

Other Federal Laws

This section explores other federal laws that relate to the privacy and confidentiality of records, including the Federal Child Abuse Prevention and Treatment Act (CAPTA), the Juvenile Justice and Delinquency Prevention Act (JJDPA), and the Indian Child Welfare Act (ICWA).

a. The Federal Child Abuse Prevention and Treatment Act (CAPTA)

The Federal Child Abuse Prevention and Treatment Act (CAPTA)¹ contains provisions regarding the confidentiality of child welfare records. CAPTA mandates that as a condition of receiving federal funding, a state must enact laws and regulations that specify when, with whom, and under what circumstances a child welfare agency may share information contained in case records.² See State Laws section below.

b. The Juvenile Justice and Delinquency Prevention Act (JJDPA)

States may also receive federal funding through the Juvenile Justice and Delinquency Prevention Act (JJDPA).³ As a condition of the funding, states must establish procedures to protect the privacy rights of individuals who participate in services funded under the act.⁴ These services include state and local programs that: (1) “prevent juvenile involvement in delinquent behavior,” (2) “encourage accountability for juvenile delinquency,” and (3) “address juvenile crime through research, training, evaluation, and the dissemination of information on effective programs for combating juvenile delinquency.”⁵

JJDPA stipulates that within these service areas, personally identifiable information may not be released without the juvenile subject’s consent.⁶ The act also provides federal funding for programs to assist runaway and homeless youth and prohibits such programs from releasing personally identifiable information without the juvenile’s consent.⁷

c. Indian Child Welfare Act (ICWA)

The Indian Child Welfare Act (ICWA)⁸ is a federal law enacted in 1978 in response to the alarmingly high rate of American Indian children placed in out-of-home care, either in foster care or through adoption.⁹ ICWA applies to children who are members of federally recognized American Indian tribes who are in a state’s child welfare system.¹⁰ The law is intended to keep American Indian families together and to give

¹ 42 U.S.C. § 5101, et seq.

² 42 U.S.C. § 5106(a).

³ 42 U.S.C. 5601, et seq.

⁴ 42 U.S.C. § 5633.

⁵ 42 U.S.C. § 5602.

⁶ 42 U.S.C. § 5676.

⁷ 42 U.S.C. § 5731.

⁸ 25 U.S.C. §§1901-1963.

⁹ *Mississippi Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 32 (1988).

¹⁰ 25 U.S.C. §1903.

tribes a voice in child placement decisions.¹¹ While ICWA does not contain provisions that address child welfare records, it does provide for states and tribes to enter into agreements on how the law will be carried out.¹² Some states, counties, and tribes have memoranda of understanding or agreements that specify how child welfare matters involving Indian children will be handled. Some of these agreements take into consideration how information involving Indian children will be shared. School officials should consult their school district's legal counsel to determine whether such an agreement is in effect in their state.

General Resources

Federal Law Statutory Compilation: Confidentiality, Privacy, and Information Sharing Provisions - This table catalogues key sections of FERPA, HIPAA, and the Confidentiality of Alcohol and Drug Abuse Patient Records of the Public Health Service Act. For each key component of legislation, the table includes excerpted text and a brief summary highlighting the real world implications of the act.

Resource available at

http://www.promoteprevent.org/sites/www.promoteprevent.org/files/resources/federal_law_statutory_compilation_2012.pdf.

Resources on CAPTA, JJDPA, and ICWA

About CAPTA: A Legislative History – This factsheet provides a historical overview of the Child Abuse Prevention and Treatment Act (CAPTA), including details on amendments leading up to the CAPTA reauthorization in December 2010. Resource available at

<https://www.childwelfare.gov/pubs/factsheets/about.pdf>

Building the Legacy: Individuals with Disabilities Education Improvement Act (IDEIA) Web Page from U.S. ED - This website presents resources on IDEA, with two discrete sections according to the targeted age group (birth-age 2 or ages 3-21). The site also provides keyword searchable regulations, content from other laws, webinars, links, and a Q&A corner. Resource available at <http://idea.ed.gov/>

Keeping Children and Families Safe Act of 2003: Major Provisions of CAPTA - This web page highlights the major provisions of the Keeping Children and Families Safe Act of 2003 P.L. 108-36, which was created to reauthorize the Child Abuse Prevention and Treatment Act (CAPTA) and improve the Adoption Opportunities Act, the Abandoned Infants Assistance Act, and the Family Violence Prevention and Services Act. Resource available at

https://www.childwelfare.gov/systemwide/laws_policies/federal/index.cfm?event=federalLegislation.vi&id=45

Juvenile Justice and Delinquency Prevention Act (JJDPA) – The Office of Juvenile Justice and Delinquency Prevention's website explains the importance of the Juvenile Justice and Delinquency Prevention Act (JJDPA) while highlighting its key goals and new developments around it. Resource available at

<http://www.ojjdp.gov/about/legislation.html>

¹¹ 25 U.S.C. §1902.

¹² 25 U.S.C. §1919.

