

Florida Atlantic University

Data Use Agreement (DUA) Guidance

What is a Data Use Agreement (DUA)?

A Data Use Agreement (DUA) is a contractual document used for the transfer of nonpublic data that is subject to restrictions on its use. DUAs serve to outline the terms and conditions of the transfer. Specifically, DUAs address important issues such as limitations on use of the data, obligations to safeguard the data, liability for harm arising from the use of the data, publication restrictions, and privacy rights that are associated with transfers of confidential or protected data.

What is a Data Use Agreement for a Limited Data Set (Specific to HIPAA Covered Entities)?

A Data Use Agreement is an agreement or contract, which serves as satisfactory assurance that the recipient of a data set or a limited data set will use or disclose the protected health information for limited purposes. A data use agreement between the covered entity and the limited data set recipient must:

- 1) Establish the permitted uses and disclosures by the recipient of information in the limited data set. The data use agreement may not authorize the limited data set recipient to use or further disclose the information in a manner that would violate the requirements of the privacy rules;
- 2) Establish who is permitted to use or receive the limited data set; and
- 3) Provide that the limited data set recipient will:
 - a. Not use or further disclose the information other than as permitted by the data use agreement or as otherwise required by law;
 - b. Use appropriate safeguards to prevent use or disclosure of the information other than as provided for by the data use agreement;
 - c. Report to the covered entity any use or disclosure of the information not provided for by its data use agreement of which it becomes aware;
 - d. Ensure that any agents, including a subcontractor, to whom it provides the limited data set agrees to the same restrictions and conditions that apply to the limited data set recipient with respect to such information; and
 - e. Not re-identify the information or contact the individuals.

When is a DUA required?

FAU will initiate the DUA in all instances where FAU researchers are transferring data to another institution or if the recipient needs assistance using our template documents. Otherwise, it is expected that other entities where the data originates will use their own DUAs.

Every outgoing transfer of data should be authorized under a DUA except when Business Associate Agreements are required, see [FAU Policy 10.3.7](#).

To determine if a DUA for a **Limited Data Set** is required, please complete the “Assessment Tool 2: Am I Using PHI?” that can be found at: <http://www.fau.edu/research/research-integrity/hipaa-and-research.php>.

Procedures to Request an FAU DUA (When Data will be transferred from FAU to Another Institution)

1. FAU Researcher should submit the following documents to the Office of Sponsored Programs to Miriam Campo (campom@fau.edu) and Jeri Beel (jbeel@fau.edu):
 - Statement of work (SOW)
 - Completed Assessment Tool 2, if applicable
 - Contact information for the Data Recipient (name, address, phone number & email)
2. Sponsored Programs will review the documents and generate the DUA. If additional information is required the FAU Researcher will be contacted.
3. Sponsored Programs will work with Research Integrity to obtain review and concurrence of the DUA, if applicable.
4. Sponsored Programs will submit and negotiate the DUA with the Data Recipient and obtain their final approval.
5. Sponsored Programs will work with legal counsel to obtain review and approval of the DUA.
6. Sponsored Programs will sign the DUA and forward the fully executed copy to the Data Recipient, FAU Researcher and the FAU Research Integrity office.

When Data is transferred FROM Another Institution TO an FAU Researcher

The owners of the data should send the DUA and all pertinent information to the Contracting Office, Division of Research, Myles H. Lathrop, J.D., lathropm@fau.edu. The Contracting Office will review, negotiate and execute the DUA.