Iowa Department of Administrative Services

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DAS

Governor Terry E. Branstad
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Mike Carroll, Director

Enterprise Operational Standard: Web Page Policy Notices

December 12, 2011

Purpose

To establish standards for the following types of Policy Notices for Agency Web Pages:

- Privacy
- Terms of Use
- Non-discrimination and Accommodation
- Accessibility

Overview

Policy Notices appearing on Agency Web Pages vary considerably. This Standard attempts to achieve greater consistency in Agency use of Policy Notices.

This Standard establishes baseline requirements with respect to Policy Notices for Agency Web Pages and provides sample language that may be used by Agencies when preparing Policy Notices for their Web pages. Agencies are advised to consult with their legal counsel when preparing Policy Notices to make sure that such notices address agency-specific legal requirements and business practices.

Scope

Agencies shall comply with this Standard when drafting and using Web Page Policy Notices. Agencies will be required to comply with the provisions stated in the section entitled "Web Page Policy Notice Standard Practices" within 180 days of January 1, 2012.

Updates

The Department will review this Standard at least every two years and update as needed.

Definitions

Selected terms used in this Web Page Policy Notice Standard are defined below:

- **Agency** - means any participating agency as defined in Iowa Code Section 8A.201(4).
- **Department** – means the Iowa Department of Administrative Services, Information Technology Enterprise.
- **Policy Notice** – A notice describing various policies, terms and conditions, disclaimers and requirements applicable to the use of an Agency Web Page.
- **Web Page** – A document written in HTML (hypertext markup language) on the World Wide Web that is transferred from a Web server and displayed or accessed via a user's Web browser. Every Web Page is identified by a unique URL

Web Page Policy Notice Standard Practices

1. Agencies will display on their Web Pages (or provide a link which directs users to) Policy Notices that cover the following topics:
    - Privacy
    - Terms of Use

- Nondiscrimination and Accommodation
- Accessibility

2. Privacy. Agencies will utilize a Privacy Policy Notice that describes what information is collected from users of Agency Web Pages and how such information is used and treated. The Privacy Policy Notice should also discuss the treatment of such information under Iowa Code Chapter 22. **Depending on the information that is collected through an Agency's website, the Agency may need to amend its Fair Information Practice Act rules to comply with the requirements of Iowa Code section 22.11**. Agencies are reminded of Iowa Code section 715C requiring a notification to individuals who have had their computerized records containing personal information breached. The following is a sample privacy policy template that may be modified by Agencies with the assistance of their legal counsel to accurately reflect Agency practices pertaining to the collection, use, and treatment of information collected from users of Agency Web Pages:

Privacy Policy

This policy describes the Agency's privacy practices regarding information collected from visitors using this website. This policy describes what data is collected and how that information is used. The Agency or the State of Iowa ("State") may at any time and in its sole discretion, modify this policy. Because this privacy policy only applies to this website, you should examine the privacy policy of any other website you may link to or otherwise access through this website.

Information Collected when You Visit this Website

When visiting this website the Agency automatically collects and stores the following information about your visit:

[1. The Internet Protocol address and domain name of your Internet service provider. The Internet Protocol address is a numerical identifier assigned either to your Internet service provider or directly to your computer, which can be used to direct internet traffic to you;

2. The type of browser and operating system you used;

3. The date and time you visited this website;

4. The web pages or services you accessed at this website; and

5. The URL or website address of the website you visited prior to coming to this website and from which any web page on this site was linked.**]**

[This information is used to improve this website's content and to help the Agency understand how people are using this website. This information may be used for statistical analysis, to determine what information is of most and of least interest to our visitors, and to identify system performance or problem areas. This information may also be shared with other state agencies for governmental purposes, including improving state government services. The information is not collected for commercial marketing purposes and the [Agency] does not sell or distribute the information collected from the website for commercial marketing purposes.**]**

[Note: the items highlighted above in bracketed text are illustrative only and should be modified by Agencies to accurately describe the information that is actually collected and stored, and how it is used.**]**

Personal Information

"Personal information" is information about a natural person that is readily identifiable to that specific individual. Personal information includes, but is not limited to, such things as an individual's name, address, and phone number. A domain name or Internet Protocol address is not considered personal information.

