the response team designated to answer the questions and concerns of affected individuals.

In such circumstances where notification under RSA 359-C:20 is required, VLACS will also notify the New Hampshire Attorney General's Office of the breach. This notice will include the anticipated date of the notice to the individuals and the approximate number of individuals in New Hampshire who will be notified.

In the case of breaches where there is suspicion of criminal activity, law enforcement may be notified. Every incident will be considered on a case by case basis.

In the event that an unauthorized disclosure of a student's data occurs as a result of a breach, VLACS will record the disclosure in the student's education records.

## **VI. Review and Evaluation**

After the investigation, the CEO will fully review the causes of the breach and the effectiveness of the response to it. If systemic or ongoing problems are identified, then an action plan will be created to minimize the possibility of a future breach. The CEO will review this Data Breach Policy after each incident of breach to determine

whether modifications to VLACS's breach response strategy are necessary to improve the response process.

## **VII. Implementation**

VLACS will notify its staff of this Data Breach Policy. If staff members have any queries in relation to the policy, they should discuss with the CEO or his designee.

Law Reference:

RSA 359-C:20 - Notification of Security Breach Required

Date Adopted: November 17, 2016

Revision Dates:

Last Review Date: