

Representative Jacob L. Anderegg proposes the following substitute bill:

STUDENT PRIVACY ACT

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

Senate Sponsor: Howard A. Stephenson

LONG TITLE

General Description:

This bill creates the Student Privacy Act and addresses the release of public school student information.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires certain people to protect student privacy;
- ▶ allows a student or the student's parent to authorize the collection and release of certain student data;
- ▶ prohibits an education entity from releasing a student's personally identifiable information under certain circumstances;
- ▶ allows an education entity to release a student's personally identifiable information under certain circumstances;
- ▶ prohibits a school district from eliciting certain information from students;
- ▶ provides what kinds of student data may be collected and under what circumstances;
- ▶ requires an education entity to provide a student data disclosure to parents and students at the beginning of each school year or at the time a student enrolls with the education entity;



- 26 ▶ establishes requirements for the State Board of Education related to the collection,
27 usage, and storage of student data;
- 28 ▶ allows an education entity to create and maintain certain student disciplinary records
29 in accordance with rules made by the State Board of Education;
- 30 ▶ allows a student to request certain student data to be expunged or permanently
31 destroyed;
- 32 ▶ requires the State Board of Education to designate a student privacy coordinator to
33 oversee the protection of student data;
- 34 ▶ requires an education entity or third party contractor to collect, use, and store data in
35 accordance with certain security measures;
- 36 ▶ establishes penalties; and
- 37 ▶ makes technical changes.

38 **Money Appropriated in this Bill:**

39 None

40 **Other Special Clauses:**

41 None

42 **Utah Code Sections Affected:**

43 AMENDS:

44 **53A-11-605**, as last amended by Laws of Utah 2013, Chapter 335

45 **53A-13-301**, as last amended by Laws of Utah 2011, Chapter 401

46 **53A-13-302**, as last amended by Laws of Utah 2014, Chapter 214

47 ENACTS:

48 **53A-13-300.5**, Utah Code Annotated 1953

49 **53A-13-303**, Utah Code Annotated 1953

50 **53A-13-304**, Utah Code Annotated 1953

51 **53A-13-305**, Utah Code Annotated 1953



53 *Be it enacted by the Legislature of the state of Utah:*

54 Section 1. Section **53A-11-605** is amended to read:

55 **53A-11-605. Definitions -- School personnel -- Medical recommendations --**

56 **Exceptions -- Penalties.**

57 (1) As used in this section:

58 (a) "Health care professional" means a physician, physician assistant, nurse, dentist, or
59 mental health therapist.

60 (b) "School personnel" means a school district or charter school employee, including a
61 licensed, part-time, contract, or nonlicensed employee.

62 (2) School personnel may:

63 (a) provide information and observations to a student's parent or guardian about that
64 student, including observations and concerns in the following areas:

65 (i) progress;

66 (ii) health and wellness;

67 (iii) social interactions;

68 (iv) behavior; or

69 (v) topics consistent with Subsection [53A-13-302\[\(6\)\]\(2\)](#);

70 (b) communicate information and observations between school personnel regarding a
71 child;

72 (c) refer students to other appropriate school personnel and agents, consistent with
73 local school board or charter school policy, including referrals and communication with a
74 school counselor or other mental health professionals working within the school system;

75 (d) consult or use appropriate health care professionals in the event of an emergency
76 while the student is at school, consistent with the student emergency information provided at
77 student enrollment;

78 (e) exercise their authority relating to the placement within the school or readmission
79 of a child who may be or has been suspended or expelled for a violation of Section
80 [53A-11-904](#); and

81 (f) complete a behavioral health evaluation form if requested by a student's parent or
82 guardian to provide information to a licensed physician.

83 (3) School personnel shall:

84 (a) report suspected child abuse consistent with Section [62A-4a-403](#);

85 (b) comply with applicable state and local health department laws, rules, and policies;
86 and

87 (c) conduct evaluations and assessments consistent with the Individuals with

88 Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments.

