

# Privacy Law Fundamentals

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## ABOUT *PRIVACY LAW FUNDAMENTALS*

“Concise, well-organized, and masterfully detailed, *Privacy Law Fundamentals* is the authoritative and most accessible reference for privacy practitioners looking for quick, accurately distilled, and current content from two of the most preeminent scholars in the field.”

– James M. Aquilina, *Stroz Friedberg*

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“This book is my go-to reference for when I need quick, accurate information on privacy laws across sectors and jurisdictions. Solove and Schwartz masterfully make complex privacy law more accessible and understandable for anyone, from the most experienced practitioner to first year law student.”

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– Kurt Wimmer, *Covington & Burling*

“The go-to privacy law reference that you will keep going to. Professors Schwartz and Solove manage to distill without distorting and to outline without obscuring. Part reference, part primer and part pathfinder, *Privacy Law Fundamentals* is the ultimate privacy law resource.”

– Tom Counts, *Paul Hastings*

“This is the essential primer for all privacy practitioners. Professors Solove and Schwartz have done a remarkable job of keeping this volume current in the fast-changing environment of new technology, case law and legislation.”

– David A. Hoffman, *Intel Corporation*



## ABOUT THE AUTHORS

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## DEDICATION

To Pamela and Griffin—DJS

To Steffie, Clara and Leo—PMS



## PREFACE

This book provides a concise guide to privacy law. *Privacy Law Fundamentals* is designed to serve as a primer of the essential information that one needs to know about the field. For the student of privacy law or the beginning privacy professional, the book will provide an overview that can be digested readily. For the more seasoned and experienced, the book will serve as a handy reference guide, a way to refresh one's memory of key components of privacy laws and central cases. It will help close gaps in knowledge and inform on areas of the field about which one wants to know more.

In writing this book, we have aimed to avoid the “too much information” problem by singling out the essential provisions of law, regulations, and judicial decisions. A frequent risk in law books is that key definitions, provisions, and concepts will become lost in a litany of long and dense statutes and in a mass of cases. We have endeavored to distill the field down to its fundamentals and present this information in as clear and useful a manner as we could. Wherever possible, we have developed charts and lists to convey the material.

The book is organized in thirteen chapters:

- Chapter One—a review of the key privacy developments since the last edition.
- Chapter Two—an overview of privacy law in all its varied types and forms and a timeline with key points in the development of privacy law.
- Chapter Three—privacy law involving the media, including the privacy torts, defamation, and the First Amendment.
- Chapter Four—the law of domestic law enforcement, focusing on the Fourth Amendment and the statutes regulating electronic surveillance.
- Chapter Five—national security law, including the Foreign Intelligence Surveillance Act.

- Chapter Six—the laws and regulations that pertain to health and genetic data, including HIPAA.
- Chapter Seven—government records and laws, such as the Privacy Act and the Freedom of Information Act.
- Chapter Eight—the laws concerning financial information, including the Fair Credit Reporting Act and the Gramm-Leach-Bliley Act.
- Chapter Nine—legal regulation of the privacy of consumer data and business records, involving statutes, tort protections, and FTC enforcement actions.
- Chapter Ten—data security law, including the varying laws in a majority of the states.
- Chapter Eleven—school privacy, including the Family Educational Rights and Privacy Act.
- Chapter Twelve—the regulation of employment privacy, including the different rules for government and private-sector employees.
- Chapter Thirteen—international privacy law, including the EU Data Protection Directive, the OECD Guidelines, the APEC Privacy Framework, and rules of international data transfers.

For his suggestions on our chapter about school privacy, we wish to thank Steven McDonald. This book also benefitted greatly from the research assistance of Henry Becker, Jordan Bock, Thad Houston, Richard Johnson, Lea Mekhneche, Robert Paris, and Michelle Parker.

For further references, including books, websites, statutes, and other sources of news and legal materials, visit our website (<http://informationprivacylaw.com>), and for our casebooks, click on the “resources” tab at the top.

We look forward to keeping this book up to date and to finding additional ways to make it as useful as possible. Please feel free to contact us with any suggestions and feedback about the book.

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