


First Nations Health Authority

Board Policy



First Nations Health Authority
Health through wellness

Policy Name	Access to Information Policy
Department	Innovation and Information Management Services (IIMS)

For Corporate Services and CEO Office (do not fill this in)			
Document #	Effective	Replaces	Dated
IIMS-16-002-002		Release of Information Policy IIMS-13-002-001	
Board Approved Date		Authorization (BoD Motion Number)	
February 5 th , 2016 		0216-BOD-13	

1.0 Purpose

- 1.1 The First Nations Health Authority (FNHA) has ethical and legal obligations for providing access to the information in its custody and control. The purpose of this policy is to define the guiding principles and framework by which FNHA and its workers will comply with these obligations, demonstrate organizational accountability for providing access to this information, and maintain its trust-based relationships with Customer-Owners, workers, and business and healthcare partners.
- 1.2 This policy supports, and aligns with, FNHA's *Information Privacy and Confidentiality Policy* and *Records and Information Management Policy* documents.
- 1.3 This policy supports organizational Directive 2: Increase First Nations Decision-Making and Control, Directive 4: Foster Meaningful Collaboration and Partnership and Directive 7: Function at a High Operational Standard. This policy also supports the Shared Values of Excellence, Fairness and Relationships, and supports the following Operating Principle: sustainability, integrity, efficiency and innovation are essential components to the business approach that FNHA brings to its programs, services and initiatives.

2.0 Scope

- 2.1 This policy applies to all information and data (including Customer-Owners' information and data retained by FNHA programs and services), in the custody, or under the control, of FNHA regardless of format or medium.
- 2.2 This policy applies to FNHA Board of Directors, employees, independent contractors or consultants, and other people authorized to do business on behalf of FNHA.
- 2.3 This policy applies when providing access to FNHA information and data to all external parties, Customer-Owners, and healthcare partners. Internal access to FNHA information by FNHA employees and those individuals engaged to conduct work on behalf of FNHA is addressed in the *Records and Information Management Policy* and *Information Security Policy* documents.

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3.0 Policy Statements

- 3.1 When collecting, using, and disclosing information, FNHA and its workers must comply with:
- (a) BC Personal Information Protection Act (PIPA);
 - (b) BC Society Act; and
 - (c) Applicable health-sector-specific legislation, including but not limited to, E-Health Act, Medicare Protection Act, Public Health Act, Health Professions Act, and Pharmaceutical Services Act; and
 - (d) any other applicable professional codes of ethics and standards of practice.
- 3.2 The Board delegates authority to the CEO to establish appropriate directives and procedures to support implementation and compliance with this policy.

Openness

- 3.3 The FNHA is committed to openness and transparency. These principles are central to the FNHA's mandate and Shared Value of Fairness, where information-sharing does not contradict the First Nations Principles of OCAP™ or cause harm to First Nation communities.
- 3.4 The FNHA is a non-profit organization registered society under the Society Act, subject to BC Personal Information Protection Act (PIPA). The FNHA is not a public body comparable to the other BC health authorities that are subject to the BC Freedom of Information and Protection of Privacy Act (FIPPA) that requires to provide access to any records in the custody or under the control of a public body. Therefore, FNHA has no legal obligation to respond to those access requests made under FIPPA.
- 3.5 Despite the legal context, FNHA will respond to access requests for information on a discretionary basis in the spirit of organizational openness and transparency.
- 3.6 All access requests for corporate or community information must be made in writing.
- 3.7 FNHA may require an applicant who makes a request to pay fees for the following services:
- (a) intake process;
 - (b) locating, retrieving and producing the record;
 - (c) preparing the record for disclosure;
 - (d) shipping and handling the record; and
 - (e) providing a copy of the record.
- 3.8 Approved access requests by BC First Nations customer-owners and communities will be processed at no cost.
- 3.9 For non-BC First Nation applicants, an application fee will be charged. In addition, fees will be charged for the response commensurate to the costs incurred for processing the request and providing access to records. Fees are charged to recover operating costs incurred by response to access requests and to ensure community funds are not redirected from BC First Nations to perform a function outside FNHA's legal obligations.
- 3.10 The following fee schedule outlines charges for information access requests which non-BC First Nations applicants are required to pay.

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Description of Services	Management Fees
Application fee	\$50.00
Information location, retrieval, production, preparation for release	\$100.00 per hour, for first 2 hours A fee estimate will be provided when the fees are expected to exceed \$200.00
Community Consultation (OCAP™)	Actual costs plus administrative fee
Goods and services which FNHA incurs providing access to information (e.g., legal costs, specialized media copying services)	Costs will be charged to applicant
For shipping copies	Actual costs of shipping method chosen by applicant

3.11 Under PIPA, the FNHA may refuse to disclose to an applicant information that would cause substantial harm, or negatively affect the way FNHA operates, which includes, but is not limited to:

- (a) Personal information other than the applicant's, including employee personal information;
- (b) Information supplied in confidence from other governments, including Aboriginal governments;
- (c) Information that could reasonably be expected to be injurious to FNHA's relationship with other governments;
- (d) First Nations' community information, where the release would contradict the principles of OCAP.

