

 Policy #: HR-12	Effective Date: 8-25-14	Page #: 1 of 5 Resource/supplemental Information from the Dept. of Education and ChildPlus follows policy/procedure
Ref #: 45 CFR XIII 1303.20 – 1303.24	Policy Council: 8/25/04 PC Revised approval date: 8-16-17 BOD Approval Date: 8/25/04, 9/04 BOD Revised approval date: 8-24-17	Revision Date: 8/14/17 Review Date: 8/11/20, 7/23/21

SUBJECT: Privacy/Confidentiality Policy

POLICY: Rock and Walworth Comprehensive Family Services, Inc. Head Start and Early Head Start (RWCFS) staff will follow procedures and steps to protect the confidentiality of families’, staff and volunteer’s Personal Identifiable Information (PII), to ensure parents and authorized persons/entities have access to children’s records; and follow coordinated approaches that support the availability, usability, integrity and security of data.

PROCEDURE:

1303.21 – DISCLOSURE OF RECORDS

Note: Because RWCFS Head Start & Early Head Start collaborates with Local Education Agencies under the direction of the WI Department of Public Instruction under the auspices of the Federal Department of Education, RWCFS will follow privacy and confidentiality expectations of the **Family Educational Rights and Privacy Act (FERPA)** (see further information and the end of this procedure from the Department of Education web site) for children served collaboratively with school districts and for which RWCFS receives funding for.

An annual notice regarding FERPA will be provided to participating families.

RWCFS Consents/Release of Information forms will be used according to FERPA and Head Start RWCFS Performance Standards Subpart C. 1303.21-1303.24.

Training on privacy /confidentiality policy and procedure will occur at least two times per year at the fall and winter all-staff meeting/training.

Definitions:

“Child with a disability” means a child - §300.8 “Child with a disability. (a) General. (1) Child with a disability means a child evaluated in accordance with §§ 300.304 through 300.311 as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as “emotional disturbance”), an orthopedic impairment, autism, traumatic brain injury, another health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services. (2)(i) Subject to paragraph (a)(2)(ii) of this section, if it is determined, through an appropriate evaluation under §§ 300.304 through 300.311, that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, the child is not a child with a disability under this part. (ii) If, consistent with § 300.39(a)(2), the related service required by the child is considered special education rather than a related

service under State standards, the child would be determined to be a child with a disability under paragraph (a)(1) of this section.”

“Parent” means a Head Start child’s mother, or father, other family member who is a primary caregiver, foster parent, or authorized caregiver, guardian or the person with whom the child has been physically placed for purposes of adoption pending a final adoption decree.

“Education records” means records that are – Directly related to a child; and – Maintained by an educational agency (like RWCFS) or institution or by a party acting for the agency or institution and include information recorded in anyway, such as print, electronic or digital means, including media image, video image or audio format.

“Personally Identifiable Information (PII): means” includes, but is not limited to:

- The student’s name;
- Name of the student’s parent or other family members;
- Address of the student or student’s family;
- A personal identifier, such as a social security number, student number, or biometric record;
- Other direct identifiers, such as the student’s date of birth, place of birth, and mother’s maiden name;
- Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
- Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

“Data” means” all PII and other non-public information. Data includes, but is not limited to student data, metadata (a set of data that describes and gives information about other data) and user content.

“Disclosure” means to permit access or the release, transfer or other communication of PII contained in child records by any means, including oral, written or electronic means to any party except the party identified as the party that provided or created the record.

1303.22 DISCLOSURES WITH /WITHOUT PARENT CONSENT:

(a) ***Disclosure with parental consent.*** (1) Subject to the exceptions in Notes A and B under Disclosure of records above, the procedures to protect PII must require RWCFS to obtain a parent’s written consent before RWCFS may disclose such PII from child records.

(2) The procedures to protect PII must require RWCFS 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.

(3) “Signed and dated written consent” under this part may include a record and signature in electronic form that:

- (i) Identifies and authenticates a particular person as the source of the electronic consent; and,
- (ii) Indicates such person's approval of the information.

(4) RWCFS must explain to the parent that the granting of consent is voluntary on the part of the parent and **may be revoked at any time – but not retroactively.** 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.

(b) ***Disclosure without parental consent but with parental notice and opportunity to refuse.*** The procedures to protect PII allows RWCFS to disclose such PII from child records without parental consent if RWCFS 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 RWCFS forwards the records to officials at an RWCFS, 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.

