



**FEDERAL LAW ON THE PROTECTION OF PERSONAL DATA IN POSSESSION OF INDIVIDUALS**

CHAMBER OF DEPUTIES OF THE H. CONGRESS OF THE UNION  
General Secretary  
Secretariat for Parliamentary Services

*New DOF Law 07-05-2010*

**FEDERAL LAW OF PROTECTION OF PERSONAL DATA IN POSSESSION OF THE INDIVIDUALS**

**CURRENT TEXT**

**New Law published in the Official Gazette of the Federation on July 5, 2010**

In the margin a seal with the National Shield, which says: United Mexican States.- Presidency of the Republic.

**FELIPE DE JESÚS CALDERÓN HINOJOSA**, President of the United Mexican States, to his inhabitants know:

That the Honorable Congress of the Union has served to address me the following

**DECREE**

"THE GENERAL CONGRESS OF THE UNITED MEXICAN STATES, DECREES:

**THE FEDERAL LAW ON THE PROTECTION OF PERSONAL DATA IN POSSESSION OF INDIVIDUALS IS ISSUED AND ARTICLES 3, SECTIONS II AND VII, AND 33, AS WELL AS THE NAME OF CHAPTER II, OF THE SECOND TITLE, OF THE FEDERAL LAW OF TRANSPARENCY AND ACCESS, ARE AMENDED TO GOVERNMENTAL PUBLIC INFORMATION.**

**FIRST ARTICLE.** The Federal Law on Protection of Personal Data Held by Private Parties is issued.

**FEDERAL LAW OF PROTECTION OF PERSONAL DATA IN POSSESSION OF THE INDIVIDUALS**

**CHAPTER I**

**General disposition**

**Article 1.-** This Law is of public order and general observance throughout the Republic and is intended to protect personal data held by individuals, in order to regulate their legitimate, controlled and informed treatment, for the purpose to guarantee the privacy and the right to informative self-determination of people.

**Article 2.-** They are subjects regulated by this Law, the individuals are individuals or legal entities of private character that carry out the processing of personal data, with the exception of:

- I The credit information companies in the cases of the Law to Regulate the Credit Information Companies and other applicable provisions, and
- II. The people who carry out the collection and storage of personal data, which is for exclusively personal use, and without the purpose of disclosure or commercial use.

**Article 3.-** For the purposes of this Law, it shall be understood as:



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- I. Privacy Notice: Physical, electronic document or in any other format generated by the person in charge that is made available to the owner, prior to the processing of their personal data, in accordance with article 15 of this Law.
- II. Databases: The ordered set of personal data referring to an identified person or identifiable.
- III. Blocking: The identification and conservation of personal data once the purpose for which they were collected has been fulfilled, with the sole purpose of determining possible responsibilities in relation to their treatment, until their legal or contractual prescription period. During this period, the personal data may not be processed and after this, it will be canceled in the corresponding database.
- IV. Consent: Manifestation of the will of the owner of the data through which it is carried out their treatment.
- V. Personal data: Any information concerning an identified natural person or identifiable.
- SAW. Sensitive personal data: Those personal data that affect the most intimate sphere of its owner, or whose improper use may give rise to discrimination or entail a serious risk for it. In particular, those that may reveal aspects such as racial or ethnic origin, present and future health status, genetic information, religious, philosophical and moral beliefs, union affiliation, political opinions, sexual preference are considered sensitive.
- VII. Days: Business days.
- VII. Dissociation: The procedure by which the personal data cannot be associated with the owner or allow, due to its structure, content or degree of disaggregation, the identification of the same.
- IX. Manager: The natural or legal person who alone or jointly with others processes personal data on behalf of the person in charge.
- X. Public access source: Those databases whose consultation can be carried out by any person, with no further requirement than, where appropriate, the payment of a consideration, in accordance with the provisions of the Regulations of this Law.
- XI. Institute: Federal Institute for Access to Information and Data Protection, referred to in the Federal Law on Transparency and Access to Public Government Information.
- XII. Law: Federal Law on Protection of Personal Data Held by Private Parties.
- XIII. Regulation: The Regulation of the Federal Law on Protection of Personal Data Held by Private Parties.
- XIV. Responsible: Natural or legal person of a private nature who decides on the treatment of personal information.
- XV. Secretariat: Ministry of Economy.
- XVI. Third: The natural or legal person, national or foreign, other than the owner or the person responsible for the data.



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XVII. Holder: The natural person to whom the personal data corresponds.

XVIII. Treatment: Obtaining, using, disclosing or storing personal data, by any means. The use covers any action of access, handling, use, transfer or disposal of personal data.

