

SB0296S01 compared with SB0296

~~{Omitted text}~~ shows text that was in SB0296 but was omitted in SB0296S01

inserted text shows text that was not in SB0296 but was inserted into SB0296S01

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

1

Student Consent Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor:Stephanie Gricius

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LONG TITLE

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General Description:

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This bill enacts provisions related to a student's educational data and informed consent.

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Highlighted Provisions:

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This bill:

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▸ defines terms;

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▸ enacts certain rights ~~{related to a}~~ regarding student ~~{and a student's educational}~~ data;

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▸ requires an education entity and institution of higher education to:

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• ~~{honor informed consent disclosures;}~~

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• disclose student data under certain circumstances;

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• offer ~~{secure platforms}~~ a secure, digital mechanism for obtaining informed consent; and

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• follow certain procedures when obtaining a student's informed consent;

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▸ allows an education entity and an institution of higher education to impose certain limitations;

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▸ prohibits an education entity and an institution of higher education from:

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• restricting a student's ability to grant informed consent;

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• requiring a student to waive certain rights; or

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- 19 • imposing certain limitations on a student's informed consent;
- 20 ▶ requires a parent to provide informed consent on behalf of the parent's minor student; {and}
- 21 ▶ creates a private right of action; and
- 21 ▶ allows the State Board of Education {or} and the Utah Board of Higher Education to issue best practices for informed consent.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 This bill provides a special effective date.

28 **Utah Code Sections Affected:**

29 ENACTS:

30 **53E-9-311** , Utah Code Annotated 1953

31 **53H-7-1001** , Utah Code Annotated 1953

32 **53H-7-1002** , Utah Code Annotated 1953

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

35 Section 1. Section 1 is enacted to read:

36 **53E-9-311.** {~~Student ownership~~} **Disclosure** of educational data -- Informed consent --

Access and disclosure.

37 (1) As used in this section:

38 {(a) }

{(i) {"~~\"Educational data\" means, regarding access to or disclosure of the student's data, personally identifiable information an education entity maintains from a student education record, as defined in the Family Educational Rights and Privacy Act 20 U.S.C. Sec. 1232g.~~}}

39 (a) \"Bona fide educational purpose\" means a need to access a student's educational data to provide services to the student directly related to the student's:

41 (i) educational program; or

42 (ii) participation in the workforce following completion of the student's educational program.

42 (ii){(b)} \"Educational data\" {includes} means a student's:

43 (A){(i)} transcript data;

44 (B){(ii)} enrollment information;

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- 45 (C){(iii)} course history; and
- 46 (D){(iv)} academic credentials.
- 47 (b){(c)} "Informed consent" means the same as that term is defined in Section 53H-7-1001.
- 48 {(2) {Educational data is the property of a student.}}
- 49 (3){(2)} In accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, this
chapter, and other relevant state and federal privacy laws, {a-} student who is currently enrolled in,
or has previously been enrolled in, an education entity has the right to:
- 53 (a) access the student's educational data;and
- 54 {(b) {disclose the student's educational data; and}}
- 55 (c){(b)} authorize access to the student's educational data in accordance with this section.
- 56 (4){(3)} An education entity shall:
- 57 (a) {honor-} subject to Subsection (9), disclose a student's {informed consent to disclose} educational
data {to a third-party the student designates} ;
- 59 (b) beginning July 1, 2027, offer a secure digital or electronic mechanism as the primary method for
obtaining informed consent under this section;
- 60 (c) allow informed consent in written form if a digital or electronic mechanism is not reasonably
available to the student;
- 61 (c){(d)} when obtaining a student's consent through a digital or electronic consent mechanism:
- 62 (i) allow the student to review all consent information before authorization; and
- 63 (ii) prohibit the bundling of unrelated terms or conditions with the consent request; and
- 65 (d){(e)} regarding a limitation imposed under Subsection (5)(b):
- 66 (i) clearly disclose the limitation at the time the entity grants access; and
- 67 (ii) provide a reasonable mechanism that allows a student to re-access educational data after the
expiration of a time-based or session-based limitation.
- 69 {(5) {An education entity may:}}
- 70 {(a) {allow informed consent in written form only if a digital or electronic mechanism is not reasonably
available to the student; and}}
- 72 (b){(4)} An education entity may impose reasonable time-based or session-based limitations on a
student's technical method of access to educational data.
- 74 (6){(5)} An education entity may not:
- 75 (a) deny, delay, or restrict a student's ability to grant informed consent that complies with this section;