(c) ***Disclosure without parental consent.*** The procedures to protect PII must allow RWCFS to disclose such PII from child records without parental consent to:

- (1) Officials within RWCFS or acting for RWCFS, such as contractors and sub recipients, if the official provides services for which RWCFS would otherwise use employees, RWCFS determines it is necessary for Head Start services, and RWCFS maintains oversight with respect to the use, further disclosure, and maintenance of child records, such as through a written agreement;
- (2) Officials within RWCFS, acting for RWCFS, or from a federal or state entity, in connection with an audit or evaluation of education or child development for RWCFS, or for enforcement of or compliance with federal legal requirements of RWCFS; provided RWCFS 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;
- (3) Officials within RWCFS, acting for RWCFS, or from a federal or state entity, to conduct a study to improve child and family outcomes, including improving the quality of RWCFS programming, for, or on behalf of, RWCFS, provided RWCFS 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;
- (4) 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 RWCFS determines that disclosing the PII from child records is necessary to protect the health or safety of children or other persons;
- (5) Comply with a judicial order or lawfully issued subpoena, provided RWCFS makes a reasonable effort to notify the parent about all such subpoenas and court orders in advance of the compliance therewith, unless:
 - (i) A court has ordered that neither the subpoena, its contents, nor the information provided in response be disclosed;
 - (ii) 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.
 - (iii) 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 RWCFS is not required; or,

(iv) A RWCFS initiates legal action against a parent or a parent initiates legal action against a RWCFS, then RWCFS may disclose to the court, also without a court order or subpoena, the child records relevant for RWCFS to act as plaintiff or defendant.

(6) The Secretary of Agriculture or an authorized representative from the Food and Nutrition Service to conduct RWCFS 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 RWCFS monitoring, evaluations, and performance measurements;

(7) 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,

(8) 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.

(d) *Written agreements.* When a RWCFS establishes a written agreement with a third party, the procedures to protect such PII must require RWCFS to annually review and, if necessary, update the agreement. If the third party violates the agreement, then RWCFS may:

(1) Provide the third party an opportunity to self-correct; or,

(2) Prohibit the third party from access to records for a set period of time as established by RWCFSs governing body and policy council.

(e) *Annual notice.* The procedures to protect PII must require RWCFS to annually notify parents of their rights in writing described in this subpart and applicable definitions in §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 paragraph (c) of this section.

(f) *Limit on disclosing PII.* A RWCFS must only disclose the information that is deemed necessary for the purpose of the disclosure.

1303.23 PARENTAL RIGHTS:

(a) *Inspect record.* (1) A parent has the right to inspect child records.

(2) If the parent requests to inspect child records, RWCFS must make the child records available within a reasonable time, but no more than 45 days after receipt of request.

(3) If a RWCFS maintains child records that contain information on more than one child, RWCFS must ensure the parent only inspects information that pertains to the parent's child.

(4) RWCFS shall not destroy a child record with an outstanding request to inspect and review the record under this section.

(b) *Amend record.* (1) A parent has the right to ask RWCFS to amend information in the child record that the parent believes is inaccurate, misleading, or violates the child's privacy.

(2) RWCFS must consider the parent's request and, if the request is denied, render a written decision to the parent within a reasonable time that informs the parent of the right to a hearing.

(c) *Hearing.* (1) If the parent requests a hearing to challenge information in the child record, RWCFS must schedule a hearing within a reasonable time, notify the parent, in advance, about the hearing, and ensure the person who conducts the hearing does not have a direct interest in its outcome.

(2) RWCFS must ensure the hearing affords the parent a full and fair opportunity to present evidence relevant to the issues.

(3) If RWCFS determines from evidence presented at the hearing that the information in the child records is inaccurate, misleading, or violates the child's privacy, RWCFS must either amend or remove the information and notify the parent in writing.

(4) If RWCFS 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, RWCFS must inform 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 RWCFS's decision, or both.

(d) *Right to copy of record.* RWCFS must provide 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.

(e) *Right to inspect written agreements.* A parent has the right to review any written agreements with third parties.

1303.24 MAINTAINING RECORDS:

(a) A program must maintain child records in a manner that ensures only parents, and officials within the program or acting on behalf of the program have access, and such records must be destroyed within a reasonable timeframe after such records are no longer needed or required to be maintained.

(b) A program must maintain, with the child records, for as long as the records are maintained, information on all individuals, agencies, or organizations to whom a disclosure of PII from the child records was made (except for program officials and parents) and why the disclosure was made. If a program uses a web-based data system to maintain child records, the program must ensure such child records are adequately protected and maintained according to current industry security standards.

(c) If a parent places a statement in the child record, the program must maintain the statement with the contested part of the child record for as long as the program maintains the record and, disclose the statement whenever it discloses the portion of the child record to which the statement relates.