Personal information is not collected through this website unless you participate in an activity that asks for information (e.g., accessing a fee-based or Agency-provided service, participating in a survey, completing a Web-based form, sending an Email, etc.).

The type of information we collect will vary with the activity or the service being sought and may include such personal information as your **[name, address, phone number, Email address, password, social security or federal identification number, credit card number, expiration date and security code, bank account information, and driver's license number.]** The Agency will collect personal information from you in order to provide the requested services, but such information generally will be handled and subject to the same controls as it would be if you made an in-person visit to our office. Please note that if personal information is collected through our website or is volunteered by you, State and federal law may protect it. However, this information is a public record once you provide it and may be subject to public examination, copying and disclosure in accordance with the provisions of Iowa Code Chapter 22, if not protected by State or federal law. Please see the section below entitled "Public Examination and Copying of Information Collected through this Website" for more information about Iowa Code Chapter 22.

[Note: Agencies should carefully examine the list of personal information highlighted above in bracketed text. These are strictly intended to be examples, and each Agency should only describe or list the specific types of personal information that it actually collects and stores, and how it is used. Agencies that request sensitive information, such as a social security number, should state in their Privacy Policy whether the request is voluntary or mandatory, for what purposes it is collected, and who will see it, and how it is used/protected.**]**

Email Correspondence

If you send an Email to the Agency, your email address and the contents of your email will be collected and stored. Email messages will be treated the same as any other written communication and may be subject to examination and copying by the public in accordance with the provisions of Iowa Code Chapter 22 (Public Records). Please see the section below entitled "Public Examination and Copying of Information Collected through this Website" for more information about Iowa Code Chapter 22.

Your Email address and the information contained in your Email may be used to respond to you, to address issues you identify, to further improve this website, or to forward your Email to another agency for appropriate action. Agency does not collect, use or distribute your Email address for commercial marketing purposes.

Persons contacting the Agency by Email or using a link provided on the Agency website should understand that the communication method used may not be secure or encrypted. There is a risk that the electronic information transmitted over unsecure or unencrypted Email or links can be monitored or unintentionally disclosed to other than the intended recipient(s). Accordingly, please do not put confidential and personal information such as social security number, date of birth, bank account and credit card information, mother's maiden name or medical information in your Email communications to Agency. You agree that the Agency and the State will not be liable should you choose to transmit confidential and personal information using Email and the confidentiality of that information is accessed by unauthorized persons or is otherwise compromised.

Public Examination, Copying, and Disclosure of Information Collected through this Website

In accordance with the laws of the State, the Agency will ensure that government is open and that the public has a right to access public records and information of which the Agency is the custodian. Iowa Code Chapter 22 provides that the public shall have the right to examine and copy a public record and to publish or otherwise disseminate a public record or the information contained in such record. At the same time, there are certain exceptions under State and federal laws that may limit the public's right to examine and copy public records or otherwise protect certain personal information. **Personal and other Information collected (or provided by you)**

through this website, may, if not protected by State or federal law, be subject to public examination, copying, publication, and disclosure pursuant to applicable laws, including, without limitation, Iowa Code Chapter 22 and other applicable laws governing access to public records.

In the event of a conflict between this Privacy Policy and Iowa Code Chapter 22 or other laws governing access to public records, Iowa Code Chapter 22 or such other applicable laws will control.