89 (4) Except as provided in Subsection (2), Subsection (6), and Section 53A-11a-203,
90 school personnel may not:

91 (a) recommend to a parent or guardian that a child take or continue to take a
92 psychotropic medication;

93 (b) require that a student take or continue to take a psychotropic medication as a
94 condition for attending school;

95 (c) recommend that a parent or guardian seek or use a type of psychiatric or
96 psychological treatment for a child;

97 (d) conduct a psychiatric or behavioral health evaluation or mental health screening,
98 test, evaluation, or assessment of a child, except where this Subsection (4)(d) conflicts with the
99 Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent
100 amendments; or

101 (e) make a child abuse or neglect report to authorities, including the Division of Child
102 and Family Services, solely or primarily on the basis that a parent or guardian refuses to
103 consent to:

104 (i) a psychiatric, psychological, or behavioral treatment for a child, including the
105 administration of a psychotropic medication to a child; or

106 (ii) a psychiatric or behavioral health evaluation of a child.

107 (5) Notwithstanding Subsection (4)(e), school personnel may make a report that would
108 otherwise be prohibited under Subsection (4)(e) if failure to take the action described under
109 Subsection (4)(e) would present a serious, imminent risk to the child's safety or the safety of
110 others.

111 (6) Notwithstanding Subsection (4), a school counselor or other mental health
112 professional acting in accordance with Title 58, Chapter 60, Mental Health Professional
113 Practice Act, or licensed through the State Board of Education, working within the school
114 system may:

115 (a) recommend, but not require, a psychiatric or behavioral health evaluation of a child;

116 (b) recommend, but not require, psychiatric, psychological, or behavioral treatment for
117 a child;

118 (c) conduct a psychiatric or behavioral health evaluation or mental health screening,

119 test, evaluation, or assessment of a child in accordance with Section 53A-13-302; and

120 (d) provide to a parent or guardian, upon the specific request of the parent or guardian,
121 a list of three or more health care professionals or providers, including licensed physicians,
122 psychologists, or other health specialists.

123 (7) Local school boards or charter schools shall adopt a policy:

124 (a) providing for training of appropriate school personnel on the provisions of this
125 section; and

126 (b) indicating that an intentional violation of this section is cause for disciplinary action
127 consistent with local school board or charter school policy and under Section 53A-8a-502.

128 (8) Nothing in this section shall be interpreted as discouraging general communication
129 not prohibited by this section between school personnel and a student's parent or guardian.

130 Section 2. Section 53A-13-300.5 is enacted to read:

131 **Part 3. Student Privacy Act**

132 **53A-13-300.5. Definitions.**

133 As used in this part:

134 (1) "Adult student" means a student who is at least 18 years old.

135 (2) "Aggregate data" means data collected or reported at the group, cohort, school,
136 school district, region, or state level that:

137 (a) does not include personally identifiable information; and

138 (b) at the level collected, includes at least 40 individuals in the level.

139 (3) "Allowable student data" means the following student data that an education entity
140 may collect and include in a student's educational record without student authorization:

141 (a) name;

142 (b) date of birth;

143 (c) gender;

144 (d) parent or guardian information;

145 (e) contact information;

146 (f) a public student identification number;

147 (g) state and national assessment results;

148 (h) courses taken and completed, credits earned, and other transcript information;

149 (i) course grades and grade point average;

- 150 (j) grade level and expected graduation date or graduation cohort;
- 151 (k) degree, diploma, credential attainment, and other school exit information;
- 152 (l) attendance and mobility;
- 153 (m) drop-out data;
- 154 (n) an immunization record, including a record of an exemption from immunization;
- 155 (o) ethnicity; and
- 156 (p) discipline records in accordance with the requirements described in Subsection
- 157 [53A-13-303\(6\)](#).
- 158 (4) "Board" means the State Board of Education.
- 159 (5) "Education entity" means:
- 160 (a) the board;
- 161 (b) a local school board or charter school governing board;
- 162 (c) a school district;
- 163 (d) a public school;
- 164 (e) the Utah Schools for the Deaf and the Blind; or
- 165 (f) a school community council.
- 166 (6) "Higher education entity" means:
- 167 (a) an institution of higher education described in Subsection [53B-2-101\(1\)](#); or
- 168 (b) the State Board of Regents established in Section [53B-1-103](#).
- 169 (7) "Individualized education program" or "IEP" means a written statement, for a
- 170 student with a disability, that is developed, reviewed, and revised in accordance with the
- 171 Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.
- 172 (8) (a) "Optional student data" means student data that an education entity may not
- 173 collect except in accordance with Section [53A-13-303](#).
- 174 (b) "Optional student data" includes:
- 175 (i) remediation efforts;
- 176 (ii) special education data;
- 177 (iii) demographic data;
- 178 (iv) medical and health records;
- 179 (v) information needed to create an IEP; and
- 180 (vi) program participation information.