XIX. Transfer: Any communication of data made to a person other than the person responsible or in charge of the treatment.

**Article 4.-** The principles and rights provided for in this Law, will have as a limit in terms of their observance and exercise, the protection of national security, public order, safety and health, as well as the rights of third parties.

**Article 5.-** In the absence of an express provision in this Law, the provisions of the Federal Code of Civil Procedures and the Federal Law of Administrative Procedure shall be applied in a supplementary manner.

For the substantiation of the procedures for the protection of rights, verification and imposition of sanctions, the provisions contained in the Federal Law of Administrative Procedure will be observed.

### CHAPTER II Of the Principles of Protection of Personal Data

**Article 6.-** Those responsible for the processing of personal data must observe the principles of legality, consent, information, quality, purpose, loyalty, proportionality and responsibility, provided for in the Law.

**Article 7.-** Personal data must be collected and processed lawfully in accordance with the provisions established by this Law and other applicable regulations.

Obtaining personal data must not be done through deceptive or fraudulent means.

In all processing of personal data, it is presumed that there is a reasonable expectation of privacy, understood as the trust that any person places in another, with respect to the fact that the personal data provided between them will be treated in accordance with what the parties agreed to in the established terms. by this Law.

**Article 8.-** All processing of personal data will be subject to the consent of its owner, except the exceptions provided by this Law.

The consent will be express when the will is expressed verbally, in writing, by means electronic, optical or by any other technology, or by unequivocal signs.

It will be understood that the owner tacitly consents to the processing of their data, when having made the privacy notice available to them, they do not express their opposition.

The financial or patrimonial data will require the express consent of its owner, except for the exceptions referred to in articles 10 and 37 of this Law.



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Consent may be revoked at any time without retroactive effects being attributed to it. To revoke the consent, the person in charge must, in the privacy notice, establish the mechanisms and procedures for it.

**Article 9.-** In the case of sensitive personal data, the person in charge must obtain the express and written consent of the owner for its treatment, through his autograph signature, electronic signature, or any authentication mechanism established for this purpose.

Databases containing sensitive personal data may not be created without justifying their creation for legitimate, specific purposes and in accordance with the activities or explicit purposes pursued by the regulated subject.

**Article 10.-** Consent will not be necessary for the processing of personal data when:

- I. It is provided for in a Law;
- II. The data appears in publicly accessible sources;
- III. The personal data is subjected to a prior dissociation procedure;
- IV. Has the purpose of fulfilling obligations derived from a legal relationship between the owner and the responsible;
- V. There is an emergency situation that could potentially harm an individual in person or property;

SAW. They are essential for medical care, prevention, diagnosis, the provision of health care, medical treatments or the management of health services, while the holder is not in a position to grant consent, in the terms established by the General Law of Health and other applicable legal provisions and that said data processing is carried out by a person subject to professional secrecy or equivalent obligation, or

VII. A resolution of the competent authority is issued.

**Article 11.-** The person in charge will ensure that the personal data contained in the databases are relevant, correct and up-to-date for the purposes for which they were collected.

When the personal data is no longer necessary for the fulfillment of the purposes set out in the privacy notice and the applicable legal provisions, they must be cancelled.

The person in charge of the database will be obliged to eliminate the information related to the breach of contractual obligations, once a period of seventy-two months has elapsed, counted from the calendar date on which the aforementioned breach occurs.

**Article 12.-** The processing of personal data must be limited to the fulfillment of the purposes set forth in the privacy notice. If the person in charge intends to process the data for a different purpose that is not compatible or analogous to the purposes established in the privacy notice, the consent of the owner will be required to be obtained again.

**Article 13.-** The processing of personal data will be that which is necessary, adequate and relevant in relation to the purposes set forth in the privacy notice. In particular for personal data



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sensitive, the person in charge must make reasonable efforts to limit the period of treatment of the same so that it is the minimum indispensable.

**Article 14.-** The person in charge shall ensure compliance with the personal data protection principles established by this Law, and must adopt the necessary measures for its application. The foregoing will apply even when these data are processed by a third party at the request of the person in charge. The person in charge must take the necessary and sufficient measures to guarantee that the privacy notice made known to the owner is respected at all times by him or by third parties with whom he has a legal relationship.

**Article 15.-** The person in charge will have the obligation to inform the owners of the data, the information that is collected from them and for what purposes, through the privacy notice.

