

Johannes Gutenberg University Mainz

Obligation to maintain confidentiality of personal data according to Article 5 (1) GDPR and § 8 LDSG

1. I undertake not to process personal data without authorization and to maintain data confidentiality according to § 8 LDSG (Rhineland Palatinate State Data Protection Act - *Landesdatenschutzgesetz*). Personal data may only be processed if a legal regulation permits or prescribes the processing.
2. I will comply with the principles according to Art. 5 (1) GDPR regarding the processing of personal data. These principles comprise the following obligations: Personal data shall be
 - a) processed lawfully, fairly and in a transparent manner in relation to the data subject ('lawfulness, fairness and transparency');
 - b) collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes ('purpose limitation');
 - c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation');
 - d) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay ('accuracy');
 - e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed ('storage limitation');
 - f) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures ('integrity and confidentiality')

Personal data may only be processed on the basis of a legal regulation.

3. I have been informed that I must also comply with the other data confidentiality requirements of other legal stipulations and the provisions of the official instruction regarding technical and organizational protective measures (*Dienstanweisung Technische und Organisatorische Schutzmaßnahmen - TOMs*) regarding data confidentiality.
4. I am aware that violations of the obligation to maintain confidentiality of personal data as set out in Art. 84 GDPR in conjunction with § 25 LDSG may be punished with imprisonment; this shall not limit the extent by which I may be punishable for violation of other laws, e.g. §§ 203, 353 b German Penal Code (*Strafgesetzbuch - StGB*).

Furthermore, (civil) claims for damages may also arise from culpable breaches of this obligation.

5. Said obligation shall remain in force even after the employment has ended.
6. The obligation's text, the official instruction regarding technical and organizational protective measures, the GDPR as well as the State Data Protection Act (Landesdatenschutzgesetz, LDSG) can be found on the website of Johannes Gutenberg University Mainz.

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The text of Article 5 GDPR and of § 8 LDSG are provided below.

Section 8 of the State Data Protection Act Data Confidentiality

(1) Persons employed by the competent organization or who work on its behalf and have official access to personal data may not process such information or reveal it without authorization for purposes other than those associated with their duties or assignment (data confidentiality). The obligation to maintain confidentiality shall continue after cessation of employment of the persons in question.

(2) When the persons specified in paragraph 1 clause 1 take up their duties, they must be informed of their obligations per paragraph 1 and of their obligations under other data protection regulations relevant to their duties, and must be obligated to comply with these.

Article 5 GDPR Principles Relating to Processing of Personal Data

(1) Personal data shall be

- a) processed lawfully, fairly and in a transparent manner in relation to the data subject ('lawfulness, fairness and transparency');
- b) collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall, in accordance with Article 89(1), not be considered to be incompatible with the initial purposes ('purpose limitation');
- c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation');
- d) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay ('accuracy');
- e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) subject to implementation of the appropriate technical and organisational measures required by this Regulation in order to safeguard the rights and freedoms of the data subject ('storage limitation');
- f) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures ('integrity and confidentiality');

(2) The controller shall be responsible for, and be able to demonstrate compliance with, paragraph 1 ('accountability').