


Performance Standard:	Part 1303 Financial and Administrative Requirements	<p style="text-align: center;">INCA Community Services</p> <p style="text-align: center;">Head Start & Early Head Start Policies and Procedures</p> <div style="text-align: center;">  </div>
Sub Category:	Subpart C Protections for the Privacy of Child Records 1303.20, 1303.21, 1303.21a, 1303.21 b, 1303.22, 1303.23	
PC Approval Date:	10/2017	
GB Approval Date:	10/2017	
Responsible:	All Head Start Staff	

Protection for the Privacy of Child Records

Policy

INCA establishes and implements procedures to protect the confidentiality of any personally identifiable information (PII) in child records. INCA maintains child records in accordance with the regulations. Parents have the right to inspect their child's records.

Applicable Confidentiality Provisions

When INCA serves a child who is referred to, or found eligible for services under, IDEA, then INCA must comply with the applicable confidentiality provisions in Part B or Part C of IDEA to protect the PII in records of those children, and, therefore, the provisions in this subpart do not apply to those children.

Maintaining Records

- INCA maintains child records in a manner that ensures only parents, and officials within INCA or acting on behalf of INCA have access, and such records are destroyed within a reasonable timeframe after such records are no longer needed or required to be maintained.
- INCA maintains, with the child records, for as long as the records are maintained, information on all individuals, agencies, or organizations to whom a disclosure of Personal Information from the child records was made (except for INCA authorized personnel and parents) and why the disclosure was made.
 - When INCA uses a web-based data system to maintain child records, INCA ensures such child records are adequately protected and maintained according to current industry security standards.
- If a parent places a statement in the child record, INCA maintains the statement with the contested part of the child record for as long as INCA maintains the record and, discloses the statement whenever it discloses the portion of the child record to which the statement relates.

Disclosure With Parental Consent

Subject to the exceptions in 1303.22 b and 1303.22 c, the procedures to protect PII requires INCA to obtain a parent's written consent before the INCA may disclose such PII from child records.

- The procedures to protect PII require INCA to ensure the parent's written consent specifies what child records may be disclosed, explains why the records will be disclosed, and identifies the party or class of parties to whom the records may be disclosed.
 - The written consent must be signed and dated.
- Signed and dated written consent may include a record and signature in electronic form that:
- Identifies and authenticates a particular person as the source of the electronic consent; and,
- Indicates such person's approval of the information.

The INCA explains to the parent that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

- If a parent revokes consent, that revocation is not retroactive and therefore it does not apply to an action that occurred before the consent was revoked.

Disclosure Without Parental Consent but with Parental Notice and Opportunity to Refuse

The procedures to protect PII allows INCA to disclose such PII from child records without parental consent if INCA:

- notifies the parent about the disclosure,
- provides the parent, upon the parent's request, a copy of the PII from child records to be disclosed in advance,
- and gives the parent an opportunity to challenge and refuse disclosure of the information in the records,

before INCA forwards the records to officials at a program, school, or school district in which the child seeks or intends to enroll or where the child is already enrolled so long as the disclosure is related to the child's enrollment or transfer.

Disclosure Without Parental Consent

The procedures to protect PII allow INCA to disclose such PII from child records without parental consent to:

- Authorized personnel within INCA or acting for INCA, such as contractors and subrecipients, if the official provides services for which INCA would otherwise use employees, INCA has determined it is necessary for Head Start services, and INCA maintains oversight with respect to the use, further disclosure, and maintenance of child records, such as through a written agreement;
- Authorized personnel within INCA, acting for the INCA, or from a federal or state entity, in connection with an audit or evaluation of education or child development programs, or for enforcement of or compliance with federal legal requirements of the program; provided INCA maintains oversight with respect to the use, further disclosure, and maintenance of child records, such as through a written agreement, including the destruction of the PII when no longer needed for the purpose of the disclosure, except when the disclosure is specifically authorized by federal law or by the responsible HHS official;
- Authorized personnel within INCA, acting for INCA, or from a federal or state entity, to conduct a study to improve child and family outcomes, including improving the quality of programs, for, or on behalf of, INCA, provided INCA maintains oversight with respect to the use, further disclosure, and maintenance of child records, such as through a written

agreement, including the destruction of the PII when no longer needed for the purpose of the disclosure;