If access is refused, the reason(s) for the refusal will be explained to the applicant in writing.

Ownership, Control, Access, and Possession (OCAP™)

3.12 The FNHA respects First Nations Principles of OCAP™ relating to community information and data, notwithstanding legislation.

- (a) To ensure compliance with OCAP and fair and transparent information handling, FNHA will consult with First Nation communities in all instances where FNHA is in control of, or the steward of, community information or data.
- (b) The FNHA will maintain practices designed to ensure appropriate community access to their own information and protection of that information while in the custody of FNHA.

Personal Information

3.13 Access to personal information, in compliance with PIPA, including Customer-Owner's personal health information, is addressed in the *Information Privacy and Confidentiality Policy* documents.

3.14 FNHA will respond to requests for the release of personal health information of FNHA's customer-owner, consistent with responsibilities under PIPA. Personal information may be released in specific circumstances that include, but are not limited to:

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- (a) For reason consistent with the purpose for which it was collected – “Consistent Purpose” (e.g. continuity of care).
- (b) Consent by the individual or their authorized representative.
- (c) Statutory requirements (e.g. Coroner’s Act).
- (d) Court order or other legal instrument.

3.15 FNHA will respond to an applicant not later than 30 business days after receiving the applicant's request.

Information Sharing

3.16 FNHA will put in place appropriate information sharing agreements with external parties to safeguard information sharing outside the FNHA for specified purposes.

Data Governance

3.17 The FNHA will ensure good data governance and effective management of FNHA data assets, including both structured and unstructured data owned, managed or administered by the FNHA, or administered by a third party on behalf of FNHA.

4.0 Responsibilities

4.1 Chief Executive Officer (CEO):

- (a) Establish appropriate directives and procedures to ensure the objectives of this policy are achieved;
- (b) Accountable for ensuring the FNHA respects First Nations Principles of OCAP™;
- (c) External accountability for meeting legislative and policy requirements.

4.2 Chief Information Officer (CIO):

- (a) Accountable for ensuring compliance with PIPA, Access to Information Policy and subsequent directives and procedures;
- (b) Ensures that the FNHA is accountable to our customer-owners and communities through the clear implementation of this policy, directives and procedures concerning access to information within FNHA’s custody and control;
- (c) Is accountable for advising the CEO around decisions about what information FNHA will disclose and when.

5.0 Definitions

applicant: An individual or entity who submits a request for access to corporate or community information in the possession of FNHA.

Customer-Owners: All BC First Nation Status Indians resident in BC.

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community information: Identifiable information associated with a First Nations Family, Community, Nation, and/or First Nations population (as per OCAP).

control: Having the power or authority to manage information throughout its life cycle, including restricting, regulating, and administering its use or disclosure.

corporate information: Information created, received or maintained about the operation of FNHA, fulfilment of its obligations and the delivery of its services, mandates and programs.

custody: Having physical possession of information but not necessarily with responsibility for the information. Physical possession typically includes responsibility for access and security, as well as responsibility for managing, maintaining, preserving, and disposing of the information.

data: Facts and statistics collected together for reference and analysis, or other information represented in a form suitable for processing by a computer.

data governance: Overall management of the availability, usability, integrity, and security of the data employed in an enterprise.

freedom of information: Refers to the principle of public access to information, recognized as a prerequisite for transparency and accountability of governments, as facilitating consumers' ability to make informed choices, and as safeguarding citizens against mismanagement and corruption.

personal information: Information about an identifiable individual that includes employee personal information but does not include contact information or work product information.

6.0 Related Documents

References

Ownership and Control of data, and the regulation of Access and Possession (OCAP)

Legislation and Regulations

E-Health (Personal Health Information Access and Protection of Privacy) Act

Health Professions Act

Medicare Protection Act

BC Personal Information Protection Act

BC Personal Information Protection and Electronic Documents Act

Public Health Act

FNHA Documents

Information Privacy and Confidentiality Policy

Information Security Policy

Records and Information Management Policy

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Access to Information Directives and Procedures (to be developed)

Data Governance Directive (to be developed)

7.0 Rescind and Conflict Statements

- 7.1 With the approval of this policy, older versions are considered to be replaced and/or rescinded and are no longer in effect.
- 7.2 Where there is a conflict or overlap within policy documents, the most recent board policy, executive directive, or procedure will prevail. Where clarity still cannot be established, the CEO has sole discretion to provide direction and, where applicable, to report the situation to the appropriate Board Committee Chair.

8.0 Revision History

Approval Date	Document # Name	Key Changes / Comments
August 30, 2013	Revised and changed of name from Release of Information	Policy put in new format and includes more concise wording and additions of sections on Openness, OCAP, Personal Information, Information Sharing, and Data Governance.

9.0 Attachments

None