

# Data Collection and Parental Rights in Utah

- Heather Zahn Gardner

# Behavioral Data Collection

Date: Wed, 10 Sep 2014

Description: Great Behavior

Class: Home Room |

Homeroom | |

Behavior Type: Merit (positive  
behavior)

Points: 0

Classification: Positive  
Behavior

Status: Closed


-- Notes -----

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Good Morning:

\_\_\_\_\_ is doing great. I really  
couldn't be any happier with  
the start of the school year for

Legacy Preparatory Academy will not:

- 
- Allow your children to remain on campus if they opt out of our curriculum, programs, or class assessments including but not limited to iReady, computers, Utah Compose, or Typing Web. Trying to accommodate these individualized requests are substantially impacting our staff and resources.

Per USOE memo dated September 22, 2014 – “1. After consultation with Chris Lacombe, Assistant Attorney General, it has been determined that paragraph #1. 53A-15-1403 (9) (a) applies to state administered tests. There is no legal definition of “state administered test” therefore, a plain meaning interpretation of this term must be used. The SAGE Summative and Interim tests are state administered tests as well as the ACT, ASAVB and NAEP tests. Thus, parents have the right to opt their children out of these tests. Ambiguity exists whether the ACCESS and UAA testing as well as the Direct Writing and reading assessments constitute statewide administered tests. As a result, Assistant Attorney General Lacombe is of the opinion that students may not opt out of these tests.” Further clarification was provided on October 10, 2014 – “By Board Rule, **EVERY** student in Grades 1, 2, and 3 will be given the *DIBELS® Next Composite* assessment (unless a waiver has been approved for an alternate assessment by the State Board of Education).”

- Allow non-participation in DIBELS, class assessments, or assignments, including those done on the computer, that pertain to our curriculum. We must be able to evaluate all students’ progress and determine areas needing additional support.
  - Remove required student data from our student information system.
- 

We hope this letter helps clarify what LPA can and cannot do to best serve your children. We hope we can work together in a kind and civil manner, and always work together to meet the needs of your wonderful children.

Sincerely,  
LPA Governing Board  
Elizabeth Hatch – Executive Director  
Karen Holman – Elementary Director

# Other Utah Schools collecting behavioral data

riverrockelementary.weebly.com

☰ RIVER ROCK ELEMENTARY

## Conditions for Learning

Believing that we need to focus on more than just academic data, River Rock has partnered with Dr. Richard West and Tetra Analytix to collect data that focuses on four essential conditions of learning. These conditions are clear behavioral and academic expectations, rewards and recognitions, trusting relationships, and social and academic skills.

## MTSS/PBIS

River Rock Elementary has been selected to partner with BYU and the Center for the Improvement of Teacher Education and Schooling (CITES) in the development of a Multi-Tiered System of Support and Positive Interventions of Support that can be used throughout the Alpine District and state. Through our collaboration with BYU, we will institute high quality evidence-based instruction, intervention and assessment practices that will ensure that every student

# SLDS

## USOE State Longitudinal Data System

### GENERAL INFORMATION

- ▶ The Statewide Longitudinal Data System allows Utah to continue efforts to provide schools and districts with necessary data to inform instruction and ensure every student receives the most appropriate education possible.
- ▶ The Utah State Office of Education (USOE) has had a student level data warehouse since 1998.
- ▶ The USOE has reported aggregate data to the federal government since the 1970s.
- ▶ **The Common Core Standards do not contain requirements related to data collection or data reporting. The Common Core Standards have no impact on data collection or reporting.**
- ▶ **The new computer adaptive assessment system (SAGE) will not change any of the data that are collected or reported.**
- ▶ The USOE collects a variety of information on Utah students, including such things as name, date of birth, race/ethnicity, gender, special education, performance on state assessments, status related to English language proficiency, students who qualify for free/reduced priced meals, grades, credits, enrollment dates, school and district.
- ▶ The USOE **DOES NOT** collect information on political affiliations or beliefs; sexual behavior or attitudes; religious practices, psychological or behavior testing, DNA, student address or e-mail, or income of the student or family.
- ▶ Required data reports are only provided in the aggregate, meaning only state, district, school and grade level data are provided. **Not student level data.** Note: For the Migrant Student Program (MSIX), when parental consent is given on the certificate of eligibility, student level data is submitted to the federal government.
- ▶ USOE uses industry standards for the collection, transfer, storage and reporting of data. All data are stored in secure, encrypted databases. USOE's Data Governance Plan includes policies and procedures that meet industry standard requirements for the security and protection of student level data. The USOE Data Governance Board reviews all research requests and approves only those requests that are appropriate and meet the requirements set by the Board of Education (R277-487).
- ▶ USOE received a federal grant in 2007 to develop a Utah Transcript Record Exchange (UTREx) that improved the secure electronic transport of data from the schools/districts to USOE and created a mechanism for electronic data to be transferred when a student moves from one district to the next. This was not "Race to the Top" money and has no connection to the Common Core.
- ▶ USOE received a federal grant in 2010 to develop the Utah Data Alliance (UDA). The UDA is a multi-agency partnership that facilitates the reporting of longitudinal data from the Utah State Office of Education, Utah System of Higher Education, Utah College of Applied Technology and the Utah Department of Workforce Services. This data partnership facilitates the reporting of data such as the Governor's goal of 66% of Utah residents to hold a postsecondary degree or certificate by the year 2020. The federal grant was ARRA (American Recovery and Reinvestment Act) money. This was not "Race to the Top" money and has no connection to the Common Core.

