



National Committee on Vital and Health Statistics
Advising the HHS Secretary on National Health Information Policy

**Draft Recommendations for
HHS, States and Territorial Public Health Authorities to
Improve Public Health Data Sharing
with Tribal Epidemiology Centers (TECs) and
Other Designated Tribal Public Health Authorities (ODTPHAs)**

December 7, 2022

Purpose & Background



Purpose: recommend actions to improve TECs and other Designated Tribal Public Health Authorities (ODTPHAs) timely access to public health data.

- 12 TECs total:
 - 11 TECs serve the public health needs of their geographic service areas.
 - 1 TEC serves the public health needs of urban American Indians nationwide.
- TECs are deemed public health authorities under HIPAA and shall have “access to use of the data, data sets, monitoring systems, delivery systems, and other protected health information” in HHS’ possession ([25 U.S.C. §1621m](#)).
- State and local governments, health care providers and others also may provide data to TECs and ODTPHAs.

Public Health Authorities Defined



Under the HIPAA Privacy Rule, a public health authority is defined as an agency or authority of the US, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency.

A public health authority is responsible for public health matters as part of their official mandate, which include federal, state, territorial, TECs and ODTPHAs.

As public health authorities, HIPAA permits health care providers, health plans and governmental agencies that are covered by HIPAA (“covered entities”), to disclose data, including identifiable data as reasonably necessary, to TECs/ODTPHAs so that they may perform their public health functions.

HIPAA permits a covered entity to rely on a TEC/ODTPHA’s reasonable representation of its legal authority and need for data to perform its intended public health purpose.

TECs: Data Access and Privacy Panel



- During the July 2022 expert panel briefing, the Committee learned that TECs continue to experience significant difficulty accessing much-needed public health data held by federal, state, and local public health agencies as well as healthcare providers.
- Other panelists, including from GAO, presented on recent study findings that confirmed the ongoing data access challenges.
- GAO and HHS OIG recommendations confirm these challenges:
 - Tribal Epidemiology Centers: HHS Actions Needed to Enhance Data Access, March 2022: <https://www.gao.gov/assets/720/719375.pdf>
 - “CDC Found Ways To Use Data To Understand and Address COVID-19 Health Disparities, Despite Challenges With Existing Data.” HHS Office of Inspector General, July 2022: <https://oig.hhs.gov/oei/reports/OEI-05-20-00540.asp>

TECs: Data Access and Privacy Panel



- The Committee heard testimony requesting assistance for timely implementation of the recommendations in the GAO and OIG's report.
- Not only do TECs have the legal authority to collect, receive, and disseminate public health data as necessary to respond to public health threats and needs – ODTPHAs do as well.
- Panelists and participants of the public comment period articulated that federal, state and local public health authorities are not aware of the legal authorities for data access by TECs and ODTPHAs.

Rationale for Recommendations



- Reports of long-standing barriers to data access by TECs and ODTPHAs contributed to delays in responding to the COVID-19 public health emergency.
- In addition, TECs/ODTPHAs need meaningful, timely, actionable public health data, e.g., collection coverage and methods, data quality, data analysis, storage and use, and privacy requirements for data release.
- Focus of proposed recommendations is on TECs/ODTPHAs' data access challenges:
 - Specific recommendations for HHS action needed to improve timely access to public health data for TECs and ODTPHAs from federal, state and local public health authorities and health care providers.

Proposed Recommendations



Based on the information provided to the Committee by the expert panel, NCVHS concurs with and supports the GAO and OIG recommendations noting that those recommendations focus only on access by TECs to HHS public health data.

Therefore, NCVHS makes the following 5 additional recommendations to HHS:

Recommendation 1



Expand the December 2020 guidance regarding public health authorities under HIPAA to clarify that all AI/AN entities designated as public health authorities—including TECs and Other Designated Tribal Public Health Authorities (ODTPHAs)—meet the definition of “public health authority” in 45 CFR §164.501 and should be able to access data on the same basis as any other public health entity, so that they can carry out their mission to protect the public’s health.

This guidance would clarify that covered entities may disclose protected health information (PHI) for public health purposes without patient authorization to TECs/ODTPHAs as public health authorities under 45 CFR 164.512(b). The guidance should clarify that covered entities may rely upon TEC/ODTPHA minimum necessary determinations with respect to requested public health data, as they would with any other public health authority.

Recommendation 2



Given the importance of the GAO and OIG recommendations, prioritize their rapid implementation, determine any gaps in their implementation and develop a plan to fill those gaps to complete implementation quickly.

Recommendation 3



Lead a collaborative national effort to provide TECs/ODTPHAs timely access to all relevant public health data recognizing that their data needs are not limited to data provided by HHS Operating Divisions (CDC, IHS, CMS, etc.). TECs and ODTPHAs have an urgent need for public health data from states, local agencies, and health care providers to support and conduct public health in their territories. In its federal leadership capacity, HHS should identify constructive approaches (e.g., distribute clear written guidance) to make sure that all federal, state, and local public health agencies clearly understand that TECs/ODTPHAs are designated as public health authorities, and should promote their unobstructed, timely access to authorized public health data.

Recommendation 4



Investigate and determine the infrastructure, communication, and personnel needs necessary to improve TEC/ODTPHAs' data exchange systems, data modernization needs, and other data infrastructure capacity for a timely and quality response in meeting the public health data and surveillance requirements for AI/AN populations. This could include disseminating explanatory information to state and local public health agencies; facilitating the development of common templates for data sharing agreements; and providing consultation or technical assistance for specific data sharing issues.

Recommendation 5



Identify and publicize a process within HHS from which TECs and ODTPHAs can seek redress should barriers arise for the timely access of such data.



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Questions & Discussion