

# IES Data Licensing Program

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# Legal Context: Privacy Law

## The Privacy Act of 1974 (5 U.S.C. 552a)

- Governs the collection, maintenance, use, and dissemination of personally identifiable information (PII) about individuals maintained by Federal agencies
- No agency shall disclose any record to any person without the prior written consent of the individual (there are certain exceptions)
- A willful disclosure could result in a misdemeanor and fine of not more than \$5,000

# Legal Context: Confidentiality Law

The Family Educational Rights and Privacy Act (20 U.S.C. § 1232g; 34 CFR Part 99) protects the privacy of student education records

- FERPA applies to all schools that receive funds under an applicable program of the U.S. Department of Education
- FERPA allows schools to disclose those records to specified officials for audit or evaluation purposes
- FERPA applies to administrative record data that NCES obtains from the school or institution without the explicit written consent of the parent or student

# Legal Context: Confidentiality Law

Confidential Information Protection and Statistical Efficiency Act (CIPSEA) of 2002 (P.L. 107-347, Title V)

- Protects personally identifying information from disclosure when information is collected under a pledge of confidentiality and for statistical purposes
- A willful disclosure could result in a class E felony with fines up to \$250,000 and/or up to five years in prison
- Allows an agency's agents to access restricted data.

# Legal Context: IES Confidentiality Law

## Education Sciences Reform Act (ESRA) of 2002 - Confidentiality Section (20 U.S.C. 9573)

- All individually identifiable information about students, their families, and their schools shall remain confidential
- Individually identifiable information is immune from the legal process and cannot be used in any judicial proceeding (except in the case of terrorism)

# Legal Context: IES Confidentiality Law

- Under the IES confidentiality law, no person may:
  - Use any individually identifiable information for a non-statistical purpose (except in the case of terrorism)
  - Release data that could identify a person, or
  - Permit unauthorized persons to examine the individual data

# Legal Context: IES Confidentiality Law

- Under the IES confidentiality law, Federal employees, contractors, and licensees who are obligated to obey this law and who knowingly disclose any individually identifiable information, will be subject to a class E felony with fines up to \$250,000 and/or up to five years in prison

# Data Curation: IES Confidentiality Procedures

- Disclosure Review Board—IES technical staff
  - Approve data perturbations
  - Clear files for release
    - Direct identifiers are removed—de-identified restricted use file
    - Sensitive information is removed or recoded—  
anonymized public use file
      - Top- and bottom-coding
      - Categories



# Data Linkage: IES Confidentiality Procedures

- Restricted use data may be linked to
  - Department of Education administrative data at the student and institution levels
  - Other Federal data at the student level
  - External third party data at the student and institution levels
  - Aggregate data from Census/ACS using geocodes

# Data Access: IES Confidentiality Procedures

- **Data Analysis Systems**—user specified tabulations are provided online using restricted use data
  - National Data Explorer (NDE)—NAEP
  - International Data Explorer (IDE)—TIMSS, PISA, PIRLS, PIAAC
  - PowerStats—NPSAS, BPS, B&B, ELS, HSLS, SSOCS
- **Restricted Use Data Licensing**—Qualified external researchers are provided access through a licensing agreement

# Background: IES Data Licensing Program

- Legislation provides the basis for the IES Data Licensing Program
- The IES Director may utilize temporary staff, including employees of Federal, State, or local agencies and employees of private organizations to assist in performing the agency's responsibilities, but only if such temporary staff are sworn to observe the IES confidentiality law (see 20 U.S.C. 9573 (d)(3)).

# Background: IES Data Licensing Program

- Non-IES data users are loaned restricted use data through a license (contract)
- The license is between IES, the user, and the user's organization (e.g., a university, a research institution, or company)
- Licensed users agree to the terms of the IES confidentiality law
- IES loans restricted-use data only to qualified organizations in the 50 States and DC

# Background: IES Data Licensing Program

- History of program:
  - 1989: Initiated talks with OMB to start a trial data licensing system; Developed protocol and legal documents
  - 1991: First license issued
  - 2000: 502 restricted-use licenses
  - 2002: NCES program expanded to IES (ESRA)
  - 2007: Implemented electronic application system
  - 2016: 1,261 restricted-use licenses

# Application: IES Data Licensing Program:

- Submit a formal online request, including
  - Name, title, institutional affiliation, full address, phone number, and e-mail address (researcher only) for the
    - Researcher
    - Senior Official
    - System Security Officer
  - A list of all authorized users on the data license, and
  - Information describing the project (see next slide)

# Application: IES Data Licensing Program

- Information describing the project includes
  - The name, year and subject matter of the data file(s) requested
  - Non IES FERPA protected data, whether the proposed work is to be conducted as a special study, or for or on behalf of a school or institution
  - The project title and a brief description of the research objective and how the requested data will be used
  - An explanation of why the public-use files cannot meet the researcher's need