Cookies

[To better serve users many websites, including Agency's website, use "cookies" to customize your browsing experience. The use of cookies is a standard practice among Internet websites. Cookies are simple text files stored on your computer by your Web browser. These files identify you as a unique user and track your movements through the site. This technology allows us to verify your transaction requests and walk you through some of the functions on the website. These cookies are temporary in nature and expire at the end of a session. Cookies created on the device you use to access this website do not contain personally identifiable information and do not compromise your privacy or security. The software and hardware you use to access this website allows you to refuse the cookie or delete the cookie file at any time.**]**

[Agencies should modify the bracketed highlighted paragraph above to reflect their practices concerning the use of cookies.**]**

Disclaimer – Links to other Sites

In order to provide visitors with certain information, this website may provide links to websites of local, State and federal government agencies, and non-governmental or private organizations. A link does not constitute the Agency's or the State's endorsement of the content, viewpoint, accuracy, opinions, policies, products, services, or accessibility of such websites. Once you link to another website from this website, you are subject to the terms and conditions of that website, including, its privacy policy. When visiting linked sites, you may wish to check the privacy policies and terms of use on such websites and be cautious about providing personal information.

Questions about this Policy

Persons concerned with information pertaining to them should contact the custodian of the record, which typically is the state agency or other governmental entity that collects and maintains the information. **[**Should you have any questions about this Privacy Policy, please contact us at 515.281.3462 and ask for the IT standards coordinator.**]**

[Agencies should modify the bracketed highlighted sentence above to reflect their agency's contact for an IT standards coordinator or use the example provided, if applicable.**]**

3. Terms of Use. Each Agency will utilize a Terms of Use Policy Notice that describes the terms and conditions which govern a visitor's access to and use of the Agency's website. The following is a sample Terms of Use template that may be modified by Agencies with the assistance of their legal counsel, as appropriate:

Terms of Use

The following terms govern your use of this website. The terms set forth herein apply to all materials, text, data, images, graphics, video, audio, online communications, and other information that is or becomes available on or through this website (collectively, "Information"). BY USING THIS WEBSITE, YOU SPECIFICALLY AGREE TO THE FOLLOWING TERMS AND ANY MODIFICATIONS WE MAY MAKE TO SUCH TERMS.

A. User's Obligation to Abide By Applicable Law

When using or accessing this website and Information, you shall abide by all applicable federal, state, and local laws, including, without limitation, those pertaining to intellectual property.

Information available on this website may include intellectual property of the Agency, the State, or third parties, which is protected under the copyright, trademark and other intellectual property laws of the United States, the State of Iowa ("State"), and/or other countries ("Intellectual Property Laws"). Such Intellectual Property Laws generally prohibit the unauthorized reproduction, distribution or exhibition of all text, photographic and graphic (art and electronic) images, music, sound samplings and other protected materials. The violation of applicable Intellectual Property Laws may give rise to civil and/or criminal penalties. Nothing contained on this website should be construed as granting any license or right to use any trademarks, service marks, logos, images, Information, or other intellectual property of the Agency, State, or third parties.

The use of the Great Seal of the State of Iowa is restricted by law. See Iowa Code section 718.1A.

B. Prohibition Against Malicious Programming

You shall not post, transmit or make available in any way through this website any software or other materials which contain a computer virus, Trojan horse, time bomb, worm or other malicious programming ("Malicious Programming"). The State and its agencies have no obligation to detect the presence of any Malicious Programming. Any downloading of software or other materials or any other use of the Information on this Website is at your risk, and you are advised to take adequate precautions (including use of anti-virus software and file backup procedures) to minimize any loss to your system caused by Malicious Programming. The Agency and the State assume no responsibility and shall not be liable for any damage to your system, computer equipment, data or other property resulting from your access to or use of the Agency's website or your downloading of any Information from the website, or from any Malicious Programming.

C. Linked Sites and Disclaimer of Endorsement

The Information posted on the Agency's website includes hypertext links or pointers to information created and maintained by other public and/or private organizations. Agency provides these links and pointers solely for our users' information and convenience. When users select a link to an outside website, they are leaving Agency's website and are subject to the privacy, security and other policies of the owners/sponsors of the outside website.

- The Agency and the State does not control or guarantee the accuracy, relevance, timeliness, reliability or completeness of information contained on a linked website.
- The Agency and the State do not endorse the organizations sponsoring linked websites, and do not endorse the content or views they express or the products/services they offer.
- The Agency and the State cannot authorize the use of copyrighted materials contained in linked websites. Users must request such authorization from the sponsor of the linked website.
- The Agency and the State are not responsible for transmissions users receive from linked websites.

