

Higher Education Act

Federal Law: Higher Education Act (National Student Loan Data System)

Theme: Education

Citation: [20 U.S.C. § 1092b](#); [34 C.F.R. Part 5b](#)

The Higher Education Act limits who can access the National Student Loan Data System and how the data can be used.

THE LAW

What does the law do?

The 1986 reauthorization of the Higher Education Act of 1965 created the [National Student Loan Data System \(NSLDS\)](#). The NSLDS contains information relating to federal student loan borrowers and federal grant recipients. The NSLDS receives data from schools, loan guaranty agencies, and programs administered by the U.S. Department of Education. The Higher Education Act and [Privacy Act regulations](#) limit on who can access the NSLDS and how the data can be used.

To whom does the law apply?

The use restrictions for the NSLDS apply to the U.S. Department of Education, which administers the NSLDS, as well as system users, including financial aid recipients, institutions of higher education, guaranty agencies, lenders, loan servicers, and state grant agencies.

How is “identifiable” information defined?

The Higher Education Act does not define “personally identifiable information.” [Federal guidance applying Privacy Act regulations to the NSLDS](#) provides the following examples of identifiers in the NSLDS: names, social security numbers, date of birth, addresses, phone numbers, email addresses, and driver’s license information.

SHARING OF IDENTIFIABLE DATA

Does this law allow identifiable data to be shared?

[The law governing the NSLDS strictly regulates the permitted uses of NSLDS data](#) without individual consent. Generally, NSLDS data can only be used for legitimate program operations, such as screening for financial aid eligibility, reporting changes in student/borrower enrollment status, billing and collecting loans, loan enforcement, program audit, review, and assessment, and budget analysis. The law permits the use of NSLDS data for governmental research and policy analysis, but strictly prohibits nongovernmental researchers and policy analysts from accessing identifiable data. The law prohibits marketing uses of NSLDS data.

Among who?

[The law](#) limits the individuals and types of entities that can access NSLDS data. The extent of permissible access to and use of NSLDS depends on the individual or type of entity accessing the NSLDS. Additionally,

access to NSLDS data is limited to only the information needed by the individual or entity for legitimate purposes. The following individuals and entities can be eligible to access identifiable data within the NSLDS: students/borrowers, guaranty agencies, lenders, loan servicers, state grant agencies, and other state or federal agencies.

What are the prerequisites and conditions?

[Requests to access](#) identifiable data within the NSLDS or disclosures to nongovernmental researchers and policy analysts must comply with the [US Department of Education Privacy Act regulations](#). Organization with access to NSLDS data must have a [Destination Point Administrator](#) to monitor NSLDS access and use. Additionally, the [NSLDS Organization Access Process guidance](#) requires organizations to have an existing relationship with an individual in order to get access to the individual's NSLDS record and the guidance prohibits sharing access credentials, use of automated tools (e.g., screen scraping technology), and using NSLDS records for marketing.

SHARING OF DE-IDENTIFIED DATA

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

NSLDS data can be used for research or policy purposes if the "[record is transferred in a form that does not identify the subject individual](#)," and the recipient provides written assurances that the record will be used solely for statistical research or reporting.

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

The law authorizing the NSLDS does not define specific standards to de-identify NSLDS records.

DATA SHARING IMPLICATIONS FOR PUBLIC HEALTH

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

The law permits the use of NSLDS records for research and policy analysis. Since access to education is a social determinant of health, linking NSLDS records with other existing data could help answer important questions concerning health outcomes and equity relating to federal financial aid recipients.

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

The absence of a provision permitting the use of NSLDS records for public health purposes limits the use of this data to promote the health of communities. Moreover, the prohibition on the disclosure of identifiable NSLDS data for research to nongovernmental researchers and policy analysts limits data linkage opportunities with other data sources that might be needed to answer research questions relating to community health.

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

The US Department of Education is required to maintain an [accounting of NSLDS disclosures](#). Organizations that perform more than one function relevant to the NSLDS (e.g., a lender that also acts as a guaranty agency) [must meet the access requirements for each organization type](#).

What other terms apply to sharing this data?

None.

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

The law strictly regulates the types of individuals and entities that can access the NSLDS and the permitted uses of personally identifiable information. Although not clearly defined in the Higher Education Act, de-identification of NSLDS information would enable data sharing for additional uses.

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

The NSLDS contains sensitive financial information concerning federal financial aid recipients. Inappropriate disclosure of this information could result in harm (e.g., identity theft) to individuals with information in the NSLDS.

More information related to the permitted uses of the NSLDS can be found [here](#).

SUPPORTERS



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The Network for Public Health Law is a national initiative of the Robert Wood Johnson Foundation.

This document was developed by Cason Schmit, Research Assistant Professor, Texas A&M University and reviewed by Jennifer Bernstein, Deputy Director, Mid-States Region of The Network for Public Health Law. The Network for Public Health Law provides information and technical assistance on issues related to public health. The legal information and assistance provided in this document does not constitute legal advice or legal representation. For legal advice, please consult specific legal counsel.