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- 77 (b) require a student to waive unrelated rights or agree to unrelated terms as a condition of granting
informed consent; and
- 79 (c) impose a limitation under Subsection (5)(b) that:
- 80 (i) restricts the student's underlying right to access the student's educational data;
- 81 (ii) prevents the student from requesting renewed access; or
- 82 (iii) limits the student's ability to provide informed consent for disclosure of the student's educational
data.
- 84 (7){(6)} If a student is {a minor} under 18 years old and the disclosure is to a party other than the
student, an education entity shall obtain the parent's consent on behalf of the student in accordance
with this section.
- 86 (8){(7)} This section does not alter, limit, or supersede any right or obligation under:
- 87 (a) the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g;
- 88 (b) this chapter; or
- 89 (c) any other applicable state or federal privacy law.
- 90 (9){(8)} The state board may issue nonbinding guidance regarding best practices for consent
mechanisms that comply with the requirements of this section.
- 91 (9) An education entity shall disclose a student's educational data to a third party under this section
only:
- 93 (a) with the informed consent of the student;
- 94 (b) according to the terms of the document expressing the student's informed consent;
- 95 (c) if the purpose of the disclosure stated in the document expressing the student's informed consent to
the disclosure demonstrates a bona fide educational purpose in the student's educational data; and
- 98 (d) subject to the agreement of the third party receiving the student's educational data:
- 99 (i) to use the student's educational data only as provided in the document expressing the student's
informed consent to the disclosure; and
- 101 (ii) to not redisclose the student's educational data to any other party.
- 102 (10) A third party that receives the educational data of more than 10 students is subject to:
- 103 (a) the data privacy requirements described in Title 53E, Chapter 9, Part 3, Student Data Protection; and
- 105 (b) policies and administrative rules the state board adopts to protect student data.
- 106 (11)

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(a) A student whose educational data is shared as a result of a violation of a third party's failure to comply with the requirements of this section has a private right of action against the third party.

109 (b) A student described in Subsection (11)(a) does not have a private right of action against the education entity.

111 Section 2. Section 2 is enacted to read:

113 **53H-7-1001. General provisions -- Definitions.**

10. Student Data

As used in this part:

96 {~~(+)~~ }

{~~(a)~~ {~~"Educational data" means, regarding access to or disclosure of the student's data, personally identifiable information an institution maintains from a student education record, as defined in the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.~~} }

115 (1) "Bona fide educational purpose" means the same as that term is defined in Section 53E-9-311.

100 (b){~~(2)~~} "Educational data" {~~includes~~} means a student's:

101 (i){~~(a)~~} transcript data;

102 (ii){~~(b)~~} enrollment information;

103 (iii){~~(c)~~} course history; and

104 (iv){~~(d)~~} academic credentials.

105 (2){~~(3)~~} "Informed consent" means voluntary, affirmative {~~authorization an individual~~}, written authorization complying with the requirements of 34 C.F.R. Sec. 99.30 that a student provides after the individual is presented, in a clear manner, with sufficient information to reasonably understand:

108 (a) the ~~educational~~ data that is subject to access or disclosure;

126 (b) the purpose of the disclosure of the educational data;

109 (b){~~(c)~~} the {~~potential~~} recipient of the ~~educational~~ data disclosure;

110 (c){~~(d)~~} that the student has the right to revoke consent ~~of disclosure of the educational data~~ at any time; {~~and~~}

111 (d){~~(e)~~} the scope and duration of the authorization{-} ~~to disclose the educational data; and~~

131 (f) whether consent is a condition of the student's participation in any educational program or activity.

133 Section 3. Section 3 is enacted to read:

134 **53H-7-1002. {~~Student ownership~~} Disclosure of educational data -- Informed consent --**

Access and disclosure.