181 (9) "Out-of-state educational agency" means an educational agency or institution
182 located outside the state.

183 (10) "Parent" means a student's parent or legal guardian.

184 (11) (a) "Personally identifiable information" means information that identifies an
185 individual.

186 (b) "Personally identifiable information" includes:

187 (i) a student's first or last name;

188 (ii) a name of a student's family member;

189 (iii) a student's or student's family's home or physical address;

190 (iv) a student's email address or online contact information;

191 (v) a student's telephone number;

192 (vi) a student's Social Security number;

193 (vii) a student's biometric identifier;

194 (viii) a student's health or disability data;

195 (ix) a student's student identification number;

196 (x) a student's social media login or alias;

197 (xi) a student's persistent identifier, if the identifier is associated with personally
198 identifiable information, including:

199 (A) a customer number held in a cookie; or

200 (B) a processor serial number;

201 (xii) a combination of a student's last name or photograph of the student with other
202 information that together permits a person to contact the student online;

203 (xiii) information about a student or a student's family that a person collects online and
204 combines with other personally identifiable information; and

205 (xiv) other information that, alone or in combination, is linked or linkable to a specific
206 student that would allow a reasonable person in the school community, who does not have
207 personal knowledge of the relevant circumstances, to identify the student with reasonable
208 certainty.

209 (12) (a) "Prohibited student data" means student data that may not be collected by an
210 education entity.

211 (b) "Prohibited student data" includes a student's:

212 (i) juvenile delinquency records;

213 (ii) criminal records;

214 (iii) Social Security number; and

215 (iv) biometric information.

216 (13) "Student authorization" means the authorization of:

217 (a) the student's parent, if the student is less than 18 years old; or

218 (b) the student, if the student is an adult student.

219 (14) (a) "Student data" means student data collected or reported at the individual

220 student level and may be included in a student's educational record.

221 (b) "Student data" includes:

222 (i) allowable student data;

223 (ii) optional student data; and

224 (iii) prohibited student data.

225 (15) "Student data system" means the State Board of Education's system for collecting,

226 storing, and using student data.

227 (16) "Student privacy coordinator" means the State Office of Education student privacy

228 coordinator designated by the board under Section [53A-13-305](#).

229 (17) "Third party contractor" means a person, other than an education entity, that

230 receives student data from an education entity pursuant to a contract or written agreement.

231 Section 3. Section **53A-13-301** is amended to read:

232 **53A-13-301. Application of state law to the administration and operation of**
233 **public schools -- Student information confidentiality standards -- Local school board and**
234 **charter school governing board policies.**

235 (1) An [~~employee, student aide, volunteer, or other agent of the state's public education~~

236 ~~system]~~ education entity and an employee, student aide, volunteer, third party contractor, or

237 other agent of an education entity shall protect the privacy of [~~students, their parents, and their~~

238 ~~families]~~ a student, the student's parents, and the student's family, and support parental

239 involvement in the education of their children through compliance with the protections

240 provided for family and student privacy under [~~Section [53A-13-302](#) and the Federal Family~~

241 Educational Rights and Privacy Act and related provisions under 20 U.S.C. 1232g and 1232h,]

242 this part in the administration and operation of all public school programs, regardless of the

243 source of funding.

244 (2) (a) A student owns the student's personally identifiable information.

245 (b) A parent of a student or an adult student has the discretion to authorize:

246 (i) collection of the student's optional student data; and

247 (ii) sharing or accessing of the student's optional student data.

