1   **Privacy Compliance for Education Technology Vendors**

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tiara Auxier

Senate Sponsor: John D. Johnson

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3   **LONG TITLE**

4   **General Description:**

5   This bill requires the termination of a contract with a third-party provider in certain

6   circumstances involving a failure to comply with state or federal privacy laws.

7   **Highlighted Provisions:**

8   This bill:

9   ‣ requires an education entity or a government agency contracting on behalf of an education

10   entity to:

11   • include certain provisions in a contract with a third-party contractor;

12   • notify a third-party contractor of the contractor's unauthorized sale of student data or

13   information in violation of state or federal privacy laws; and

14   • terminate a contract with a third-party contractor that does not remedy the privacy

15   violation after notification;

16   ‣ repeals a provision allowing a third-party contractor to respond to a student's request for

17   information or feedback;

18   ‣ requires the State Board of Education to conduct investigations of certain alleged

19   violations and audits of certain agreements; and

20   ‣ makes technical changes.

21   **Money Appropriated in this Bill:**

22   None

23   **Other Special Clauses:**

24   This bill provides a special effective date.

25   **Utah Code Sections Affected:**

26   AMENDS:

27   **53E-9-309**, as last amended by Laws of Utah 2020, Chapter 388

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

30   Section 1. Section **53E-9-309** is amended to read:

31   **53E-9-309 . Third-party contractors.**

32   (1) A third-party contractor shall use personally identifiable student data received under a

33   contract with an education entity strictly for the purpose of providing the contracted

34   product or service within the negotiated contract terms.

35   (2)(a) When contracting with a third-party contractor, an education entity, or a

36   government agency contracting on behalf of an education entity, shall[-] :

37   (i) require the following provisions in the contract:

38   [(a)] (A) requirements and restrictions related to the collection, use, storage, or

39   sharing of student data by the third-party contractor that are necessary for the

40   education entity to ensure compliance with the provisions of this part and state

41   board rule;

42   [(b)] (B) a description of a person, or type of person, including an affiliate of the

43   third-party contractor, with whom the third-party contractor may share student

44   data;

45   [(c)] (C) provisions that, at the request of the education entity, govern the deletion

46   of the student data received by the third-party contractor;

47   [(d)] (D) except as provided in Subsection (4) and if required by the education

48   entity, provisions that prohibit the secondary use of personally identifiable

49   student data by the third-party contractor; [and]

50   [(e)] (E) an agreement by the third-party contractor that, at the request of the

51   education entity that is a party to the contract, the education entity or the

52   education entity's designee may audit the third-party contractor to verify

53   compliance with the contract[.] ; and

54   (F) provisions describing the education entity's or government agency's statutory

55   duty to terminate the contract in the case of a privacy violation in accordance

56   with Subsection (2)(a)(iii) and prohibiting any fee or financial liability for the

57   termination;

58   (ii) within 30 days after the day on which the education entity or government agency

59   discovers a third-party contractor's unauthorized usage of student data or

60   information in violation of state or federal privacy laws, including this chapter, the

61   Family Education Rights and Privacy Act and related provisions under 20 U.S.C.

62   Secs. 1232g and 1232h, the Children's Online Privacy Protection Act, 15 U.S.C.

63   Sec. 6501 et seq., and any associated regulations, provide notice to the third-party

64   contractor of:

65   (A) the violation of the relevant state or federal privacy law; and

66   (B) the education entity's or government agency's duty to terminate the contract

67   under Subsection (2)(a)(iii); and

68   (iii) no sooner than 30 days after the day on which the education entity or

69   government agency provides the notice described in Subsection (2)(a)(ii),

70   terminate the contract with the third-party contractor if the contractor does not:

71   (A) remedy the privacy violation to the greatest extent practicable, in the

72   determination of the education entity or government agency; and

73   (B) establish processes and procedures to prevent the failure of compliance from

74   re-occurring.

