

UTAH STUDENT PRIVACY ACT

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: Eric K. Hutchings

LONG TITLE

General Description:

This bill enacts provisions regarding access to education records.

Highlighted Provisions:

This bill:

▶ provides that a local school board or charter school governing board require a public school to make a list of individuals who are authorized to access education records;

▶ requires a local school governing board or charter school governing board to:

- provide training on student privacy laws; and
- require individuals who are authorized to access education records to complete

training on student privacy laws and certify to the local school board or the

charter school governing board that they have completed the required training

and understand student privacy requirements; and

▶ prohibits a local school board, charter school governing board, public school, or school employee from sharing an education record with a school employee who is not authorized.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

29 **53A-1-708**, as last amended by Laws of Utah 2016, Chapters 144 and 221

30 **53A-11a-203**, as last amended by Laws of Utah 2016, Chapter 221

31 **53A-13-301**, as last amended by Laws of Utah 2016, Chapter 221

32 ENACTS:

33 **53A-13-303**, Utah Code Annotated 1953



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

36 Section 1. Section **53A-1-708** is amended to read:

37 **53A-1-708. Grants for online delivery of U-PASS tests.**

38 (1) As used in this section:

39 (a) "Adaptive tests" means tests administered during the school year using an online
40 adaptive test system.

41 (b) "Core standards for Utah public schools" means the standards developed and
42 adopted by the State Board of Education that define the knowledge and skills students should
43 have in kindergarten through grade 12 to enable students to be prepared for college or
44 workforce training.

45 (c) "Summative tests" means tests administered near the end of a course to assess
46 overall achievement of course goals.

47 (d) "Uniform online summative test system" means a single system for the online
48 delivery of summative tests required under U-PASS that:

49 (i) is coordinated by the State Board of Education;

50 (ii) ensures the reliability and security of U-PASS tests; and

51 (iii) is selected through collaboration between the State Board of Education and school
52 district representatives with expertise in technology, assessment, and administration.

53 (e) "U-PASS" means the Utah Performance Assessment System for Students.

54 (2) The State Board of Education may award grants to school districts and charter
55 schools to implement [~~one or both of the following~~]:

56 (a) a uniform online summative test system to enable [~~parents of students and~~] school
57 staff and parents of students to review U-PASS test scores by the end of the school year; or

58 (b) an online adaptive test system to enable parents of students and school staff to

59 measure and monitor a student's academic progress during a school year.

60 (3) (a) Grant money may be used to pay for any of the following, provided it is directly
61 related to implementing a uniform online summative test system, an online adaptive test
62 system, or both:

63 (i) computer equipment and peripherals, including electronic data capture devices
64 designed for electronic test administration and scoring;

65 (ii) software;

66 (iii) networking equipment;

67 (iv) upgrades of existing equipment or software;

68 (v) upgrades of existing physical plant facilities;

69 (vi) personnel to provide technical support or coordination and management; and

70 (vii) teacher professional development.

71 (b) Equipment purchased in compliance with Subsection (3)(a), when not in use for the
72 online delivery of summative tests or adaptive tests required under U-PASS may be used for
73 other purposes.

74 (4) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
75 Act, the State Board of Education shall make rules:

76 (a) establishing procedures for applying for and awarding grants;

77 (b) specifying how grant money ~~[shall be]~~ is allocated among school districts and
78 charter schools;

79 (c) requiring reporting of grant money expenditures and evidence showing that the
80 grant money has been used to implement a uniform online summative test system, an online
81 adaptive test system, or both;

82 (d) establishing technology standards for an online adaptive testing system;

83 (e) requiring a school district or charter school that receives a grant under this section
84 to implement, in compliance with ~~[Chapter 1,]~~ Part 14, Student Data Protection Act, and
85 Chapter 13, Part 3, Utah Family Educational Rights and Privacy Act, an online adaptive test
86 system by the 2014-15 school year that:

87 (i) meets the technology standards established under Subsection (4)(d); and

88 (ii) is aligned with the core standards for Utah public schools;

89 (f) requiring a school district or charter school to provide matching funds to implement

90 a uniform online summative test system, an online adaptive test system, or both in an amount
91 that is greater than or equal to the amount of a grant received under this section; and

92 (g) ensuring that student identifiable data is not released to any person, except as
93 provided by [~~Chapter 1,~~] Part 14, Student Data Protection Act, [~~Section 53A-13-301~~] Chapter
94 13, Part 3, Utah Family Educational Rights and Privacy Act, and rules of the State Board of
95 Education adopted under [~~that section~~] the authority of those parts.

96 (5) If a school district or charter school uses grant money for purposes other than those
97 stated in Subsection (3), the school district or charter school is liable for reimbursing the State
98 Board of Education in the amount of the grant money improperly used.

