

The NHPA (effective January 1, 2025) governs certain entities that control (“controllers”) or process (“processors”) and, as applicable, sell, the personal data of New Hampshire residents, other than in the employment or business-to-business contexts (“consumers”). It also grants New Hampshire residents certain rights with respect to their personal data.

Applicability

The NHPA applies to persons or entities conducting business for-profit in New Hampshire or producing products or services targeted to New Hampshire residents, and who during the preceding calendar year either:

- Controlled or processed the personal data of at least **35,000** consumers, excluding personal data controlled or processed solely for the purpose of completing a payment transaction, or
- Derived more than **25%** of their gross revenue from the sale of personal data and controlled or processed the personal data of at least **10,000** consumers.

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, where the processing is carried out by automated means, 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 a data protection assessment for each processing activity **generated after July 1, 2024** 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 Hampshire Attorney General’s Office has exclusive enforcement authority. A violation of the NHPA will constitute an unfair method of competition or unfair practice with civil penalties up to **\$10,000 per violation**.
- From January 1, 2025 until December 31, 2025, there is a 60-day cure period to correct violations following notice from the New Hampshire Attorney General as long as a cure is possible. Beginning January 1, 2026, the Attorney General may extend this cure period in its discretion.