

**Indiana WIC Program
Indiana State Department of Health**

**Confidentiality
Information Used for
WIC and Non-WIC Purposes**

Policy

Local agencies will ensure confidentiality of applicant and client information in accordance with Federal Regulations.

Authority

7 CFR Part 246.26(d)(g)(h)(i)

FNS Instruction 800-1

7 CFR Part 246.9

45 CFR Part 160.103 (*Health Plan*)

7 CFR 3052.320(e)(1) *Audits of States, Local Governments and Non-profit Organizations*

Procedures

I. Staff Confidentiality Statements

- A. All staff (paid employees, contractual staff, interns, students, and volunteers) must sign and date a Staff Confidentiality Statement prior to or on the first day of employment. The statement will be retained for the duration of the staff person's employment.
- B. Coordinators should serve as the witness when Staff Confidentiality Statements are signed and dated. A designee should be appointed to serve as the witness for the coordinator when he/she signs their own Staff Confidentiality Statement.

II. Protection of WIC information

- A. All WIC applicant and client information is protected by WIC confidentiality requirements rather than HIPAA or any other Federal, State or local programs' confidentiality provisions.
- B. Agencies affected by HIPAA should consider becoming "hybrid entities". The WIC local agency, as a non-covered entity, would continue to follow existing, applicable WIC confidentiality requirements.

III. Information used for WIC and Non-WIC purposes

- A. A written request must be submitted to the State WIC office epidemiologist and the State WIC Director prior to:
1. disclosure and/or use of confidential applicant and client information for the purpose of research.
 2. recruitment of WIC applicants and clients as subjects in a research study.
- B. Disclosure and use of confidential applicant and client information for WIC purposes must be restricted to persons with a need to know who are directly connected with the administration or enforcement of the WIC program at the local, state and federal level. Such persons may include but are not limited to:
1. the staff of local agencies.
 2. the staff of other state agencies and their local agencies.
 3. persons under contract with the State agency to perform research for the WIC program (e.g. research funded through an FNS grant).
 3. persons under contract with the state or local agency to conduct audits of the program.
 4. the Comptroller General of the United States.
 5. persons investigating and prosecuting WIC program violations under Federal, State, or local law.

Information may be used in connection with the appeal of a local agency decision pursuant to 246.9 (*Fair Hearing Procedures for Clients*); or when required by Federal, State, or local law or policy. Prior to such release, legal counsel for the local agency should be consulted regarding sharing information.

- C. Disclosure and use of confidential applicant and client information for non-WIC purposes (e.g. non-WIC public organization or third party requesting access to conduct research) is restricted under WIC Federal Regulation Section 246.26(h). This regulation requires the State WIC office enter into a written agreement with the public organization that must include:

- a statement describing the name of the organization(s) receiving the information;
 - a list of permitted uses of information for non-WIC purposes;
 - a prior notice to be given to applicants and clients whose information will be divulged.
- D. Releasing identifiable client information from the MIS system must only be done when requested of the local agency by federal auditors (A133).
1. All requests for information will be submitted through the State WIC Epidemiologist.
 2. The local agency will notify the State WIC Director at the conclusion of the agency's annual financial audit A133, stating that the audit had been conducted and if there were any findings for the agency as a result of the audit.
- V. The local agency must provide the USDA and the Comptroller General of the United States access to all WIC program records, including confidential vendor, applicant and client information.