99 (6) A school district or charter school may not use federal funds to provide the
100 matching funds required to receive a grant under this section.

101 (7) A school district may not impose a tax rate above the certified tax rate for the
102 purpose of generating revenue to provide matching funds for a grant under this section.

103 Section 2. Section **53A-11a-203** is amended to read:

104 **53A-11a-203. Parental notification of certain incidents and threats required.**

105 (1) For purposes of this section, "parent" includes a student's guardian.

106 (2) A school shall:

107 (a) notify a parent if the parent's student threatens to commit suicide; or

108 (b) notify the parents of each student involved in an incident of bullying,
109 cyber-bullying, harassment, hazing, or retaliation, of the incident involving each parent's
110 student.

111 (3) (a) If a school notifies a parent of an incident or threat required to be reported under
112 Subsection (2), the school shall produce and maintain a record that verifies that the parent was
113 notified of the incident or threat.

114 (b) A school shall maintain a record described in Subsection (3)(a) in accordance with
115 the requirements of:

116 (i) Chapter 1, Part 14, Student Data Protection Act;

117 [~~(ii) Sections 53A-13-301 and 53A-13-302;~~]

118 (ii) Chapter 13, Part 3, Utah Family Educational Rights and Privacy Act;

119 (iii) [~~Federal~~] the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g; and

120 (iv) 34 C.F.R. Part 99.

121 (4) A local school board or charter school governing board shall adopt a policy
122 regarding the process for:

123 (a) notifying a parent as required in Subsection (2); and

124 (b) producing and retaining a record that verifies that a parent was notified of an
125 incident or threat as required in Subsection (3).

126 (5) At the request of a parent, a school may provide information and make
127 recommendations related to an incident or threat described in Subsection (2).

128 (6) A school shall:

129 (a) provide a student a copy of a record maintained in accordance with this section that
130 relates to the student if the student requests a copy of the record; and

131 (b) expunge a record maintained in accordance with this section that relates to a
132 student if the student:

133 (i) has graduated from high school; and

134 (ii) requests the record be expunged.

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

136 **53A-13-301. Application of state and federal law to the administration and**
137 **operation of public schools -- Local school board and charter school governing board**
138 **policies.**

139 (1) As used in this section "education entity" means:

140 (a) the State Board of Education;

141 (b) a local school board or charter school governing board;

142 (c) a school district;

143 (d) a public school; or

144 (e) the Utah Schools for the Deaf and the Blind.

145 (2) An education entity and an employee, student aide, volunteer, third party
146 contractor, or other agent of an education entity shall protect the privacy of a student, the
147 student's parents, and the student's family and support parental involvement in the education of
148 their children through compliance with the protections provided for family and student privacy
149 under [~~Section 53A-13-302~~] this part and the Family Educational Rights and Privacy Act and
150 related provisions under 20 U.S.C. Secs. 1232g and 1232h, in the administration and operation
151 of all public school programs, regardless of the source of funding.

152 (3) A local school board or charter school governing board shall enact policies
153 governing the protection of family and student privacy as required by this [~~section and Section~~
154 ~~53A-13-302~~] part.

155 Section 4. Section **53A-13-303** is enacted to read:

156 **53A-13-303. Access to education records -- Training requirement -- Certification.**

157 (1) As used in this section, "education record" means the same as that term is defined
158 in the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

159 (2) A local school board or charter school governing board shall require each public
160 school to:

161 (a) create and maintain a list that includes the name and position of each school
162 employee who the public school authorizes, in accordance with Subsection (4), to have access
163 to an education record; and

164 (b) provide the list described in Subsection (2)(a) to the school's local school board or
165 charter school governing board.

166 (3) A local school board or charter school governing board shall:

167 (a) provide training on student privacy laws; and

168 (b) require a school employee on the list described in Subsection (2) to:

169 (i) complete the training described in Subsection (3)(a); and

170 (ii) provide to the local school board or charter school governing board a certified
171 statement, signed by the school employee, that certifies that the school employee completed the
172 training described in Subsection (3)(a) and that the school employee understands student
173 privacy requirements.

174 (4) (a) Except as provided in Subsection (4)(b), a local school board, charter school
175 governing board, public school, or school employee may only share an education record with a
176 school employee if:

177 (i) that school employee's name is on the list described in Subsection (2); and

178 (ii) federal and state privacy laws authorize the education record to be shared with that
179 school employee.

180 (b) A local school board, charter school governing board, public school, or school
181 employee may share an education record with a school employee if the board, school, or
182 employee obtains written consent from:

183 (i) the parent or legal guardian of the student to whom the education record relates, if
184 the student is younger than 18 years old; or
185 (ii) the student to whom the education record relates, if the student is 18 years old or
186 older.

Legislative Review Note
Office of Legislative Research and General Counsel