**Article 16.-** The privacy notice must contain, at least, the following information:

- I. The identity and address of the person in charge who collects them;
  - II. The purposes of data processing;
  - III. The options and means that the person in charge offers to the owners to limit the use or disclosure of the data;
  - IV. The means to exercise the rights of access, rectification, cancellation or opposition, in accordance with the provisions of this Law;
  - V. In your case, the data transfers that are made, and
- SAW. The procedure and means by which the person in charge will notify the owners of changes to the privacy notice, in accordance with the provisions of this Law.

In the case of sensitive personal data, the privacy notice must expressly indicate that deals with this type of data.

**Article 17.-** The privacy notice must be made available to the owners through formats printed, digital, visual, sound or any other technology, as follows:

- I. When the personal data has been obtained personally from the owner, the privacy notice must be provided at the time the data is collected in a clear and reliable manner, through the formats by which they are collected, unless it has been provided notice in advance, and
- II. When the personal data is obtained directly from the owner by any electronic, optical, sound, visual means, or through any other technology, the person in charge must immediately provide the owner with at least the information referred to in sections I and II. of the previous article, as well as providing the mechanisms so that the owner knows the full text of the privacy notice.

**Article 18.-** When the data has not been obtained directly from the owner, the person in charge must notify him of the change in the privacy notice.

The provisions of the preceding paragraph are not applicable when the processing is for historical, statistical or scientific.



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When it is impossible to make the privacy notice known to the owner or requires disproportionate efforts, in consideration of the number of owners, or the age of the data, prior authorization from the Institute, the person in charge may implement compensatory measures in terms of the Regulation of this Law.

**Article 19.-** Any person responsible for processing personal data must establish and maintain administrative, technical and physical security measures to protect personal data against damage, loss, alteration, destruction or unauthorized use, access or treatment.

Those responsible will not adopt security measures that are less than those that they maintain for the handling of your information. Likewise, the existing risk, the possible consequences for the holders, the sensitivity of the data and technological development will be taken into account.

**Article 20.-** The security violations that occur in any phase of the treatment that significantly affect the patrimonial or moral rights of the owners, will be reported immediately by the person in charge to the owner, so that the latter can take the corresponding measures. to the defense of their rights.

**Article 21.-** The person in charge or third parties that intervene in any phase of the processing of personal data must maintain confidentiality with respect to them, an obligation that will subsist even after the end of their relations with the owner or, where appropriate, with the person in charge.

### CHAPTER III

#### Of the Rights of the Holders of Personal Data

**Article 22.-** Any holder, or where appropriate his legal representative, may exercise the rights of access, rectification, cancellation and opposition provided for in this Law. The exercise of any of them is not a prerequisite nor does it prevent the exercise of another. Personal data must be protected in such a way that they allow the exercise of these rights without delay.

**Article 23.-** Holders have the right to access their personal data held by the responsible, as well as knowing the Privacy Notice to which the treatment is subject.

**Article 24.-** The owner of the data will have the right to rectify them when they are inaccurate or incomplete.

**Article 25.-** The owner will have the right to cancel their personal data at all times.

The cancellation of personal data will give rise to a blocking period after which the data will be deleted. The person in charge may keep them exclusively for the purposes of the responsibilities arising from the treatment. The blocking period will be equivalent to the limitation period for the actions derived from the legal relationship that founds the treatment in the terms of the applicable Law on the matter.

Once the data has been canceled, the owner will be notified.

When the personal data had been transmitted prior to the date of rectification or cancellation and continue to be processed by third parties, the person in charge must inform you of said request for rectification or cancellation, so that you can proceed to carry it out as well.

**Article 26.-** The person in charge will not be obliged to cancel the personal data when:



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- I. It refers to the parties to a private, social or administrative contract and is necessary for its development and fulfillment;
- II. Must be treated by legal provision;
- III. Obstruct judicial or administrative actions related to tax obligations, the investigation and prosecution of crimes or the updating of administrative sanctions;
- IV. Are necessary to protect the legally protected interests of the owner;
- V. They are necessary to carry out an action based on the public interest;
- SAW. They are necessary to comply with an obligation legally acquired by the owner, and
- VII. Are subject to treatment for prevention or for medical diagnosis or the management of health services, provided that said treatment is carried out by a health professional subject to a duty of secrecy.

**Article 27.-** The owner will have the right at all times and for legitimate reasons to oppose the treatment of your data. If appropriate, the person in charge will not be able to process the data related to the owner.

### CHAPTER IV

#### Of the Exercise of the Rights of Access, Rectification, Cancellation and Opposition

**Article 28.-** The owner or his legal representative may request the person in charge at any time access, rectification, cancellation or opposition, regarding the personal data that concerns you.