248 (c) When a student leaves the state's public education system, the student's parent or an

249 adult student may require an education entity to expunge all of the student's student data.

250 (3) Except as provided in Subsection (4), an education entity may not release a

251 student's personally identifiable information without student authorization.

252 (4) Subject to the requirements of this section, an education entity may release a

253 student's personally identifiable information without student authorization to:

254 (a) another education entity;

255 (b) a higher education entity, upon request of the student's parent, or an adult student;

256 (c) subject to the requirements of Subsection (6), an authorized caseworker or other

257 representative of the Department of Human Services;

258 (d) a third party contractor, consultant, or other party to whom the education entity has

259 outsourced services or functions for the following purposes:

260 (i) to conduct a study or perform research; or

261 (ii) to perform a service or function for which the education entity would otherwise use

262 the education entity's employees; or

263 (e) an out-of-state education agency if:

264 (i) the student seeks or intends to enroll, or if the student is already enrolled, at the

265 out-of-state education agency; and

266 (ii) the release of personally identifiable information is for purposes related to the

267 student's enrollment or transfer.

268 (5) An education entity may release aggregate student data to a person.

269 (6) An education entity may release a student's personally identifiable information to a

270 caseworker or other representative of the Department of Human Services without student

271 authorization if:

272 (a) the Department of Human Services is:

273 (i) legally responsible for the care and protection of the student; or

- 274 (ii) providing services to the student;
- 275 (b) the personally identifiable information is not disclosed or released to a person:
- 276 (i) who is not authorized to address the student's education needs; and
- 277 (ii) who is not authorized by the Department of Human Services to receive the
- 278 information; and
- 279 (c) the Department of Human Services maintains and secures the personally
- 280 identifiable data in accordance with the requirements of this part.

281 (7) The Department of Human Services, State Board of Education, and the Utah
282 Juvenile Court, may share educational information, including a student's personally identifiable
283 information, to improve education outcomes for youth:

- 284 (a) in the custody of, or under the guardianship of, the Department of Human Services;
- 285 (b) in the residential care of the Division of Juvenile Justice Services;
- 286 (c) in the custody of the Division of Child and Family Services;
- 287 (d) receiving services from the Division of Services for People with Disabilities; or
- 288 (e) under the jurisdiction of the Utah Juvenile Court.

289 [~~2~~] (8) A local school board or charter school governing board shall enact policies
290 governing the protection of family and student privacy as required by this section.

291 [~~3~~] (9) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
292 Act, the State Board of Education shall makes rules to establish standards for public education
293 employees, student aides, and volunteers in public schools regarding the confidentiality of
294 student information and student records.

295 (b) The rules described in Subsection [~~3~~] (9)(a) shall provide that a local school board
296 or charter school governing board may adopt policies related to public school student
297 confidentiality to address the specific needs or priorities of the school district or charter school.

298 [~~4~~] (10) The State Board of Education shall:

299 (a) develop resource materials for purposes of training employees, student aides, and
300 volunteers of a school district or charter school regarding the confidentiality of student
301 information and student records; and

302 (b) provide the materials described in Subsection [~~4~~] (10)(a) to each school district
303 and charter school.

304 Section 4. Section **53A-13-302** is amended to read:

305 **53A-13-302. Activities prohibited -- Qualifications -- Training on**
306 **implementation.**

307 (1) Except as provided in Subsection (7), Section [53A-11a-203](#), and [~~Section~~
308 [53A-15-1301](#)] this part, policies adopted by a school district or charter school under Section
309 [53A-13-301](#) shall include prohibitions on the administration to a student of any psychological
310 or psychiatric examination, test, or treatment, or any survey, analysis, or evaluation without the
311 prior written consent of the student's parent or legal guardian, in which the purpose or evident
312 intended effect is to cause the student to reveal information, whether the information is
313 personally identifiable or not, concerning the student's or any family member's:

314 (a) political affiliations or, except as provided under Section [53A-13-101.1](#) or rules of
315 the State Board of Education, political philosophies;

316 (b) mental or psychological problems;

317 (c) sexual behavior, orientation, or attitudes;

318 (d) illegal, anti-social, self-incriminating, or demeaning behavior;

319 (e) critical appraisals of individuals with whom the student or family member has close
320 family relationships;

321 (f) religious affiliations or beliefs;

322 (g) legally recognized privileged and analogous relationships, such as those with
323 lawyers, medical personnel, or ministers; and

324 (h) income, except as required by law.