D. Use of Website and Information

THE WEBSITE AND INFORMATION ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. YOUR USE OF AND RELIANCE ON THE WEBSITE AND INFORMATION IS AT YOUR OWN AND SOLE RISK. THE AGENCY AND THE STATE MAKE NO CLAIMS, PROMISES, OR GUARANTEES ABOUT THE

ACCURACY, COMPLETENESS, RELIABILITY, OR ADEQUACY OF THE INFORMATION OR THIS WEBSITE, AND EXPRESSLY DISCLAIM LIABILITY FOR ANY ERRORS OR OMISSIONS RELATING THERETO.

E. Disclaimer of Warranties

WITH RESPECT TO THE WEBSITE AND THE INFORMATION, THE AGENCY AND THE STATE MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OR TITLE, LACK OF NEGLIGENCE, AND FREEDOM FROM COMPUTER VIRUSES OR MALICIOUS PROGRAMMING.

F. Limitation of Liability

AGENCY AND THE STATE OF IOWA WILL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY KIND (EVEN IF AGENCY AND THE STATE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES ARISING OUT OF OR RELATING TO: (1) YOUR USE OF OR INABILITY TO USE THIS WEBSITE OR THE INFORMATION, PRODUCTS OR SERVICES MADE AVAILABLE ON OR THROUGH THIS WEBSITE; (2) YOUR RELIANCE ON ANY INFORMATION; OR (3) ANY OTHER MATTER RELATED TO THIS WEBSITE OR THE INFORMATION, PRODUCTS OR SERVICES MADE AVAILABLE ON OR THROUGH THIS WEBSITE. THESE LIMITATIONS OF LIABILITY SHALL APPLY REGARDLESS OF ANY LEGAL OR EQUITABLE THEORY OF LIABILITY, INCLUDING, WITHOUT LIMITATION, THEORIES OF TORT, CONTRACT, OR OTHERWISE.

G. Governing Law and Jurisdiction

These terms of use shall be governed in all respects by, and construed in accordance with, the laws of the State of Iowa, without giving effect to the choice of law principles thereof. Any and all litigation or actions commenced in connection with these terms of use (or your use of the website) shall be brought in Des Moines, Iowa, in Polk County District Court for the State of Iowa, if jurisdiction is proper. However, if jurisdiction is not proper in the Iowa District Court for Polk County, but is proper only in a United States District Court, the matter shall be commenced in the United States District Court for the Southern District of Iowa, Central Division. This provision shall not be construed as waiving any immunity to suit or liability, in state or federal court, which may be available to the Agency or the State, including sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise.

H. Modification and Discontinuance

Agency and the State reserve the right to at any time to modify or discontinue, temporarily or permanently, the website (or any portion thereof) without notice for any reason or no reason whatsoever. In addition, the Agency and the State reserve the right at any time to modify or remove any Information without notice to you. You agree that the Agency and the State shall not be liable to you or any third party for any of the foregoing actions which may be taken by the Agency or the State.

I. Headings

The headings to the sections of these terms of use have been inserted for convenience of reference only and shall in no way modify or restrict any provisions hereof or be used to construe or interpret any such provisions.

J. Waivers

Except as specifically provided for in a waiver signed by duly authorized representatives of the Agency, failure by the Agency at any time to require performance by you or to claim a breach of any provision of these terms of use shall not be construed as affecting any subsequent breach or the right to require performance with respect thereto or to claim a breach with respect thereto.

K. Modifications to Terms of Use

The Agency or the State may modify these terms at any time without notice to you, and such modifications will be binding on you when posted online. Your continued use of the website following any such modification constitutes your agreement to the Terms of Use as modified.