**Article 29.-** The request for access, rectification, cancellation or opposition must contain and accompany the following:

- I The name of the owner and address or other means to communicate the response to your request;
- II. The documents that prove the identity or, where appropriate, the legal representation of the holder;
- III. The clear and precise description of the personal data with respect to which one seeks to exercise any of the aforementioned rights, and
- IV. Any other element or document that facilitates the location of personal data.

**Article 30.-** Every person in charge must designate a person, or department of personal data, who will process the requests of the owners, for the exercise of the rights referred to in this Law. Likewise, it will promote the protection of personal data by inside the organization.

**Article 31.-** In the case of requests for rectification of personal data, the owner must indicate, in addition to what is stated in the previous article of this Law, the modifications to be made and provide the documentation that supports his request.

**Article 32.-** The person in charge will notify the owner, within a maximum period of twenty days, counted from the date on which the request for access, rectification, cancellation or opposition was received, the decision adopted, to the effect that, if appropriate, it becomes effective within the fifteen days following the date on which the response is communicated. In the case of data access requests



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personal, the delivery will proceed prior accreditation of the identity of the applicant or legal representative, as appropriate.

The terms referred to above may be extended only once for an equal period, as long as the circumstances of the case so justify.

**Article 33.-** The obligation of access to information will be deemed fulfilled when the personal data is made available to the holder; or, by issuing simple copies, electronic documents or any other means determined by the person in charge in the privacy notice.

In the event that the owner requests access to the data from a person who presumes to be responsible and this person turns out not to be, it will suffice for the owner to be so informed by any of the means referred to in the previous paragraph, to consider the request fulfilled.

**Article 34.-** The person in charge may deny access to personal data, or make the rectification or cancellation or granting opposition to their treatment, in the following cases:

- I. When the applicant is not the owner of the personal data, or the legal representative is not duly accredited for it;
- II. When the applicant's personal data is not found in its database;
- III. When the rights of a third party are injured;
- IV. When there is a legal impediment, or the resolution of a competent authority, that restricts access to personal data, or does not allow their rectification, cancellation or opposition, and
- V. When the rectification, cancellation or opposition has been previously made.

The refusal referred to in this article may be partial, in which case the person in charge will carry out the access, rectification, cancellation or opposition required by the owner.

In all the above cases, the person in charge must inform the reason for their decision and communicate it to the owner, or where appropriate, to the legal representative, within the periods established for this purpose, by the same means by which the request was made. , accompanying, where appropriate, the relevant evidence.

**Article 35.-** The delivery of personal data will be free, and the owner must cover only justified shipping costs or the cost of reproduction in copies or other formats.

Said right will be exercised by the owner free of charge, after proof of identity before the person in charge. However, if the same person repeats their request in a period of less than twelve months, the costs will not be greater than three days of the Current General Minimum Wage in the Federal District, unless there are substantial modifications to the privacy notice that motivate new consultations. .

The owner may submit a request for data protection due to the response received or lack of response of the person in charge, in accordance with the provisions of the following Chapter.

### CHAPTER V Data Transfer





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**Article 36.-** When the person in charge intends to transfer the personal data to national or foreign third parties, other than the person in charge, they must notify them of the privacy notice and the purposes to which the owner subjected their treatment.

The treatment of the data will be done in accordance with what is agreed in the privacy notice, which will contain a clause indicating whether or not the owner accepts the transfer of their data, in the same way, the third party recipient will assume the same. obligations that correspond to the person in charge who transferred the data.

**Article 37.-** National or international data transfers may be carried out without the consent of the holder when any of the following assumptions occur:

- I. When the transfer is provided for in a Law or Treaty to which Mexico is a party;
- II. When the transfer is necessary for the prevention or medical diagnosis, the provision of health care, medical treatment or the management of health services;
- III. When the transfer is made to holding companies, subsidiaries or affiliates under the common control of the person in charge, or to a parent company or to any company of the same group as the person in charge that operates under the same processes and internal policies;
- IV. When the transfer is necessary by virtue of a contract entered into or to be entered into in interest of the holder, by the person in charge and a third party;
- V. When the transfer is necessary or legally required to safeguard an interest public, or for the procurement or administration of justice;
- SAW. When the transfer is necessary for the recognition, exercise or defense of a right in court proceedings, and
- VII. When the transfer is necessary for the maintenance or fulfillment of a legal relationship between the person in charge and the owner.

### CHAPTER VI From the Authorities

#### Section I From high school

**Article 38.-** The Institute, for the purposes of this Law, will have the purpose of disseminating knowledge of the right to the protection of personal data in Mexican society, promoting its exercise and monitoring by the due observance of the provisions set forth in this Law and that derive from it; in particular those related to the fulfillment of obligations by the subjects regulated by this law.