325 (2) Prior written consent under Subsection (1) is required in all grades, kindergarten
326 through grade 12.

327 (3) Except as provided in Subsection (7), Section [53A-11a-203](#), and Section
328 [53A-15-1301](#), the prohibitions under Subsection (1) shall also apply within the curriculum and
329 other school activities unless prior written consent of the student's parent or legal guardian has
330 been obtained.

331 (4) Written parental consent is valid only if a parent or legal guardian has been first
332 given written notice, including notice that a copy of the educational or student survey questions
333 to be asked of the student in obtaining the desired information is made available at the school,
334 and a reasonable opportunity to obtain written information concerning:

335 (a) records or information, including information about relationships, that may be

336 examined or requested;

337 (b) the means by which the records or information shall be examined or reviewed;

338 (c) the means by which the information is to be obtained;

339 (d) the purposes for which the records or information are needed;

340 (e) the entities or persons, regardless of affiliation, who will have access to the
341 personally identifiable information; and

342 (f) a method by which a parent of a student can grant permission to access or examine
343 the personally identifiable information.

344 (5) (a) Except in response to a situation which a school employee reasonably believes
345 to be an emergency, or as authorized under Title 62A, Chapter 4a, Part 4, Child Abuse or
346 Neglect Reporting Requirements, or by order of a court, disclosure to a parent or legal guardian
347 must be given at least two weeks before information protected under this section is sought.

348 (b) Following disclosure, a parent or guardian may waive the two week minimum
349 notification period.

350 (c) Unless otherwise agreed to by a student's parent or legal guardian and the person
351 requesting written consent, the authorization is valid only for the activity for which it was
352 granted.

353 (d) A written withdrawal of authorization submitted to the school principal by the
354 authorizing parent or guardian terminates the authorization.

355 (e) A general consent used to approve admission to school or involvement in special
356 education, remedial education, or a school activity does not constitute written consent under
357 this section.

358 (6) (a) This section does not limit the ability of a student under Section [53A-13-101.3](#)
359 to spontaneously express sentiments or opinions [~~otherwise protected against disclosure under~~
360 ~~this section~~].

361 (b) (i) If a school employee or agent believes that a situation exists which presents a
362 serious threat to the well-being of a student, that employee or agent shall notify the student's
363 parent or guardian without delay.

364 (ii) If, however, the matter has been reported to the Division of Child and Family
365 Services within the Department of Human Services, it is the responsibility of the division to
366 notify the student's parent or guardian of any possible investigation, prior to the student's return

367 home from school.

368 (iii) The division may be exempted from the notification requirements described in this
369 Subsection (6)(b)(ii) only if it determines that the student would be endangered by notification
370 of his parent or guardian, or if that notification is otherwise prohibited by state or federal law.

371 (7) (a) If a school employee, agent, or school resource officer believes a student is
372 at-risk of attempting suicide, physical self-harm, or harming others, the school employee,
373 agent, or school resource officer may intervene and ask a student questions regarding the
374 student's suicidal thoughts, physically self-harming behavior, or thoughts of harming others for
375 the purposes of:

376 (i) referring the student to appropriate prevention services; and

377 (ii) informing the student's parent or legal guardian.

378 (b) On or before September 1, 2014, a school district or charter school shall develop
379 and adopt a policy regarding intervention measures consistent with Subsection (7)(a) while
380 requiring the minimum degree of intervention to accomplish the goals of this section.

381 (8) Local school boards and charter school governing boards shall provide inservice for
382 teachers and administrators on the implementation of this section.

383 (9) The board shall provide procedures for disciplinary action for violations of this
384 section.