# Application: IES Data Licensing Program

- Information describing the project includes (continued)
  - A description of any data that will be linked to the requested data
  - An indication of which education sectors will be served by the project
  - An agreement that the requested data will not be used for any administrative or regulatory purpose
  - The length of the requested loan



# Application: IES Data Licensing Program

- The licensee must submit hard copy of
  - Signed license (data use agreement)
  - Signed and notarized affidavits of nondisclosure for each user on license
  - Signed security plan form

# Data Access: Data Licensing Program

- The licensee must agree to
  - Keep the data safe from unauthorized disclosures at all times
  - Participate in unannounced, unscheduled inspections to ensure compliance with license terms and required security procedures
  - Read the *Restricted-Use Data Procedures Manual*.  
<http://nces.ed.gov/pubs96/96860rev.pdf>
  - Ensure that all users listed on the license read, understand, and follow the license and security plan requirements.

# Analysis: IES Data Licensing Program

- The licensee must agree to
  - Use the ED approved procedure for reporting out tabular results
  - Submit all draft information products to IES for disclosure review

# Analysis: IES Data Licensing Program

- To maintain confidentiality in reports, tabular results must be published
  - With unweighted counts rounded to the nearest 10 or 50
  - As is, if perturbations are present
  - Collapsing tables (columns and/or rows) until there are at least 3 respondents in every cell, if no perturbations

# Maintenance: IES Data Licensing Program

- The licensee must
  - Notify IES immediately if licensee receives any legal or other demand for the data
  - Use the online license system to notify IES of the following types of changes
    - Project operations or security procedures
    - Departures or additions of the project staff
    - The need for additional data
  - Maintain a file of all license documents, amendments and affidavits

# Maintenance: IES Data Licensing Program

- The licensee must (continued)
  - Only keep and access the restricted-use data on a standalone desktop computer.
  - Never place the data on a laptop computer, server, external hard drive or UBS memory stick
  - Purge and overwrite the computer's hard drive before attaching the computer to a modem or network (LAN connection/internet).

# Maintenance: IES Data Licensing Program

- The licensee must (continued)
  - Ensure that only those persons listed on the license have access to the secure project office
  - Ensure that secure project office keys are returned and computer login disabled within 24 hours after any staff leave the project
  - Immediately notify IES of staff changes via amendment

# Closeout: IES Data Licensing Program

- The licensee must:
  - Close the license when the research is completed or the license terminates
    - The restricted-use data and all other individually identifiable information (e.g., the one backup copy, working notes) must be returned to IES or destroyed under IES supervision and procedures
    - The Close-out Certification Form must be sent to IES to complete the license close-out process.



# Operations: IES Management of Licenses

- Review license applications in a transparent matter and track all review outcomes
- Conduct disclosure reviews of work products within 5 business days
- Use physical site inspections and personal interviews to ensure security compliance
- Immediately follow-up with licensee on minor and major license violations
- Review the site inspector's work

# Operations: IES Management of Licenses

- Maintain complete, detailed license records (amendments and users) in searchable format
- Maintain up-to-date contact information on all licensees
- Send security reminders to licensees (via email)
- Track license expiration dates and notify licensee about pending license closure
- Employ agency licensing staff that are detail oriented, efficient, and vigilant

# Useful Web Resources for Licensing Info

Restricted-use Data License Program:

<http://nces.ed.gov/statprog/instruct.asp>

*Restricted-Use Data Procedures Manual:*

<http://nces.ed.gov/pubs96/96860rev.pdf>

Access Your License in the IES Online System:

<https://nces.ed.gov/statprog/licenseapp/requestemail.asp>

How to Submit a License Amendment:

[https://nces.ed.gov/statprog/instruct\\_mod.asp](https://nces.ed.gov/statprog/instruct_mod.asp)

Frequently Asked Questions:

[https://nces.ed.gov/statprog/instruct\\_licensing\\_faq.asp](https://nces.ed.gov/statprog/instruct_licensing_faq.asp)

[https://nces.ed.gov/statprog/instruct\\_access\\_faq.asp](https://nces.ed.gov/statprog/instruct_access_faq.asp)

# IES Confidentiality Program Information

Confidentiality Program overview:

<http://nces.ed.gov/statprog/confproc.asp>

Confidentiality laws:

<http://nces.ed.gov/statprog/conflaws.asp>

Confidentiality standard:

[http://nces.ed.gov/statprog/2002/std4\\_2.asp](http://nces.ed.gov/statprog/2002/std4_2.asp)

## Questions? Contact:

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# Definitions

- **De-identified** information is used to describe records that have enough personally identifiable information removed or obscured, such that the remaining information does not identify a specific individual. Each record includes a re-identification code that can be used by the data manager with a linking key to identify the individual.
- **Anonymization**—data are de-identified, AND do not include a re-identification code; that is, the data cannot be linked back to a file with identifiable data. Anonymized data may also have been subjected to additional statistical disclosure limitation techniques.