**Article 39.-** The Institute has the following powers:

- I Monitor and verify compliance with the provisions contained in this Law, within the scope of its competence, with the exceptions provided by law;
- II. Interpret this Law in the administrative field;



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- III. Provide technical support to those responsible who request it, for the fulfillment of the obligations established in this Law;
- IV. Issue the criteria and recommendations, in accordance with the applicable provisions of this Law, for purposes of its functioning and operation;
- V. Disseminate international standards and best practices regarding information security, in view of the nature of the data; the purposes of the treatment, and the technical and economic capacities of the person in charge;
- SAW. Know and resolve the procedures for the protection of rights and verification indicated in this Law and impose sanctions as appropriate;
- VII. Cooperate with other supervisory authorities and national and international organizations, effect of contributing to data protection;
- VII. Render to the Congress of the Union an annual report of its activities;
- IX. Attend international forums within the scope of this Law;
- X. Prepare impact studies on privacy prior to the implementation of a new personal data processing modality or to the realization of substantial modifications in already existing treatments;
- XI. Develop, promote and disseminate analyses, studies and research on the protection of personal data in Possession of Individuals and provide training to regulated entities, and
- XII. The others conferred by this Law and other applicable regulations.

### Section II From Regulatory Authorities

**Article 40.-** This Law will constitute the regulatory framework that the dependencies must observe, within the scope of their own attributions, for the issuance of the corresponding regulation, with the assistance of the Institute.

**Article 41.-** The Secretariat, for the purposes of this Law, will have the function of disseminating the knowledge of the obligations regarding the protection of personal data among the national and international private initiative with commercial activity in Mexican territory; It will promote the best business practices around the protection of personal data as an input for the digital economy, and national economic development as a whole.

**Article 42.-** With regard to trade databases, the regulation issued by the Secretariat will only be applicable to those automated databases or those that are part of an automation process.

**Article 43.-** The Secretariat has the following powers:

- I Disseminate knowledge regarding the protection of personal data in the commercial field;
- II. Promote good business practices in terms of personal data protection;



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- III. Issue the corresponding guidelines for the content and scope of the privacy notices in collaboration with the Institute, referred to in this Law;
- IV. Issue, within the scope of its competence, the general administrative provisions referred to in article 40, in collaboration with the Institute;
- v. Set the necessary parameters for the correct development of the self-regulatory mechanisms and measures referred to in article 44 of this Law, including the promotion of Mexican Standards or Official Mexican Standards, in cooperation with the Institute;
- SAW. Carry out consumer registries regarding personal data and verify their functioning;
- VII. Enter into agreements with chambers of commerce, associations and business organizations regarding general, in terms of personal data protection;
- VII. Design and implement policies and coordinate the preparation of studies for the modernization and efficient operation of electronic commerce, as well as to promote the development of the digital economy and information technologies in the field of personal data protection;
- IX. Go to national and international commercial forums on the protection of personal data, or in those events of a commercial nature, and
- X. Support the holding of events that contribute to the dissemination of data protection personal.

**Article 44.-** Individuals or legal entities may agree among themselves or with civil or governmental organizations, national or foreign, binding self-regulation schemes in the matter, which complement the provisions of this Law. Said schemes must contain mechanisms to measure their effectiveness. in data protection, consequences and effective corrective measures in case of non-compliance.

The self-regulation schemes may be translated into codes of ethics or good professional practice, seals of trust or other mechanisms and will contain specific rules or standards that allow the harmonization of data processing carried out by the members and facilitate the exercise of the rights of the holders. Said schemes will be notified simultaneously to the corresponding sectoral authorities and to the Institute.

## CHAPTER VII

### Of the Rights Protection Procedure

**Article 45.-** The procedure will be initiated at the request of the owner of the data or his legal representative, clearly expressing the content of his claim and the precepts of this Law that are considered violated. The request for data protection must be submitted to the Institute within fifteen days following the date on which the response is communicated to the owner by the person in charge.

In the event that the owner of the data does not receive a response from the person in charge, the request for data protection may be submitted after the response period provided for the person in charge has expired. In this case, it will suffice for the owner of the data to accompany their request for



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data protection the document that proves the date on which the request for access, rectification, cancellation or opposition was submitted.

The request for data protection will also proceed in the same terms when the person in charge does not deliver the requested personal data to the owner; or does it in an incomprehensible format, refuses to make modifications or corrections to the personal data, the owner is not satisfied with the information provided, considering that it is incomplete or does not correspond to the information required.

Once the request for data protection has been received before the Institute, it will be forwarded to the person in charge, so that, within a period of fifteen days, it can issue a response, offer the evidence it deems pertinent and state in writing what is appropriate to its right.

