

## WIC Supplemental Nutrition Program

**Federal Law:** Women, Infants, and Children (WIC) Supplemental Nutrition Program - Confidentiality Provisions

**Theme:** Social Service Programs

**Citation:** [7 U.S.C. § 2018](#); [7 C.F.R. § 246.26](#)

The WIC confidentiality provisions restrict the use and disclosure of information associated with WIC applicants or participants.

### THE LAW

#### What does the law do?

WIC is a supplemental nutritional assistance program of the Food and Nutrition Service of the US Department of Agriculture that aims to improve access to healthy foods among low-income women, infants and children. The WIC confidentiality provisions restrict the use and disclosure of information associated with WIC applicants or participants. The law also contains confidentiality provisions relating to information about WIC vendors and SNAP retailers, which are not discussed here.

#### To whom does the law apply?

The WIC confidentiality provisions apply to state and local WIC agencies.

#### How is “identifiable” information defined?

The regulations do not specifically define what makes information identifiable. The regulations protect [confidential applicant and participant information that individually identifies](#) an applicant or participant and/or family member(s).

### SHARING OF IDENTIFIABLE DATA

#### Does this law allow identifiable data to be shared?

The regulations permit [sharing confidential WIC information for WIC and non-WIC purposes](#). Disclosures of confidential applicant or participant information for WIC purposes are limited to persons directly connected with the administration or enforcement of the WIC Program. State and local WIC agencies may use confidential applicant and participant information in the administration of other programs that serve persons eligible for the WIC program. Additionally, state and local WIC agencies may disclose confidential applicant and participant information to public organizations for use in the administration of programs that serve persons eligible for the WIC Program

#### Among who?

[Confidential applicant or participant information can be disclosed](#) to persons directly connected with the administration or enforcement of the WIC program, WIC state and local agencies, other public agencies that

serve WIC eligible persons, appropriate entities for reporting child abuse and neglect, or other persons designated in a release form signed by the individual.

### **What are the prerequisites and conditions?**

[The state WIC agency can make a disclosure for WIC purposes](#) if the state agency determines the recipient has a need to know the information for WIC Program purposes.

A state or local WIC agency must take [additional steps](#) prior to using or disclosing confidential applicant and participant information for non-WIC purposes. The chief state health officer must designate the permitted (non-WIC) information uses and the disclosure recipients in writing. WIC applicants and participants must be notified that the chief state health officer may authorize the use and disclosure of their information for non-WIC purposes. The disclosing state or local agency must enter into an agreement with the recipient of WIC information for non-WIC purposes. The state plan for the WIC program must also include a list of all organizations and agencies with which the State agency or its local agencies has executed or intends to execute a written agreement.

The law permits other disclosures if the WIC applicant or participant signs a release form authorizing the disclosure to specified parties.

## **SHARING OF DE-IDENTIFIED DATA**

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

The law defines confidential applicant and participant information as [information that individually identifies](#) a WIC applicant or participant. Information that does not individually identify an applicant or participant is not protected by this law. Moreover, the law permits the Food and Nutrition Service to use WIC data in ways that do not identify individuals (e.g., [statistical summaries](#)) and to use non-identifiable medical information collected by the program to evaluate the effect of food interventions upon low-income individuals determined to be at nutritional risk.

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

The law does not contain a specific standard or method to render identifiable data de-identified.

## **DATA SHARING IMPLICATIONS FOR PUBLIC HEALTH**

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

The law contains a [general exception](#) to use WIC data for non-WIC purposes if the data is used in the administration of programs that benefit WIC-eligible persons. States can use this general exception to share WIC information with other programs designed to improve the health of WIC-eligible populations.

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

The general exception to use WIC data for non-WIC purposes has several requirements (i.e., permitted disclosure designation, notice to WIC applicants and participants, written agreement with information recipient, and state plan amendment). If a disclosure does not fit within pre-established mechanisms, these requirements could delay rapid response to pressing social or public health issues.

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

If the state and local WIC agencies wish to disclose confidential WIC information pursuant to signed release forms, WIC applicants and participants may refuse to sign the release form and the refusal cannot affect the applicant or participant's participation in the WIC program.

Written agreements between WIC agencies and programs using confidential WIC data for non-WIC purposes [must contain specific terms and conditions](#) that limit the use of confidential WIC data. For example, the agreement must limit the use of WIC data to the following activities: establishing program eligibility, conducting outreach, enhancing the health, education, or well-being, streamlining administrative procedures, or assessing and evaluating the responsiveness of a state's health system to participants' health care needs and health care outcomes.

### **What other terms apply to sharing this data?**

[Agreements](#) to share data for non-WIC purposes must contain assurances that receiving organizations will not use the information for any other purposes or disclose the information to a third party.

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

Establishing agreements with state or local agencies or other public organizations to share confidential WIC data for non-WIC purposes in advance will speed the mobilization and use of WIC data in response to a serious social or public health issue.

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

The WIC program serves groups frequently classified as vulnerable populations. Consequently, there are additional ethical considerations associated with these groups. For example, children and infants lack the legal capacity to give consent, and low-income pregnant women or women with young children might feel compelled to share their data out of necessity to obtain resources for their dependents.

Additional information relating to the WIC program can be found [here](#).

#### **SUPPORTERS**



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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.