

Privacy Policy Requirements (Delaware):

What Needs to Be In The Privacy Policy?

- ☐ **1. The following is required to be included in a privacy policy** (12D-106)(c):
 - ☐ The categories of personal data processed by the controller;
 - ☐ The purpose of processing personal data;
 - ☐ How consumers may exercise their consumer rights, including how a consumer may appeal a controller's decision with regard to the consumer's request;
 - ☐ The categories of personal data that the controller shares with third parties, if any;
 - ☐ The categories of third parties with which the controller shares personal data, if any;
 - ☐ An active electronic mail address or other online mechanism that the consumer may use to contact the controller.

- ☐ **2. Additionally, if the controller sells personal data to third parties or processes personal data for target advertising:** (12D-106)(d):
 - ☐ The controller must clearly and conspicuously disclose such processing, as well as the manner in which a consumer may exercise the right to opt out of such processing.

- ☐ **3. A controller shall establish 1 or more secure and reliable means for consumers to exercise their consumer rights. Such means shall take into account the ways in which consumers normally interact with the controller, the need for secure and reliable communication of such requests and the ability of the controller to verify the identity of the consumer making the request. A controller shall not require a consumer to create a new account in order to exercise consumer rights, but may require a consumer or the consumer's authorized agent to use an existing account.**
- ☐ **3a. Any such means shall including all of the following:** (12D-106)(e):
 - ☐ Providing a clear and conspicuous link on the controller's Internet website to an Internet web page that enables a consumer, or an agent of the consumer, to opt out of the targeted advertising or the sale of the consumer's personal data;
 - ☐ Not later than January 1, 2026, allowing a consumer to opt out of any processing of the consumer's personal data, or an agent of the consumer, to opt out of the targeted advertising, through an opt-out preference signal sent, with such consumer's consent, by a platform, technology, or mechanism to the controller indicating such consumer's intent to opt out of any such processing or sale. Such platform, technology or mechanism shall do all of the following:
 - ☐ Not unfairly disadvantage another controller.
 - ☐ Not make use of a default setting, but, rather, require the consumer to make an affirmative, freely given, and unambiguous choice to opt out of any processing of such consumer's personal data pursuant to this chapter.
 - ☐ Be consumer friendly and easy to use by the average consumer.

- ☐ Be as consistent as possible with any other similar platform, technology, or mechanism required by any federal or state law or regulation.
- ☐ Enable the controller to reasonably determine whether the consumer is a resident of the State and whether the consumer has made a legitimate request to opt out of any sale of such consumer's personal data or targeted advertising.
- ☐ If a consumer's decision to opt out of any processing of the consumer's personal data for the purposes of targeted advertising, or any sale of such personal data, through an opt-out preference signal set in accordance with 12D-106(e)(1)(a) conflicts with the consumer's existing controller-specific privacy setting or voluntary participation in a controller's bona fide loyalty, rewards, premium features, discounts or club card program, the controller shall comply with such consumer's opt-out preference signal but may notify such consumer of such conflict and provide to such consumer the choice to confirm such controller-specific privacy setting or participation in such program.

☐ **4. If a controller responds to consumer opt-out requests pursuant to 12D-106(e)(1)(a) by informing the consumer of a charge for the use of any product or service (12D-106)(e)(2)):**

- ☐ The controller shall present the terms of any financial incentive offered pursuant to 12D-106(e)(1)(b) for the retention, use, sale, or sharing of the consumer's personal data.

How Does The Privacy Policy Need To Be Provided? (12D-106)(c):

- ☐ In a reasonably accessible, clear and meaningful manner.