ONGOING MONITORING:

- Records checks will demonstrate that Release of Information forms are completed accurately and are current.
- Records checks will confirm that Parent/Guardian Permission forms are signed by the legal parent/guardian and are on file
- Records checks will confirm that when records are shared with another entity, there is documentation in the child's main file located in the ERSEA office showing all individuals, agencies, or organizations to whom a disclosure of PII from the child records was made (except for program officials and parents) and why the disclosure was made.
- ERSEA monitors records and enters data into ChildPlus which is then checked against hard copy record checks completed by RSTLs at least annually.
- Training records will show that staff receive training 2 times per year.

Supporting Information:

Family Educational Rights & Privacy Act (FERPA) Family Policy Compliance Office (FPCO)

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable RWCFS of the U.S. Department of Education.

FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students."

- Parents or eligible students have the right to inspect and review the student's education records maintained by the school. Schools are not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records.
- Parents or eligible students have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information.
- Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):

School officials with legitimate educational interest;

Other schools to which a student is transferring;

Specified officials for audit or evaluation purposes;

Appropriate parties in connection with financial aid to a student;

Organizations conducting certain studies for or on behalf of the school;

Accrediting organizations;

To comply with a judicial order or lawfully issued subpoena;

Appropriate officials in cases of health and safety emergencies; and

State and local authorities, within a juvenile justice system, pursuant to specific State law.

Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them. Schools must notify parents and eligible students annually of their rights under FERPA. The actual means of notification (special letter, inclusion in a PTA bulletin, student handbook, or newspaper article) is left to the discretion of each school.

For additional information, you may call 1-800-USA-LEARN (1-800-872-5327) (voice). Individuals who use TDD may use the Federal Relay Service.

Or you may contact us at the following address:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-8520

Rights of Parents under FERPA and IDEA

§99. Of FERPA What are the rights of parents, custodial or noncustodial?

FERPA affords full rights to either parent, unless the school has been provided with evidence that there is a court order, State statute or legally binding document that specifically revokes these rights. Similarly, under the IDEA, an agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce (§300.613(c)).

Annual Notification of Rights

§99.7 of FERPA requires schools to annually notify parents and eligible students in attendance of their rights under FERPA.

□ §300.612 of the IDEA regulations requires a State educational agency (SEA) to give notice that is adequate to fully inform parents about the requirements related to protecting the confidentiality of any personally identifiable information collected, used, or maintained under Part B of the Act, including the rights under FERPA and its implementing regulations in 34 CFR Part 99.

Inspection & Review of Education Records

□ §99.10 of FERPA provides that an educational agency or institution –as well as the SEA –afford parents and eligible students the right to inspect and review their education records, within 45 days of receiving a request. □ §300.613 of the IDEA regulations requires each participating agency to comply with a request to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under part 300 without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to §300.507 (due process complaint regarding identification, evaluation, or educational placement or provision of a free appropriate public education to the child) or §§300.530 through 300.532 (discipline procedures), or resolution session pursuant to §300.510, and in no case more than 45 days after the request has been made.

Charging Fee for Copies

□ §99.11 of FERPA and §300.617 of the IDEA regulations states that an educational agency or institution may charge a fee for copies of education records, unless imposing a fee would effectively prevent a parent or eligible student from exercising his or her rights to inspect and review education records.

Limitations on Right to Inspect and Review

□ §99.12 of FERPA and §300.615 of the IDEA regulations state that if records contain information on more than one student, the parent has the right to inspect, review, or be informed of only the specific information about his or her child’s education records.

Amending Education Records

□ §§99.20, 99.21 & 99.22 of FERPA contain procedures for parents and eligible students seeking to amend education records. –Identify portion of record believed to be inaccurate, misleading, or in violation of the student’s rights of privacy. –If school decides not to amend, must inform parent of right to hearing. –After hearing, if decision is still not to amend, parent has a right to insert a statement in the record. –Cannot seek to amend substantive decisions, such as grades, special education RWCFS/services, etc. –If, as a result of a hearing, the agency decides to amend the record, it must do so and inform the parent, in writing.

□ the amendment of education records and reflect the FERPA requirements. □ §300.621 states that a hearing held under §300.619 must be conducted according to the procedures in § 99.22 of the FERPA regulations. §§300.618-300.621 of the IDEA regulations governs is committed to protecting enrolled families rights to privacy while insuring that appropriate professionals have access to the information necessary to provide comprehensive services.

