

The NJDPDA (effective January 15, 2025) governs certain entities that control ("controllers") or process ("processors") and, as applicable, sell, the personal data of New Jersey residents, other than in the employment or business-to-business contexts ("consumers"). It also grants New Jersey residents certain rights with respect to their personal data.

Applicability

The NJDPDA applies to persons or entities conducting business in New Jersey or producing products or services targeted to New Jersey residents, and who during the preceding calendar year either:

- Controlled or processed the personal data of at least **100,000** consumers, excluding personal data controlled or processed solely for the purpose of completing a payment transaction, or
- control or process the personal data of at least **25,000** consumers and derive revenue, or receive a discount on the price of any goods or services, from the sale of personal data.

Practical Application for Businesses

Consumer Rights:

- (1) **Right to Access:** the right to confirm whether a controller is processing personal data and access such data, unless it would require the controller to reveal a trade secret.
- (2) **Right to Correct:** the right to correct inaccuracies in the consumer's personal data (taking into account the nature of the personal data and the purposes of processing the data).
- (3) **Right to Delete:** the right to delete personal data concerning the consumer.
- (4) **Right to Data Portability:** the right to obtain the personal data in a portable and, to the extent technically feasible, readily usable format that allows the consumer to transmit the data to another entity without hindrance, provided the controller will not be required to reveal any trade secret.
- (5) **Right to Opt Out:** the right to opt out of the processing of personal data for purposes of (i) targeted advertising, (ii) the sale of personal data, or (iii) profiling for decisions that significantly affect a consumer.

Controller Obligations:

- Publish a privacy notice that contains requisite details and is reasonably accessible, clear, and meaningful.
- Obtain consent to collect sensitive data and process sensitive data of any consumers under **13** in compliance with COPPA.
- Provide consumers with sufficient methods to exercise their rights.
- Act on consumer requests within **45 days**; provide notice of extensions and the appeals process as necessary.
- Enter into binding data processing agreements with requisite limitations for third-party processors.
- Conduct and document protection assessment for each processing activity that poses a "heightened risk of harm" to the consumer (e.g., selling personal data, processing sensitive data, or targeted advertising or profiling with certain foreseeable risks).

Recommendations for Controllers:

- Regularly update data maps to detail personal data collection, including sensitive data and targeted advertising.
- Train employees how to handle consumer inquiries and requests.
- Maintain clear and executable data retention policies and procedures.

Penalties:

- The New Jersey Attorney General's Office has exclusive enforcement authority. A violation of the NJDPDA is considered an unlawful practice under the New Jersey Consumer Fraud Act.
- For the first 18 months the NJDPDA is in effect, there is a 30-day cure period to correct violations following notice from the Division of Consumer Affairs, as long as a cure is possible.