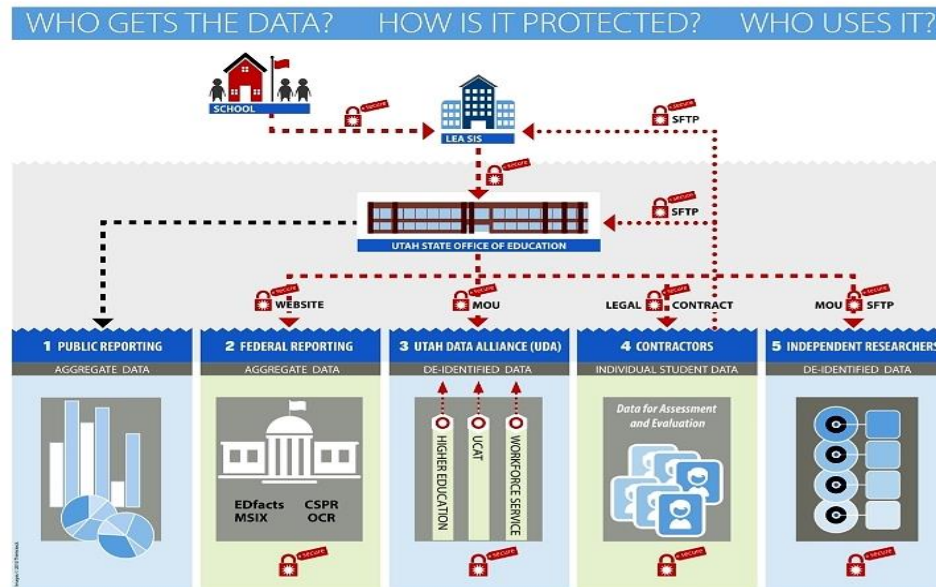
### Detailed information about the data collected and reported at USOE is available on the USOE website

<http://www.schools.utah.gov/computerservices/Services/Data-Clearinghouse.aspx>

<http://www.schools.utah.gov/warehouse/Specifications/Warehouse-Data-Dictionary.aspx>

<http://www2.ed.gov/about/inits/ed/index.html?s-rc=ln>

# Contractors like AIR receive individual student data



TERM	DEFINITION
<b>AGGREGATE</b>	Elements of data combined to represent a group that is greater than 10 students
<b>ASSESSMENT</b>	State mandated assessments such as Criterion-Referenced Tests (CRTs)
<b>LEGAL CONTRACT</b>	This must be signed before any data can be shared with a contractor
<b>CONTRACTOR</b>	A company or person with a formal contract with USOE to do a specific job
<b>CSPR</b>	Consolidated State Performance Report
<b>DE-IDENTIFIED</b>	Data that has been adjusted to prevent the identification of a student
<b>EDFACTS</b>	U. S. Department of Education data collection system for data required by federal law
<b>INDEPENDENT RESEARCHERS</b>	Researchers associated with a university or private company requesting data for purposes of conducting research
<b>LEA</b>	Local Education Agency
<b>MOU</b>	Memorandum of Understanding
<b>MSIX</b>	Migrant Student Information Exchange —includes some student level data
<b>OCR</b>	Office of Civil Rights
<b>SFTP</b>	Secure File Transfer Protocol; the secure, encrypted transfer of data files
<b>SIS</b>	Student Information System; the technology that each LEA/school uses to collect student data
<b>UCAT</b>	Utah College of Applied Technology
<b>UTAH DATA ALLIANCE (UDA)</b>	A multi-agency partnership that facilitates the reporting of longitudinal data from the USOE, Utah System of Higher Education, UCAT and the DWS
<b>UTAH STATE OFFICE OF EDUCATION</b>	The State Office of Education (USOE) is responsible for the collection, storage and reporting of data
<b>UTREX</b>	Utah Record Exchange; the technology for LEAs to securely transfer data to USOE
<b>WORKFORCE SERVICE</b>	Department of Workforce Services (DWS)