- Appropriate parties in order to address a disaster, health or safety emergency during the period of the emergency, or a serious health and safety risk such as a serious food allergy, if INCA determines that disclosing the PII from child records is necessary to protect the health or safety of children or other persons;
- Comply with a judicial order or lawfully issued subpoena, provided INCA makes a reasonable effort to notify the parent about all such subpoenas and court orders in advance of the compliance therewith, unless:
 - A court has ordered that neither the subpoena, its contents, nor the information provided in response be disclosed;
 - The disclosure is in compliance with an ex parte court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331.;
 - A parent is a party to a court proceeding directly involving child abuse and neglect (as defined in section 3 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101)) or dependency matters, and the order is issued in the context of that proceeding, additional notice to the parent by INCA is not required; or;
 - INCA initiates legal action against a parent or a parent initiates legal action against INCA, then INCA may disclose to the court, also without a court order or subpoena, the child records relevant for INCA to act as plaintiff or defendant.
- The Secretary of Agriculture or an authorized representative from the Food and Nutrition Service to conduct program monitoring, evaluations, and performance measurements for the Child and Adult Care Food Program under the Richard B. Russell National School Lunch Act or the Child Nutrition Act of 1966, if the results will be reported in an aggregate form that does not identify any individual: provided, that any data collected must be protected in a manner that will not permit the personal identification of students and their parents by other than the authorized representatives of the Secretary of Agriculture and any PII must be destroyed when the data are no longer needed for program monitoring, evaluations, and performance measurements;
- A caseworker or other representative from a state, local, or tribal child welfare agency, who has the right to access a case plan for a child who is in foster care placement, when such agency is legally responsible for the child's care and protection, under state or tribal law, if the agency agrees in writing to protect PII, to use information from the child's case plan for specific purposes intended of addressing the child's needs, and to destroy information that is no longer needed for those purposes; and,
- Appropriate parties in order to address suspected or known child maltreatment and is consistent with applicable federal, state, local, and tribal laws on reporting child abuse and neglect.

Written Agreements

When INCA establishes a written agreement with a third party, the procedures to protect such PII must require INCA to annually review and, if necessary, update the agreement.

- If the third party violates the agreement, then INCA may:
 - Provide the third party an opportunity to self-correct; or,
 - Prohibit the third party from access to records for a set period of time set by the Executive Director.

Annual Notice

The procedures to protect PII require INCA to annually notify parents of their rights in writing described in 1303.20 through 1303.24 and applicable definitions in part 1305, and include in that notice a description of the types of PII that may be disclosed, to whom the PII may be disclosed, and what may constitute a necessary reason for the disclosure without parental consent as described in 1303.22 c.

Limit on Disclosing PII

INCA only discloses the information that is deemed necessary for the purpose of the disclosure.

Parental Rights

If the parent requests to inspect child records, INCA makes the child records available within a reasonable time, but no more than 45 days after receipt of request.

- When INCA maintains child records that contain information on more than one child, the INCA ensures the parent only inspects information that pertains to the parent's child.
- INCA does not destroy a child record with an outstanding request to inspect and review the record.

Amend Records

A parent has the right to ask INCA to amend information in the child record that the parent believes is inaccurate, misleading, or violates the child's privacy.

INCA considers the parent's request and, if the request is denied, renders a written decision to the parent within a reasonable time that informs the parent of the right to a hearing.

Hearing to challenge information in child records

If the parent requests a hearing to challenge information in the child record, INCA schedules a hearing within a reasonable time, notifies the parent, in advance, about the hearing, and ensures the person who conducts the hearing does not have a direct interest in its outcome.

- INCA ensures the hearing affords the parent a full and fair opportunity to present evidence relevant to the issues.
- If INCA determines from evidence presented at the hearing that the information in the child records is inaccurate, misleading, or violates the child's privacy, INCA either amends or removes the information and notifies the parent in writing.
- If INCA determines from evidence presented at the hearing that information in the child records is accurate, does not mislead, or otherwise does not violate the child's privacy, INCA informs the parent of the right to place a statement in the child records that either comments on the contested information or that states why the parent disagrees with the INCA's decision, or both.

Right to Copy of Record

INCA provides a parent, free of charge, an initial copy of child records disclosed to third parties with parental consent and, upon parent request, an initial copy of child records disclosed to third parties, unless the disclosure was for a court that ordered neither the subpoena, its contents, nor the information furnished in response be disclosed.

Right to Inspect Written Agreements

1 A parent has the right to review any written agreements with third parties involving their child.

Definitions/Acronyms

INCA - Head Start and Early Head Start programs

HS - Head Start program

EHS - Early Head Start program

PII - Personal Information

Dissemination of Policy

The policy will be made available to all Head Start employees through the agency's website @ www.incacaa.org. The agency will educate and train applicable employees and supervisors regarding the policy and any conduct that could constitute a violation of the policy.