385 Section 5. Section **53A-13-303** is enacted to read:

386 **53A-13-303. Requirements for collection of student data -- Student data**
387 **disclosure -- Student discipline related records -- Data expungement requirements.**

388 (1) An education entity may collect allowable student data if the education entity
389 provides a student data disclosure that complies with Subsection (4) to:

390 (a) an adult student; or

391 (b) a student's parent.

392 (2) An education entity may collect optional student data if the education entity:

393 (a) provides a student data disclosure that complies with Subsection (4) to:

394 (i) an adult student; or

395 (ii) a student's parent; and

396 (b) obtains student authorization to collect the optional student data.

397 (3) An education entity may not collect prohibited student data.

398 (4) (a) An education entity that collects student data shall prepare a written student data
399 disclosure for distribution to parents and adult students:

400 (i) (A) at the beginning of each school year; or

401 (B) at the time the student enrolls with the education entity; and

402 (ii) that includes a description of:

403 (A) the allowable student data that the education entity collects;

404 (B) the optional student data that the education entity collects;

405 (C) the prohibited student data that the education entity may not collect;

406 (D) how the allowable and optional student data will be collected and used, shared, or
407 accessed;

408 (E) the consequences of authorizing the collection of allowable or optional student
409 data;

410 (F) how the student data is stored and any security measures used to protect the student
411 data; and

412 (G) the parent's and adult student's rights related to the student's student data, including
413 the information described in Subsection [53A-13-301\(2\)](#).

414 (b) In addition to providing a written student data disclosure described in Subsection
415 (4)(a), an education entity that collects optional student data, as a condition of a student's
416 participation in a program, shall develop a separate written student data disclosure specific to
417 the program, that includes:

418 (i) a disclosure of the student data needed for the student to participate in the program;
419 and

420 (ii) a description of how the student data will be used as part of the student's
421 participation in the program.

422 (5) The board shall develop model student data disclosures in accordance with
423 Subsection (4).

424 (6) (a) An education entity may create and maintain disciplinary reports on students in
425 accordance with rules developed by the board.

426 (b) The board shall make rules that classify at least three levels of retention schedules
427 for disciplinary records, including:

428 (i) a level of disciplinary records that may be created and maintained for up to one

429 year;

430 (ii) a level of disciplinary records that may be created and maintained for up to three

431 years; and

432 (iii) subject to the expungement requirements of Subsection (7), a level of disciplinary

433 records that may be created and maintained as determined by the education entity.

434 (c) The board shall ensure that the rules described in Subsection (6)(b) classify the

435 types of disciplinary actions that fall into each of the levels described in Subsection (6)(b).

436 (7) (a) An education entity shall expunge or permanently destroy a student's student

437 data retained by the education entity:

438 (i) if a student is at least 21 years old and the student requests the student data to be

439 expunged or permanently destroyed; and

440 (ii) in accordance with board rules described in Subsection (7)(b).

441 (b) The board shall make rules:

442 (i) that describe the types of student data that may be expunged or permanently

443 destroyed, including:

444 (A) medical records;

445 (B) behavioral test assessments; and

446 (C) disciplinary records; and

447 (ii) that describe the types of student data that may not be expunged or permanently

448 destroyed, including:

449 (A) grades;

450 (B) transcripts; and

451 (C) a record of the student's enrollment.

452 Section 6. Section **53A-13-304** is enacted to read:

453 **53A-13-304. Security requirements related to the collection, usage, and storage of**

454 **student data -- Board duties -- Third party contractor requirements.**

455 (1) The board shall:

456 (a) maintain, secure, and safeguard all student data:

457 (i) by using industry best practices to maintain, secure, and safeguard the student data;

458 and

459 (ii) subject to regular audits by a third party;

460 (b) create, publish, annually update, and make publicly available, a data inventory and
461 dictionary or index of data elements with definitions of student data fields currently in the
462 student data system, including:

463 (i) student data required to be reported by state or federal law;
464 (ii) student data that has been proposed for inclusion in the student data system with a
465 statement regarding the purpose or reason for collecting the student data; and
466 (iii) student data collected or maintained with no current purpose or reason;