# What data does the SLDS collect and store?

## STUDENT TRACKING IN UTAH'S PERMANENT "DATA WAREHOUSE"

2013

This document lists selected data elements and values from Utah's Statewide Data Warehouse. This is only a partial list, pulled from over **4,000 data elements** listed in the USOE Warehouse Data Dictionary document found here: <http://schools.utah.gov/warehouse/Specifications/Warehouse-Data-Dictionary.aspx>. For reading convenience, underscores (" \_ ") have been removed from data element names, and individual data elements or values have been divided into the following categories:

- |                                    |                                     |
|------------------------------------|-------------------------------------|
| 1. Family Info                     | 8. Ethics test                      |
| 2. Personal/Identifying Info       | 9. State test non-participation     |
| 3. Disability/IEPs                 | 10. Weapons                         |
| 4. Sexual Health                   | 11. Discipline/Incident             |
| 5. Language Issues                 | 12. Education/Career Track          |
| 6. Behavior-Attendance             | 13. Data Sharing with USDE & Others |
| 7. Testing: Non-cognitive/Adaptive |                                     |



### 1. Family Info

- Household size
- Neglected
- Ethnicity
- Migrant
- Country of origin
- Home state
- Military family
- Income
- Low income
- Refugee
- Resident status
- Parent name
- Parent language
- Mobile (came from another school during school year)
- Homeless
- Home status 1: With another family because of a loss of housing or economic hardship
- Home status 2: In a motel or hotel
- Home status 3: In a shelter (emergency, transitional, or

- Home status 3: In a shelter (emergency, transitional, or domestic violence)
- Home status 4: In a car, park, campground, or public place
- Home status 5: Somewhere without adequate facilities (running water, heat, electricity)
- Home status 6: Student seeks enrollment without accompanying parent

**2. Personal/Identifying Info**

- Social Security Number
- State student ID (ssid)
- Internal student ID
- Birth date
- AKA (also known as)
- Citizenship
- Deceased date
- Date of birth
- First name
- Last name
- Maiden name
- Preferred name
- Address
- Phone number
- Email

**3. Disability/IEPs**

- Special Ed (any student with an IEP)
- Grade level
- Disability category
- Disability status
- Autism
- Deaf-blindness
- Developmental delay
- Emotional disturbance
- Hearing impairment
- Mental retardation
- Multiple disabilities
- Orthopedic impairment
- Specific learning disorder
- Speech or language impairment
- Traumatic brain injury
- Visual impairment
- Other health impairment
- Basis of exit (reason child left special education program)



**6. Behavior-Attendance**

- Attendance
- Days absent
- Chronically absent (10+ days absent)
- Truant (student was absent 15 or more days)
- Exit code (why student left the school)
- Exit reason
- Exit reason description
- Kindergarten type (e.g., extended Kindergarten)
- Dropout flag (for state reporting)
- Federal dropout flag (for federal reporting)

**7. Testing: Non-cognitive/Adaptive**

- “Survey” test types
- NWEA assessment results

**8. Ethics**

- Ethics test
- Ethics code

**9. State Test Non-Participation**

- Nonparticipation code (why student did not participate in the state test)
- Refused to test (another nonparticipation code)

**10. Weapons**

- Weapon
- Weapon ID
- Weapon abbreviation
- Weapon description

**11. Discipline/Incident**

- Discipline reason
- Discipline method
- Disciplinary suspensions
- Delinquent

- Suspended days
- Disciplinary expulsions
- Youth in Custody full time
- Youth in Custody days
- Incident ID (numeric code)
- Incident type
- Caused incident flag (numeric code)
- Gang prevention program
- Injured
- Alternative placement
- Hearing officer removal
- Referred to court
- Referred to police
- Referred to program
- Services offered flag
- Weapon ID
- Primary infraction ID

#### **12. Education/Career Track**

- Track
- Mathematics Engineering Science Achievement (MESA) program
- Tech prep (Identifies whether the student was identified as a college tech prep student)
- Vocational Concentrator (emphasized applied technology(vocational) education)
- Vocational academically disadvantaged
- High School completion status
- Concurrent enrollment
- Cumulative GPA
- Gifted

#### **13. Data Sharing with USDE & Others**

- ED Facts
- NCES agency ID
- NCES School ID
- “Submitted files will be processed through various edit checks. When unusual conditions are detected, warning errors may be issued, even though the data may be valid. When this occurs, an explanation responding to the warning may be submitted with the data, or after files have been processed. The

### 13. Data Sharing with USDE & Others

- EDFacts
- NCES agency ID
- NCES School ID
- “Submitted files will be processed through various edit checks. When unusual conditions are detected, warning errors may be issued, even though the data may be valid. When this occurs, an explanation responding to the warning may be submitted with the data, or after files have been processed. The **Department of Education** will verify explanations, and after verification, accept the data.”