Office of Special Education RWCFSs (OSEP) U.S. Department of Education 400 Maryland Avenue, SW Washington, DC 20202-8520

(202) 245-7629 Telephone (202) 245-7614 Fax

□ OSEP Web site: <http://www2.ed.gov/about/offices/list/osers/osep/index.html>

ChildPlus Security & Privacy Statement

ChildPlus Software is committed to protecting the privacy and confidentiality of all the information (all of which is collectively referred to, for purposes of this Privacy Statement, as Personally Identifiable Information (“PII”)) collected by our customers and transmitted to and maintained by ChildPlus. ChildPlus’ policies and procedures meet or exceed the physical and electronic security measures required by applicable federal and state regulatory guidelines for the use, storage and/or transmission of PII. ChildPlus uses state-of-the-art electronic and physical security measures and has established stringent administrative security procedures to protect personal information from unauthorized access, improper use, alteration and unlawful or accidental destruction. ChildPlus has established privacy and security policies and procedures to ensure that we adhere to all application applicable laws.

Data Security

At ChildPlus, we see data security as the foundation for protecting PII and we ensure that the data collected by our customers from families participating in their RWCFSSs is secure using:

SSL Encryption – ChildPlus uses the Secure Socket Layer protocol (SSL) to encrypt all communication of customer data between our customers and our data center. All exchanges of data with our data center are encrypted with 128-bit SSL Encryption to ensure the confidentiality and integrity of data in motion.

Additionally, all portable media, including backup-up media, containing PII are encrypted to protect data at rest.

Firewall – ChildPlus uses firewall technology to protect all servers and databases from unauthorized access. All critical systems are monitored 24 hours a day, 7 days a week.

State of the Art Data Center – All PII maintained by ChildPlus is stored on servers located within a Rackspace Hosting data center and managed by Rackspace Hosting. Physical access to our servers is controlled by keycard protocols, biometric scanning protocols and round-the-clock interior and exterior surveillance.

Password and ID Protections – ChildPlus provides their customers with access controls via login authentication. Customers assign unique usernames and passwords to authorized personnel and the login process regulates who can gain access and limits the scope of their access. Customers control when access is granted or terminated and what data can be accessed by each employee of the customer.

Data Privacy

Limitation of Uses – ChildPlus only receives, utilizes and discloses private information submitted to ChildPlus from its customers and for the limited purposes set forth in its agreements with each customer. ChildPlus has no other use or purpose for the data.

Customer Responsibilities

Authorized Users – Each customer is expected to establish and maintain ChildPlus user access for its employees, in accordance with the customer's policies and applicable laws. It is the customer's responsibility to remove or modify access for employees as their roles or employment change over time.

Data Submission and Revision Obligations – ChildPlus relies solely on the customer to provide accurate and up-to-date data. Once received by ChildPlus, we will safeguard and ensure that the integrity and security of the data is maintained in accordance with the policies summarized herein.

Customers control what information is entered into ChildPlus and can choose to omit any information that is not necessary or applicable. Customers must determine what is or is not appropriate for inclusion within ChildPlus, and whether additional consent is required from their participant families, in accordance with the purposes for which the customer is utilizing the data.

It is the customer's responsibility to remove any PII from ChildPlus as may be necessary to comply with requests from their participant families for applicable law.

Retention and Disposal of Personally Identifiable Information – ChildPlus shall retain all private information submitted by customers in accordance with written customer agreements. To the extent that data is destroyed, it is destroyed in accordance with applicable industry standards to protect identifiable data from loss, theft, misuse or unauthorized access.

Participant Family Access – ChildPlus is a software provider to our customer providing information technology services. ChildPlus does not grant participant families direct access to their personal information within ChildPlus. Should a participant family have questions or need access to their personal information, ChildPlus will work with the customer to provide appropriate responses and access. Should ChildPlus receive a request from a participant family, participant family's legal representative or other legal authority to access data within ChildPlus, ChildPlus will immediately notify the customer and work cooperatively to provide information in a legally appropriate manner.

Collection of Customer Information – ChildPlus collects customer information based on our business relationship with our customers, including contact information that allows us to communicate with our customers. The Company does not collect or utilize any of the participant family information that is used by our customers.

Third Party Vendors

ChildPlus utilizes the services of a third-party vendor, Rackspace Hosting that requires the third party to have access to encrypted copies of private information.

Personnel Training and Compliance Enforcement

ChildPlus requires training of all staff with regard to ChildPlus Privacy and Security Policies and Procedures. Employees are trained to recognize security concerns and report those immediately to ChildPlus management. ChildPlus limits PII access to only those employees who need access in order to perform their duties at ChildPlus.

Questions/Reporting of Concerns

Specific questions about ChildPlus Privacy and Security Policies and Procedures can be directed to your client services representative.