The Institute will admit the evidence that it deems pertinent and will proceed to present it. Likewise, it may request from the person in charge the other tests that it deems necessary. Once the presentation of the evidence has concluded, the Institute will notify the person in charge of the right that assists him so that, if he deems it necessary, he may present his arguments within the five days following notification.

For the due relief of the procedure, the Institute will resolve on the request for data protection formulated, once the evidence and other elements of conviction that it deems pertinent have been analyzed, such as those that derive from the hearing or hearings that are held with the parties. .

The Regulations of the Law will establish the form, terms and deadlines in accordance with which the rights protection procedure.

**Article 46.-** The request for data protection may be filed in free writing or through the formats of the electronic system provided by the Institute for this purpose and must contain the following information:

- I. The name of the holder or, where appropriate, that of his legal representative, as well as the interested third party, if any;
  - II. The name of the person in charge to whom the request for access, rectification, cancellation or opposition of personal data was submitted;
  - III. The address to hear and receive notifications;
  - IV. The date on which the response of the person in charge was made known to him, unless the procedure begins based on the provisions of article 50;
  - V. The acts that motivate your request for data protection, and
- SAW. The other elements that it is considered appropriate to make known to the Institute.

The form and terms in which the identity of the holder must be accredited or, the legal representation will be established in the Regulation.

Likewise, the request for data protection must be accompanied by the request and the response that is appealed or, where appropriate, the data that allows identification. In the case of non-response, it will only be necessary to present the request.

In the event that the data protection request is filed through non-electronic means, it must be accompanied by sufficient transfer copies.



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**Article 47.-** The maximum term to dictate the resolution in the rights protection procedure will be fifty days, counted from the date of presentation of the data protection request. When there is just cause, the Plenary of the Institute may extend this term once and for up to an equal period.

**Article 48.-** In the event that the resolution of protection of rights is favorable to the owner of the data, the person in charge will be required so that, within the period of ten days following the notification or when justified, a greater one is established by the resolution, make effective the exercise of the rights object of protection, and must give a written account of said compliance to the Institute within the following ten days.

**Article 49.-** In the event that the data protection request does not meet any of the requirements referred to in article 46 of this Law, and the Institute does not have elements to remedy it, the owner of the data will be warned within twenty business days following the submission of the data protection request, for a single occasion, to correct the omissions within a period of five days. Once the term has elapsed without discharging the prevention, the request for data protection will be deemed not submitted. The prevention will have the effect of interrupting the term that the Institute has to resolve the request for data protection.

**Article 50.-** The Institute will supply the deficiencies of the complaint in the cases that are required, as long as it does not alter the original content of the request for access, rectification, cancellation or opposition of personal data, nor the facts or requests are modified. exposed in the same or in the request for data protection.

**Article 51.-** The resolutions of the Institute may:

- I. Dismiss or reject the request for data protection as inadmissible, or
- II. Confirm, revoke or modify the response of the person in charge.

**Article 52.-** The request for data protection will be rejected as inadmissible when:

- I. The Institute is not competent;
- II. The Institute has previously heard of the request for data protection against the same act and resolved definitively with respect to the same appellant;
- III. An appeal or means of defense filed by the owner that may have the effect of modifying or revoking the respective act is being processed before the competent courts;
- IV. It is an offensive or irrational request for data protection, or
- V. Be extemporaneous.

**Article 53.-** The request for data protection will be dismissed when:

- I. The owner dies;
- II. The owner expressly withdraws;
- III. Once the request for data protection is admitted, a cause of inadmissibility arises, and



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IV. For whatever reason, it is left without matter.

**Article 54.-** The Institute may, at any time during the procedure, seek a conciliation between the owner of the data and the person in charge.

If a conciliation agreement is reached between the two, it will be recorded in writing and will have binding effects. The request for data protection will be without matter and the Institute will verify compliance with the respective agreement.

For purposes of conciliation referred to in this law, it will be at the procedure established in the Regulations of this Law.

**Article 55.-** Filed the request for data protection in the absence of a response to a request in exercise of the rights of access, rectification, cancellation or opposition by the person in charge, the Institute will give sight to the aforementioned person so that, within a period no more than ten days, certifies having responded to the request in a timely manner, or responds to it. In the event that the response meets the request, the data protection request will be considered inadmissible and the Institute must dismiss it.

In the second case, the Institute will issue its resolution based on the content of the original request and the response of the person in charge referred to in the previous paragraph.

If the resolution of the Institute referred to in the previous paragraph determines the origin of the request, the person in charge will proceed to comply with it, at no cost to the owner, and the person in charge must cover all the costs generated by the corresponding reproduction.