1

USOE Statewide Data Warehouse Data Dictionary - selected data elements.pdf

# Truancy notice for a 1<sup>st</sup> grader

From: <[southcampus@legacyprep.org](mailto:southcampus@legacyprep.org)>

Date: Thu, Jan 29, 2015 at 9:06 AM

Subject: Behavior Record for [REDACTED]

To: [southcampus@legacyprep.org](mailto:southcampus@legacyprep.org)

Date: Fri, 23 Jan 2015

Description: Excessive Absences

Class: Home Room | Homeroom | [REDACTED]

Points: 0

Classification: Managed by Office

Status: Closed

-- Notes -----

To the Parent(s) of : [REDACTED]

As of the end of 2nd Quarter your child has 8 absences.

The goal of Legacy Preparatory Academy is for all students to maintain a 96% attendance rate, which means that there may be only 5 absences per year. Please email [southcampus@legacyprep.org](mailto:southcampus@legacyprep.org) or call [801-936-0555](tel:801-936-0555) to inform the school of absences or concerns about attendance issues.

The parent handbook states:

-It is vital to our success that students attend school each day. LPA has a school-wide goal of 96% attendance. Our academic goals will be achieved only if our students attend school regularly. Attendance aids students in obtaining mastery and becoming proficient in their educational skills. Conversely, absences disrupt the learning process for the missing student, teacher and peers by unfairly impacting productive learning time.

**Index Utah Code**  
**Title 53A State System of Public Education**  
**Chapter 11 Students in Public Schools**  
**Part 1 Compulsory Education Requirements**  
**Section 101 Definitions.**

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**53A-11-101. Definitions.**

For purposes of this part:

- (1) (a) "Absence" or "absent" means, consistent with Subsection (1)(b), failure of a school-age minor assigned to a class or class period to attend the entire class or class period.
- (b) A school-age minor may not be considered absent under this part more than one time during one day.
- (2) "Habitual truant" means a school-age minor who:
  - (a) is at least 12 years old;
  - (b) is subject to the requirements of Section 53A-11-101.5; and
  - (c) (i) is truant at least 10 times during one school year; or  
(ii) fails to cooperate with efforts on the part of school authorities to resolve the minor's attendance problem as required under Section 53A-11-103.

<b>Index</b>	<b>Utah Code</b>
<b>Title</b>	<b>State System of Public Education</b>
<b>53A</b>	
<b>Chapter</b>	<b>Students in Public Schools</b>
<b>11</b>	
<b>Part 1</b>	<b>Compulsory Education Requirements</b>
	<b>Truancy -- Notice of truancy -- Failure to</b>
<b>Section</b>	<b>cooperate with school authorities --</b>
<b>101.7</b>	<b>Habitual truant citation. (<i>Effective</i></b>
	<b><i>5/13/2014</i>)</b>

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***Effective 5/13/2014***

**53A-11-101.7. Truancy -- Notice of truancy -- Failure to cooperate with school authorities -- Habitual truant citation.**

- (1) Except as provided in Section [53A-11-102](#) or [53A-11-102.5](#), a school-age minor who is enrolled in a public school shall attend the public school in which the school-age minor is enrolled.
- (2) A local school board, charter school governing board, or school district may impose administrative penalties on a school-age minor who is truant.
- (3) A local school board or charter school governing board:
  - (a) may authorize a school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist to issue notices of truancy to school-age minors who are at least 12 years old;

Last week, I asked a simple yes or no question. I received one response, and that board member did not say yes or not, but said he'd forward my question to Judy Park's secretary. I still have no answer.

The question is simple: **Is it possible for a student in Utah to attend public school and not be tracked by the P-20 and SLDS tracking systems?**

Thanks.