4. Non-discrimination and Accommodation. Agencies will utilize a Non-discrimination Policy Notice on their websites. The following is a sample template that may be modified by Agencies with the assistance of their legal counsel, as appropriate:

Non-discrimination and Accommodation

It is the goal of the State of Iowa to achieve and maintain a diverse workforce in state government, which includes employees with differences in age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability. Iowa Code section 19B.2 provides that it is the policy of this state to provide equal opportunity in employment to all persons, and to apply affirmative action measures to correct deficiencies in the state employment system, where those remedies are appropriate.

Federal and state laws prohibit employment and/or public accommodation discrimination on the basis of age, color, creed, disability, gender identity, national origin, pregnancy, race, religion, sex, sexual orientation or veteran's status. If you believe you have been discriminated against, please contact the Iowa Civil Rights Commission at 800-457-4416 or Agency's affirmative action officer.

If you need accommodations because of a disability to access the Agency's services, contact the Agency's affirmative action officer.

5. Accessibility. Agencies will utilize an Accessibility Policy Notice on their websites. The following is a sample template that may be modified by Agencies with the assistance of their legal counsel, as appropriate:

Accessibility Policy

The Agency and the State of Iowa are committed to providing employees and the public, including persons with disabilities, with access to its websites and web-based information and services. In designing the website, Agency endeavors to make every reasonable effort to comply with the web accessibility standards and guidelines established pursuant to Section 508 of the Rehabilitation Act and promulgated by the U.S. Access Board. This website has been designed to reach the widest audience possible If you have difficulty viewing this website or accessing any information presented on this website, place contact the Agency.

Web Page Policy Notice and Rulemaking

When drafting Web Page Policy Notices, Agencies should seek the assistance of their legal counsel to determine whether any particular Policy Notice constitutes a rule that must be promulgated under the rulemaking procedures set out in Iowa Code Chapter 17A. A "rule" is broadly defined to include "each agency statement of general applicability that implements, interprets, or prescribes law or policy, or that describes the organization, procedure, or practice requirements of any agency." Iowa Code section 17A.2(11). Iowa Chapter 17A spells out certain statutory exceptions to the definition of a rule. For example, the term "rule" does not include "[a] statement concerning only the internal management of an agency and which does not substantially affect the legal rights of, or procedures available to, the public or

any segment thereof." Iowa Code section 17A.2(11)(a). In addition, the term "rule" does not include "[a] statement relating to the use of a particular publicly owned or operated facility or property, the substance of which is indicated to the public by means of signs or signals." Iowa Code section 17A.2(11)(i). Agencies need to ensure webpage programming aligns with actual rules.

Web Page Policy Notice Recommended Practices

1. Agencies maintaining or developing Web Pages should write an internal policy establishing a standardized navigation area where users can consistently find and view Policy Notices.
2. Agency personnel managing or posting Web Page content should familiarize themselves with the Policy Notice topics covered in this Standard.
3. Agency Web Page Policy Notices should be easily understood by the intended audience.
4. Agencies collecting list information about users should post a link for people to view the list management policy. The list management policy should contain the following elements:
    - If the information will be redistributed, reused, duplicated or sold.
    - What benefit, service or product the person will receive in return for providing the information.
    - How an individual can be removed or unsubscribe from a list.
    - How an individual can provide updated information.
5. Web Page error notices should direct users to a page displaying help desk technical support points of contact and phone numbers.

Effective Date
Agencies will be required to comply with the provisions stated in the section entitled "Web Page Policy Notice Standard Practices" within 180 days of January 1, 2012.

Enforcement
This standard will be enforced pursuant to Iowa Administrative Code 11 – 25.9 (8A).

Variance
Iowa Administrative Code 11 – 25.6 (8A) provides for variances from information technology operational standards. Requests for a variance from any of the requirements of this policy will be submitted in writing to the State CIO or DAS Director.

This standard is in effect until revised or rescinded and will be reviewed no less than every two years.

Recommendation of the DAS IT Standards Review Committee:

Authorize this IT Standard to be approved Yes _X_ No ___

Public Comment:

Posted for ten day public comment period Yes _X_ No ___

Comments from the public: None.

DAS Director Approval:

Mike Carroll, Director
Iowa Department of Administrative Services

Date 12/14/11