**Article 56.-** Against the resolutions of the Institute, individuals may file a nullity trial before the Federal Court of Fiscal and Administrative Justice.

**Article 57.-** All the resolutions of the Institute will be capable of being publicly disseminated in public versions, eliminating those references to the owner of the data that identify him or make him identifiable.

**Article 58.-** Holders who consider that they have suffered damage or injury to their property or rights as a result of non-compliance with the provisions of this Law by the person in charge or the person in charge, may exercise the rights they deem pertinent for purposes of compensation. as appropriate, in terms of the corresponding legal provisions.

### CHAPTER VIII Verification Procedure

**Article 59.-** The Institute will verify compliance with this Law and the regulations established by it. derive. The verification may be initiated ex officio or at the request of a party.

The ex officio verification will proceed when there is non-compliance with resolutions issued for the protection of rights procedures referred to in the previous Chapter or the existence of violations of this Law is well-founded and motivated.

**Article 60.-** In the verification procedure, the Institute will have access to the information and documentation that it considers necessary, according to the resolution that motivates it.



The federal public servants will be obliged to keep confidential the information they know derived from the corresponding verification.

The Regulation will develop the form, terms and deadlines in which the procedure referred to in this article will be substantiated.

## **CHAPTER IX**

### **Of the Procedure for the Imposition of Sanctions**

**Article 61.-** If, due to the relief of the rights protection procedure or the verification procedure carried out by the Institute, the Institute becomes aware of an alleged breach of any of the principles or provisions of this Law, it will initiate the procedure referred to. this Chapter, in order to determine the corresponding sanction.

**Article 62.-** The procedure for imposing sanctions will begin with the notification made by the Institute to the alleged offender, about the facts that motivated the initiation of the procedure and will grant him a term of fifteen days to provide evidence and state in writing what to your right suits. In case of not rendering them, the Institute will resolve according to the elements of conviction that it has.

The Institute will admit the evidence that it deems pertinent and will proceed to present it. Likewise, it may request from the alleged offender any other evidence it deems necessary. Once the presentation of the evidence has concluded, the Institute will notify the alleged offender of the right that assists him so that, if deemed necessary, he may present his arguments within the five days following notification.

The Institute, once the evidence and other elements of conviction that it deems pertinent have been analyzed, will make a final decision within fifty days following the date on which the sanctioning procedure began. Said resolution must be notified to the parties.

When there is just cause, the Plenary of the Institute may extend this term once and for up to an equal period.

The Regulations will develop the form, terms and deadlines in which the procedure for imposing sanctions will be substantiated, including the presentation of evidence and arguments, the holding of hearings and the closing of the investigation.

## **CHAPTER X**

### **Offences and penalties**

**Article 63.-** The following behaviors carried out by the person in charge constitute infractions of this Law:

- I. Failure to comply with the owner's request for access, rectification, cancellation or opposition to the processing of their personal data, without well-founded reason, in the terms provided in this Law;
- II. Act negligently or with intent in processing and responding to requests for access, rectification, cancellation or opposition of personal data;
- III. Declare maliciously the non-existence of personal data, when it exists totally or partially in the data bases of the person in charge;



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- IV. To treat personal data in contravention of the principles established in the this Law;
- V. Omit in the privacy notice, some or all of the elements referred to in article 16 of this Law;
- SAW. Keep inaccurate personal data when it is attributable to the person in charge, or not make the rectifications or cancellations of the same that legally proceed when the rights of the owners are affected;
- VII. Failure to comply with the warning referred to in section I of article 64;
- VII. Failure to comply with the duty of confidentiality established in article 21 of this Law;
- IX. Substantially change the original purpose of data processing, without observing the provisions of article 12;
- X. Transfer data to third parties without communicating to them the privacy notice that contains the limitations to which the holder subjected the disclosure of the same;
- XI. Violate the security of databases, premises, programs or equipment, when it is attributable to the person in charge;
- XII. Carry out the transfer or assignment of personal data, outside the cases in which it is permitted by law;
- XIII. Collect or transfer personal data without the express consent of the owner, in cases where that it be enforceable;
- XIV. Obstruct the acts of verification of the authority;
- XV. Collect data in a deceitful and fraudulent way;
- XVI. Continue with the illegitimate use of personal data when the cessation of it has been requested by the Institute or the owners;
- XVII. Treat personal data in a way that affects or prevents the exercise of the rights of access, rectification, cancellation and opposition established in article 16 of the Political Constitution of the United Mexican States;
- XVIII. Create databases in violation of the provisions of article 9, second paragraph of this law, and
- XIX. Any breach by the person in charge of the obligations established under his charge in terms of the provisions of this Law.