Christel Swasey

Heber, Utah

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On Fri, Jul 27, 2012 at 9:27 AM, Austin, Lorraine  
<[Lorraine.Austin@schools.utah.gov](mailto:Lorraine.Austin@schools.utah.gov)> wrote:

Christel,

I have consulted with the Associate Superintendent in the office over data collection, and have received the following answer to your question:

All students who attend public schools have their data submitted to USOE for multiple purposes including accountability and monitoring aggregate student progress. USOE does not release student level data. **Current data systems do not allow for individual student data to be withheld from the data submission process.** Current state and federal accountability requires that a minimum of 95% of students participate in all assessment programs.

Lorraine Austin, Secretary to the Board

Utah State Board of Education

Dear Lorraine,

Thank you! I appreciate you going to the effort to find the answer to my question. I have a follow-up question.

The Associate Superintendent over data collection said that USOE does not release student level data; could you tell me **how long that policy will remain in place and where I can find it in written form?** Thank you.

I am concerned with this question because Joanne Weiss, the U.S. Education Department's chief of staff, said that information from multiple federal data systems is being "mashed together" on the federal level and will be further mashed with state data. The U.S. Department of Education's research agency is releasing information to "help" move states toward "developing partnerships" to use the student information gathered from state longitudinal data systems. (Source: [http://blogs.edweek.org/edweek/inside-school-research/2012/07/ed\\_urges\\_states\\_to\\_make\\_data\\_s.html?cmp=SOC-SHR-FB](http://blogs.edweek.org/edweek/inside-school-research/2012/07/ed_urges_states_to_make_data_s.html?cmp=SOC-SHR-FB) )

Another source confirms this trend:

<http://www.prweb.com/releases/2012/2/prweb9201404.htm>

It says, "Statewide longitudinal data systems (SLDS's) are a single solution to manage, disaggregate, analyze, and leverage education information within a state. In recent years, the scope of these systems has broadened from the K-12 spectrum to now encompass pre-kindergarten through higher education and workforce training (P-20W) "



and that regional and federal groups are linked clients of Choice Solutions, Utah's data networking partner.

Added to these facts is the fact that recent changes were made by the Department of Education to FERPA (privacy laws/regulations) that remove the necessity for researchers to gather parental or student consent prior to accessing personally identifiable information (PII).

So the only thing standing between our students' PII and interstate, intrastate and federal persual (including entrepreneurs and both governmental and nongovernmental researchers) is local policy.

That is why I'd like to see what that policy is, and when it's due to expire.

Thank you very much. I appreciate your time.

Sincerely,

Christel Swasey

# Are we violating COPPA?

**From:** Park, Judy  
[<mailto:Judy.Park@schools.utah.gov>]  
**Sent:** Friday, November 28, 2014 10:43 AM  
**To:** Hunt, Patty  
**Subject:** FW: FYI: COPA being used against PARCC exams

Please print E-mail.

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**From:** Peterson, Mark  
**Sent:** Wednesday, November 26, 2014 8:52 AM  
**To:** BEEXECCOM; Shaeffer, Jo Ellen  
**Subject:** FYI: COPA being used against PARCC exams

From Politico:

**AN OPT-OUT LOOPHOLE?** Parents organizing against PARCC's new Common Core tests believe they've found a powerful tool: The Children's Online Privacy Protection Act of 1998. COPPA requires operators of online sites aimed at minors to obtain parental consent before collecting any personal information from children under age 13. The Network for Public Education and the Parent Coalition for Student Privacy are urging parents to contact Pearson, which will be administering the

PARCC exam, and demand the company stop collecting information about their children, citing the law. That could make it impossible for Pearson to administer the PARCC exam to those kids. The Education Department declined to comment on the legality of the strategy. Pearson declined to comment as well. But Peggy Robertson, an instructional coach who works with the United Opt-Out campaign, says she has high hopes for a wave of opt-outs citing COPPA. "It's a national strategy. It will create national red tape. Ultimately, it could take down PARCC. Period," she said. More:

<http://bit.ly/1C6M90f>

**Mark Peterson | Public Relations Director |  
Utah State Office of Education**

250 E 500 S | [PO Box 144200 | Salt Lake City, UT  
84114-4200](#) | [801.538.7635](tel:801.538.7635) |

[mark.peterson@schools.utah.gov](mailto:mark.peterson@schools.utah.gov)

[USOE Online Newsroom](#) | [UT Public Education Twitter  
Feed](#) | [UtahPublicEducation.org Blog](#) | [Utah Public  
Education on Facebook](#)

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such par-ent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

# Supreme Court Upholds Parental Rights

- *It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder. . . . It is in recognition of this that these decisions have respected the private realm of family life which the state cannot enter.- **Prince v. Commonwealth of Massachusetts, 321 U.S. 158 (1944)***
- *The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition.*
- **- Wisconsin v. Yoder, 406 U.S. 205 (1972)**