

CIPSEA

Federal Law: Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA)

Theme: Population Statistics

Citation: 44 U.S.C. § 3501 Note Sec. 501, et al.

CIPSEA protects identifiable information collected by federal agencies for exclusively statistical purposes.

THE LAW

What does the law do?

The Confidential Information Protection and Statistical Efficiency Act ([CIPSEA](#)) protects identifiable information collected by federal agencies for exclusively statistical purposes under a pledge of confidentiality (CIPSEA-protected data). CIPSEA requires informed consent to use or disclose protected information for non-statistical purposes. Restricted [non-statistical uses](#) include “administrative, regulatory, law enforcement, adjudicatory, or other purpose that affects the rights, privileges, or benefits of a particular identifiable” person or organization as well as disclosures under the Freedom of Information Act. [CIPSEA also authorizes data sharing](#) between the Bureau of the Census, the Bureau of Economic Analysis (BEA), and the Bureau of Labor Statistics (BLS) for statistical purposes.

To whom does the law apply?

CIPSEA applies to all federal agencies that collect data under a pledge of confidentiality and for exclusively statistical purposes. Agencies “whose activities are predominantly the collection, compilation, processing, or analysis of information for statistical purposes” and the three “designated statistical agencies” (Census Bureau, BEA, and BLS) have [additional obligations](#) under CIPSEA.

How is “identifiable” information defined?

Under CIPSEA, information is in an identifiable form if the identity of a person or organization can “be reasonably inferred by either direct or indirect means.” Agencies will deem certain information [indirectly identifiable](#) if it identifies persons or organizations using other available information. Guidance from the Office of Management and Budget (OMB) provides some examples of information that is [personally identifiable](#) (e.g., name, social security number) or may be [indirectly identifiable](#) (e.g., gender, race, date of birth).

SHARING OF IDENTIFIABLE DATA

Does this law allow identifiable data to be shared?

CIPSEA-protected data can only be used or disclosed for statistical purposes unless respondents give informed consent for their information to be used or disclosed for other purposes. Under [CIPSEA](#) statistical

purposes include the “description, estimation, or analysis of the characteristics of groups” and related “development, implementation, or maintenance of methods, technical or administrative procedures, or information sources.” CIPSEA does not restrict or diminish additional legal confidentiality protections that apply to CIPSEA-protected data.

Among who?

Generally, agencies can only share CIPSEA-protected data among the officers, employees, or agents of the agency for statistical purposes only. Statistical agencies may designate agents, by contract or agreement, who may receive CIPSEA-protected data and “perform exclusively statistical activities.” Under CIPSEA, an agent could be an employee of a private organization, an individual working under the authority of a government entity, a consultant or contractor. Designated Statistical Agencies (i.e., the Census Bureau, BEA, and BLS) are permitted to share identifiable business data with each other for statistical purposes only.

What are the prerequisites and conditions?

Generally, CIPSEA-protected data can only be disclosed for statistical purposes without informed consent. Disclosures for non-statistical purposes (i.e., with informed consent) must be approved by the head of the agency and not prohibited by other laws. Under CIPSEA, statistical agencies must distinguish any data that is collected for non-statistical purposes and provide public notice prior to collecting data for non-statistical purposes. CIPSEA requires Designated Statistical Agencies (i.e., Census Bureau, BEA, and BLS) to have a written agreement with another Designated Statistical Agency prior to sharing identifiable business data. An agency must have an agreement or contract with designated agents that will receive and use CIPSEA-protected data for statistical purposes.

SHARING OF DE-IDENTIFIED DATA

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

CIPSEA does not prohibit disclosure of information that is not in an “identifiable form.”

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

The statutory CIPSEA provisions do not define legal de-identification standards.

DATA SHARING IMPLICATIONS FOR PUBLIC HEALTH

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

CIPSEA allows agencies to designate agents who are authorized to use CIPSEA protected data for statistical purposes. “Statistical purpose” is defined broadly in the law. CIPSEA supports data sharing to improve community health to the extent that agencies disclose protected data for exclusively statistical activities that promote community health.

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

CIPSEA does not contain a provision that expressly permits the use or disclosure of protected information for public health purposes. Persons and organizations seeking designated agent status to access protected data for statistical purposes are subject to a potentially lengthy [approval processes](#).

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

Disclosures to designated agents for statistical purposes require written agreements or contracts. Under certain circumstances, a Designated Statistical Agency must provide public notice of written agreements relating to previously undisclosed data sharing activities. CIPSEA requires agencies to report to the Office of Management and Budget (OMB) concerning activities governed by CIPSEA.

What other terms apply to sharing this data?

There are penalties for violations of the CIPSEA confidentiality provisions, including up to 5 years in prison and fines up to \$250,000. Designated agents must agree to abide by the CIPSEA limitations and to be subject to the CIPSEA penalties.

OMB [Implementation Guidance](#) describes minimum requirements and standards for protecting data under CIPSEA (e.g., inform survey respondents of confidentiality protections, minimize risk of disclosure, training, limit uses to statistical purposes, review information to be disseminated for potential disclosures of identifiable information, and supervise agents with access to protected information).

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

Persons and organizations that seek to access and use data protected by CIPSEA can contact the relevant agency and inquire about the agent designation process. Some agencies provide access to CIPSEA-protected data at [data centers](#) located around the country, and institutions can apply to [host a data center](#) locally.

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

Data protected by CIPSEA is collected under a pledge of confidentiality. Uses or disclosures contrary to the stated pledge violate the trust of persons and organizations that provide data to federal agencies. Negative perceptions related to data use could affect whether survey respondents provide the accurate and complete data necessary to serve public interests and democratic needs. Moreover, inappropriate disclosures of CIPSEA-protected data could negatively affect persons and organizations, including social and economic harms.

Additional information relating to CIPSEA implementation can be found [here](#).

SUPPORTERS

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



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.

October, 2018