**Article 64.-** Violations of this Law will be sanctioned by the Institute with:

- I The warning for the person in charge to carry out the acts requested by the owner, in the terms provided by this Law, in the case of the cases provided for in section I of the previous article;





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- II. Fine of 100 to 160,000 days of minimum wage in force in the Federal District, in the cases provided for in sections II to VII of the previous article;
- III. Fine of 200 to 320,000 days of minimum wage in force in the Federal District, in the cases provided for in sections VIII to XVIII of the previous article, and
- IV. In the event that the infractions mentioned in the previous paragraphs persist, an additional fine will be imposed that will range from 100 to 320,000 days of the minimum wage in force in the Federal District. In the case of infractions committed in the processing of sensitive data, the sanctions may be increased by up to two times the established amounts.

**Article 65.-** The Institute will found and motivate its resolutions, considering:

- I. The nature of the data;
- II. The notorious inadmissibility of the refusal of the person in charge, to carry out the acts requested by the holder, in terms of this Law;
- III. The intentional nature or not, of the action or omission constituting the infraction;
- IV. The economic capacity of the person in charge, and
- V. Recidivism.

**Article 66.-** The sanctions indicated in this Chapter will be imposed without prejudice to the resulting civil or criminal liability.

### CHAPTER XI

#### Of the Crimes in Matter of the Improper Treatment of Personal Data

**Article 67.-** Three months to three years in prison will be imposed on anyone who, being authorized to process personal data for profit, causes a security violation of the databases in their custody.

**Article 68.-** Those who, in order to achieve undue profit, process personal data through deception, taking advantage of the error in which the holder or the person authorized to transmit them, will be sanctioned with imprisonment from six months to five years.

**Article 69.-** In the case of sensitive personal data, the penalties referred to in this Chapter will be doubled.

### TRANSIENT

**FIRST.-** This Decree will enter into force on the day following its publication in the Diario Federation Officer.

**SECOND.-** The Federal Executive will issue the Regulations of this Law within the year following its entry into force.

**THIRD.-** Those responsible will designate the person or department of personal data referred to in article 30 of the Law and will issue their privacy notices to the holders of personal data of



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in accordance with the provisions of articles 16 and 17 no later than one year after the entry into force of this Law.

**FOURTH.-** The owners may exercise their rights of access, rectification, cancellation and opposition contemplated in Chapter IV of the Law before those responsible; as well as initiate, where appropriate, the procedure for the protection of rights established in Chapter VII of the same, eighteen months after the entry into force of the Law.

**FIFTH.-** In compliance with the provisions of the third transitory article of the Decree by which section XXIX-O is added to article 73 of the Political Constitution of the United Mexican States, published in the Official Gazette of the Federation on April 30 of 2009, the local provisions on the protection of personal data held by individuals are repealed, and the other provisions that oppose this Law are repealed.

**SIXTH.-** The references that, prior to the entry into force of this Decree, are made in laws, treaties and international agreements, regulations and other ordinances to the Federal Institute of Access to Public Information, in the future will be understood as made to the Institute Federal Access to Information and Protection of Personal Data.

**SEVENTH.-** The actions that, in compliance with the provisions of the Federal Law on Protection of Personal Data Held by Private Parties, correspond to the Federal Executive, will be subject to the approved budgets of the corresponding institutions and the provisions of the Federal Law. of Budget and Fiscal Responsibility.

**EIGHTH.-** The Expenditure Budget of the Federation for the Fiscal Year of 2011 will consider sufficient items for the proper functioning of the Federal Institute of Access to Information and Data Protection in the matters of this Law.

**SECOND ARTICLE.** .....

**TRANSIENT**

**SOLE.-** This Decree will enter into force on the day following its publication in the Official Gazette. of the Federation.

Mexico City, April 27, 2010.- Dip. **Francisco Javier Ramirez Acuña**, President.- Sen. **Carlos Navarrete Ruiz**, President.- Dip. **Georgina Trujillo Zentella**, Secretary.- Sen. **Renán Cleominio Zoreda Novelo**, Secretary.- Signatures."

In compliance with the provisions of section I of Article 89 of the Political Constitution of the United Mexican States, and for its due publication and observance, I issue this Decree at the Residence of the Federal Executive Power, in Mexico City, Federal District, June twenty-eight, two thousand and ten.- **Felipe de Jesús Calderón Hinojosa**.- Signature.- The Secretary of the Interior, Lic. **Fernando Francisco Gómez Mont Urueta**.- Signature .