

Head Start Program

Federal Law: New Head Start Program Performance Standards

Citation: [42 U.S.C. § 9801](#), et seq.; [45 C.F.R. § 1303 Subpart C](#)

Head Start regulations contain privacy protections that generally align with the protections found in the Family Educational Rights and Privacy Act.

THE LAW

What does the law do?

The Head Start program promotes school readiness for children, under five years old, from low-income families through education, health, social and other services. The program is administered by the US Department of Health and Human Services. The Head Start regulations contain privacy protections that generally align with the protections found in the Family Educational Rights and Privacy Act (FERPA), administered through the US Department of Education.

To whom does the law apply?

The Head Start privacy provisions apply to Head Start and Early Head Start [programs](#) funded under the [Head Start Act](#) and carried out by a child development services agency. Significantly, the Head Start privacy protections defer to the confidentiality provisions in FERPA and the Individuals with Disabilities Education Act (IDEA). [If a program is regulated by FERPA or IDEA, then Head Start privacy protections do not apply](#) and the program must comply with those regulations instead.

How is “identifiable” information defined?

[Personally identifiable information](#) (PII) is defined as “any information that could identify a specific individual, including but not limited to a child's name, name of a child's family member, street address of the child, social security number, or other information that is linked or linkable to the child.”

SHARING OF IDENTIFIABLE DATA

Does this law allow identifiable data to be shared?

Head Start programs can share identifiable data in a [few limited situations](#). Generally, programs must obtain a parent's written consent before disclosing PII from child records.

However, the regulations also permit PII disclosures without consent in limited circumstances. Programs can disclose PII related to a child's enrollment in or transfer to another program, school, or school district so long as parents are notified and given an opportunity to refuse the disclosure. The regulations also permit the

following disclosures without consent or parental notification: 1) disclosures necessary for Head Start services; 2) disclosures in connection with an audit or evaluation of education or child development programs, or for enforcement of or compliance with program requirements; 3) disclosures to conduct a study to improve child and family outcomes; (4) disclosures to address a disaster, health or safety emergency during the period of the emergency, or a serious health and safety risk such as a serious food allergy; 5) certain disclosures to comply with a judicial order or lawfully issued subpoena; 6) disclosures related to the National School Lunch Act or the Child Nutrition Act of 1966; 7) disclosures to a caseworker or child welfare agency representative if the agency is legally responsible for a child's care and protection; and 8) disclosures to address suspected or known child maltreatment.

Among who?

The [regulations](#) do not limit who can receive Head Start PII with valid parental consent. However, the exceptions to the parental consent requirement place some restrictions on who can receive Head Start PII. Under the specific requirements of the various exceptions, the following persons or entities can receive PII: 1) Head Start officials, including contractors and subrecipients, 2) certain state or federal officials, 3) caseworkers or child welfare agency representatives, 4) appropriate parties for emergency response, to comply with a judicial order or subpoena, or to address child maltreatment.

What are the prerequisites and conditions?

Each [disclosure provision](#) contains specific requirements. For all PII disclosures, Head Start programs can only disclose information that is necessary for the purpose of the disclosure. To be valid, parental consent for PII disclosure must explain what will be disclosed, why it will be disclosed, and who will receive the records. Programs must provide parents notice and opportunity to refuse prior to a disclosure relating to a future enrollment or transfer of the child. Several disclosure exceptions, such as those for audit, evaluation, and studies, require ongoing oversight (e.g., via a written agreement) and destruction of records that are no longer needed. Head Start programs must provide parents an annual notice of their rights, a description of the types of PII that may be disclosed, to whom the PII may be disclosed, and what may constitute a necessary reason for the disclosure without parental consent.

SHARING OF DE-IDENTIFIED DATA

Does this law allow de-identified information to be shared?

The Head Start privacy provisions only relate to PII in child records. There are no prohibitions against sharing non-identifiable information.

Does this law define de-identification or standards to render the data de-identified?

The Head Start privacy provisions do not address de-identification of PII; however, the [definition of PII](#) includes a non-exhaustive list of direct and indirect identifiers (e.g., names, addresses, social security numbers). Even with the removal or suppression of these enumerated identifiers, the data might still be identifiable due to information that is linked or linkable to a child.

DATA SHARING IMPLICATIONS FOR PUBLIC HEALTH

Does this law support data sharing to improve the health of communities?

The Head Start regulations [encourage data sharing and coordination with other programs](#). The regulations require Head Start programs to “take an active role in promoting coordinated systems of comprehensive early childhood services to low-income children and families in their community through communication, cooperation, and the sharing of information among agencies and their community partners.” Head Start programs must enter into a memorandum of understanding with local entities responsible for managing public preschool programs to support coordination, and participate in a Quality Rating and Improvement System (if applicable). Programs are also encouraged to [integrate and share data with state education data systems](#).

How does this law hinder data sharing to improve the health of communities?

The Head Start privacy provisions lack a broad exception for public health disclosures. However, the audit, evaluation, and study disclosure exceptions do not exclude public health applications.

Does this law establish prerequisites, conditions, or limitations for data sharing, not previously identified?

The regulations contain [provisions relating to record maintenance](#), including requirements for record security, access, and destruction.

What other terms apply to sharing this data?

The regulations have specific requirements for [written agreements](#) governing third-party PII use and disclosure, including provisions for annual review and remedies agreement violations.

What remedies or solutions might be employed to support data sharing while complying with this law?

[A report from the Departments of Health and Human Services and Education](#) describes how Head Start data can be integrated with other administrative data and leveraged to support early childhood objectives.

What ethical considerations apply to the exercise of discretion to share data under this law?

Head Start children are minors from low-income households. Thus, Head Start programs contain sensitive information relating to vulnerable populations that may lack capacity to provide consent. Some families might feel coerced to participate in data sharing activities if they feel that consent is a pre-requisite to receiving Head Start services.

Additional federal guidance on Head Start programs can be found [here](#).

SUPPORTERS



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