75   (b) A third-party contractor may not impose a fee, seek damages, or otherwise assert any

76   financial liability against an education entity or government agency that terminates a

77   contract as a consequence of the contractor's unauthorized usage of student data or

78   information in violation of a relevant state or federal privacy law under Subsection

79   (2)(a)(iii).

80   (c)(i) A person may submit a report of a suspected violation directly to the state board

81   student data privacy team, through a reporting process that state board policy

82   establishes.

83   (ii) Upon receipt of a report described in Subsection (2)(c)(i), the state board student

84   data privacy team shall, in accordance with state board policies and procedures:

85   (A) conduct an initial review to determine whether the report is credible, relevant,

86   and sufficiently specific to warrant action; and

87   (B) if the report meets the standard described in Subsection (2)(c)(ii)(A), initiate a

88   compliance audit or investigation of the relevant third-party contractor.

89   (d) To combat data protection misunderstandings or misconceptions, state board staff

90   shall create materials or resources to be made available to third-party contractors.

91   (3) As authorized by law or court order, a third-party contractor shall share student data as

92   requested by law enforcement.

93   (4) A third-party contractor may:

94   (a) use student data for adaptive learning or customized student learning purposes;

95   (b) market an educational application or product to a parent of a student if the third-party

96   contractor did not use student data, shared by or collected on behalf of an education

97   entity, to market the educational application or product;

98   (c) use a recommendation engine to recommend to a student:

99   (i) content that relates to learning or employment, within the third-party contractor's

100   application, if the recommendation is not motivated by payment or other

101   consideration from another party; or

102   (ii) services that relate to learning or employment, within the third-party contractor's

103   application, if the recommendation is not motivated by payment or other

104   consideration from another party;

105   [(d) respond to a student request for information or feedback, if the content of the

106   response is not motivated by payment or other consideration from another party;]

107   [(e)] (d) use student data to allow or improve operability and functionality of the

108   third-party contractor's application; or

109   [(f)] (e) identify for a student nonprofit institutions of higher education or scholarship

110   providers that are seeking students who meet specific criteria if the criteria does not

111   include a personal identity characteristic as that term is defined in Section 53B-1-118:

112   (i) regardless of whether the identified nonprofit institutions of higher education or

113   scholarship providers provide payment or other consideration to the third-party

114   contractor; and

115   (ii) only if the third-party contractor obtains authorization in writing from:

116   (A) a student's parent through the student's school or LEA; or

117   (B) for an adult student, the student.

118   (5) At the completion of a contract with an education entity, if the contract has not been

119   renewed, a third-party contractor shall return or delete [upon the education entity's

120   request]all personally identifiable student data under the control of the education entity

121   unless [a student or]the student's parent [consents] gives written consent to the

122   third-party contractor's maintenance of the personally identifiable student data.

123   (6)(a) A third-party contractor may not:

124   (i) except as provided in Subsection (6)(b), sell student data;

125   (ii) collect, use, or share student data, if the collection, use, or sharing of the student

126   data is inconsistent with the third-party contractor's contract with the education

127   entity; or

128   (iii) use student data for targeted advertising.

129   (b) A person may obtain student data through the purchase of, merger with, or otherwise

130   acquiring a third-party contractor if the third-party contractor remains in compliance

131   with this section.

132   (7)   The provisions of this section do not:

133   (a)   apply to the use of a general audience application, including the access of a general

134   audience application with login credentials created by a third-party contractor's

135   application;

136   (b)   apply if the student data is shared in accordance with the education entity's directory

137   information policy, as described in 34 C.F.R. 99.37;

138   (c)   apply to the providing of Internet service; or

139   (d)   impose a duty on a provider of an interactive computer service, as defined in 47

140   U.S.C. Sec. 230, to review or enforce compliance with this section.

141   (8)   A provision of this section that relates to a student's student data does not apply to a

142   third-party contractor if the education entity or third-party contractor obtains

143   authorization from the following individual, in writing, to waive that provision:

144   (a)   the student's parent, if the student is not an adult student; or

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

146   Section 2.   **Effective Date.**

147   This bill takes effect on July 1, 2026.