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- 115 {~~(1)~~ ~~{Educational data is the property of a student.}~~}
- 116 (2){(1)} In accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g,
and other relevant state and federal privacy laws, a student who is currently enrolled in, or has
previously been enrolled in, an institution has the right to:
- 119 (a) access the student's educational data;and
- 120 {~~(b)~~ ~~{disclose the student's educational data; and}~~}
- 121 (c){(b)} authorize access to the student's educational data in accordance with this section.
- 122 (3){(2)} An institution shall:
- 123 (a) {~~honor~~} subject to Subsection (3), disclose a student's {~~informed consent to disclose~~} educational
data {~~to a third-party the student designates~~} ;
- 125 (b) beginning July 1, 2027, offer a secure digital or electronic mechanism as the primary method for
obtaining informed consent under this section:
- 145 (c) shall allow informed consent in written form if a digital or electronic mechanism is not reasonably
available to the student;
- 127 (c){(d)} when obtaining a student's {~~consent through a digital or electronic~~} informed consent
{~~mechanism~~} :
- 128 (i) allow the student to review all consent information before authorization; {~~and~~}
- 149 (ii) allow the student to revoke consent at any time; and
- 129 (ii){(iii)} prohibit the bundling of unrelated terms or conditions with the consent request; and
- 131 (d){(e)} regarding a limitation imposed under Subsection {~~(4)(b)~~} (5)(b):
- 132 (i) clearly disclose the limitation at the time the institution grants access; and
- 133 (ii) provide a reasonable mechanism that allows a student to re-access educational data after the
expiration of a time-based or session-based limitation.
- 135 (4){(3)} An institution {~~may~~} shall disclose a student's educational data under this section only;
- 136 (a) {~~allow~~} with the informed consent {~~in written form only if a digital or electronic mechanism is not
reasonably available to~~} of the student; {~~and~~}
- 158 (b) according to the terms of the document expressing the informed consent of the student;
- 160 (c) if the purpose of the disclosure stated in the document expressing the informed consent of the
student to the disclosure demonstrates a bona fide educational purpose for the student's educational
data; and
- 163 (d) subject to the agreement of the third party receiving the student's educational data;

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- 164 (i) to use the student's educational data only as provided in the document expressing the informed
166 consent of the student to the disclosure; and
- 167 (ii) to not redisclose the student's educational data to any other party.
- 167 (4) A third party that receives the educational data of more than 10 students is subject to:
- 168 (a) data privacy requirements the Utah Board of Higher Education makes under Subsection
170 53H-14-502(5); and
- 170 (b) policies regarding the protection of student data the institution adopts under Subsection
138 53H-14-502(1).
- 138 (b){(5)} An institution may impose reasonable time-based or session-based limitations on a student's
140 technical method of access to educational data.
- 140 (5){(6)} An institution may not:
- 141 (a) deny, delay, or restrict a student's ability to grant informed consent that complies with this section;
- 143 (b) require a student to waive unrelated rights or agree to unrelated terms as a condition of granting
145 informed consent; and
- 145 (c) impose a limitation under Subsection {(4)(b)} (5)(b) that:
- 146 (i) restricts the student's underlying right to access the student's educational data;
- 147 (ii) prevents the student from requesting renewed access; or
- 148 (iii) limits the student's ability to provide informed consent for disclosure of the student's educational
150 data.
- 150 {(6) {If a student is a minor, an institution shall obtain the parent's consent on behalf of the student in
152 accordance with this section.}}
- 152 (7) This section does not alter, limit, or supersede any right or obligation under:
- 153 (a) the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; or
- 154 (b) any other applicable state or federal privacy law.
- 155 (8) The Utah Board of Higher Education may issue nonbinding guidance regarding best practices for
189 consent mechanisms that comply with the requirements of this section.
- 189 (9)
- 189 (a) A student whose educational data is shared as a result of a violation of a third party's failure to
192 comply with the requirements of this section has a private right of action against the third party.
- 192 (b) A student described in Subsection (9)(a) does not have a private right of action against the
institution.

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Section 4. **Effective date.**

Effective Date.

This bill takes effect on July 1, 2026.

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