467 (c) develop, publish, and make publicly available policies and procedures to comply
468 with this part and other relevant privacy laws, including ensuring that a contract entered into
469 between an education entity and a third party contractor, which allows the third party contractor
470 to have access to student data, includes:

471 (i) provisions requiring specific restrictions on the use of student data;
472 (ii) specific dates governing the destruction of student data given to a third party
473 contractor;

474 (iii) provisions that prohibit a third party contractor from using the student data for a
475 secondary use, including sales, marketing, or advertising; and
476 (iv) provisions limiting a third party contractor's use of student data strictly for the
477 purpose of providing services to the education entity;

478 (d) develop a detailed security plan for education entities that includes:

479 (i) guidelines for authorizing the sharing and access to student data, including
480 guidelines for authentication of authorized access;

481 (ii) guidelines for administrative safeguards providing for the security of electronic and
482 physical student data, including provisions related to data encryption;

483 (iii) guidelines for education entity employees to better ensure the safety and security
484 of student data;

485 (iv) privacy compliance standards;
486 (v) privacy and annual security audits;
487 (vi) breach planning, notification, and procedures; and
488 (vii) data retention and disposition policies approved by the State Records Committee
489 as described in Section [63G-2-502](#);

490 (e) develop a model governance policy for education entities regarding the collection,

491 access, security, and use of student data;

492 (f) ensure that the following entities adopt the model governance policy described in

493 Subsection (1)(e):

494 (i) local school boards;

495 (ii) charter schools; and

496 (iii) the Utah Schools for the Deaf and the Blind;

497 (g) require a third party contractor to maintain, secure, and safeguard all student data:

498 (i) by using industry best practices to maintain, secure, and safeguard the student data;

499 and

500 (ii) subject to regular audits by a third party;

501 (h) require a third party contractor to use student data received under a contract with an

502 education entity strictly for the purpose of providing the contracted services to the education

503 entity; and

504 (i) in a contract with a third party vendor, provide that a contract with the third party
505 vendor is void if the third party vendor permits unauthorized release or use of student data.

506 (2) A third party contractor may not:

507 (a) use student data received under a contract with an education entity for a use not
508 described in the contract;

509 (b) collect student data from a student that is unrelated to the services the third party
510 vendor is required to perform pursuant to a contract with an education entity; or

511 (c) sell student data.

512 Section 7. Section **53A-13-305** is enacted to read:

513 **53A-13-305. Student privacy coordinator -- Reports of violations of student**
514 **privacy laws -- Penalties.**

515 (1) (a) The board shall designate a State Office of Education student privacy
516 coordinator.

517 (b) The student privacy coordinator shall:

518 (i) oversee the administration of student privacy laws, including the requirements of
519 this part;

520 (ii) review complaints of:

521 (A) an unauthorized release of student data;

522 (B) an unauthorized collection of student data; or
523 (C) an unauthorized use of student data;
524 (iii) report any violations of this part to:
525 (A) the board;
526 (B) the applicable education entity; and
527 (C) the Education Interim Committee; and
528 (iv) work with the board to develop a model student data disclosure as required in
529 Subsection [53A-13-303\(5\)](#).
530 (2) (a) A third party contractor that knowingly or recklessly permits unauthorized
531 release or use of student data:
532 (i) may not enter into a future contract with the board or another education entity;
533 (ii) may be found guilty of a class A misdemeanor; and
534 (iii) may be required by the board to pay a civil penalty of \$25,000.
535 (b) The board may assess the civil penalty described in Subsection (2)(a)(iii) in
536 accordance with Title 63G, Chapter 4, Administrative Procedures Act.
537 (c) The board may bring an action in the district court of the county in which the office
538 of the board is located, if necessary, to enforce payment of the civil penalty described in
539 Subsection (2)(a)(iii).
540 (3) (a) A parent or adult student may bring an action in a court of competent
541 jurisdiction for damages caused by violation of this part by an education entity or a third party
542 contractor.
543 (b) If the court finds that an education entity or third party contractor has violated this
544 part, the court shall award to the parent or adult student:
545 (i) damages;
546 (ii) costs; and
547 (iii) reasonable attorney fees.