

243 (16) "Record" means a record that is:

244 (a) incorporated, transferred, maintained, shared, or stored in a digital or electronic  
245 format; and

246 (b) maintained or stored for more than 12 months.

247 (17) "School official" means an employee or agent of an education entity who the  
248 education entity has determined has a legitimate educational interest in the student data.

249 (18) "Student authorization" means the authorization of:

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

251 (b) the student, if:

252 (i) the student is an adult student;

253 (ii) the student is emancipated; or

254 (iii) the student qualifies under the McKinney-Vento Homeless Education Assistance  
255 Improvements Act of 2001, 42 U.S.C. Sec. 11431, et seq.

256 (19) (a) "Student data" means student data contained in a record that is collected or  
257 reported at the individual student level and may be included in a student's educational record.

258 (b) "Student data" includes:

259 (i) allowable student data; and

260 (ii) optional student data.

261 (c) "Student data" does not include aggregate or de-identified data.

262 (20) "Student data system" means the State Board of Education's system for collecting,  
263 storing, and using student data.

264 (21) "Student educational record" means a student educational record as defined by the  
265 board.

266 (22) "Student records manager" means a student records manager designated by an  
267 education entity as described in Section 53A-13-301 to authorize and manage the release of a  
268 student's personally identifiable information.

269 (23) "Third party contractor" means a person, other than an education entity, that  $\hat{S} \rightarrow$  :

269a (a) enters into a contract or written agreement with an education entity to provide a  
269b service or product; and  $\leftarrow \hat{S}$

270  $\hat{S} \rightarrow$  (b)  $\leftarrow \hat{S}$  receives student data from  $\hat{S} \rightarrow$  [an] the  $\leftarrow \hat{S}$  education entity pursuant to  $\hat{S} \rightarrow$  [a]

270a the  $\leftarrow \hat{S}$  contract or written agreement.

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

272 **53A-13-301. Application of state law to the administration and operation of**  
273 **public schools -- Student information confidentiality standards -- Local school board and**

274 **charter school governing board policies.**

275 (1) An [~~employee, student aide, volunteer, or other agent of the state's public education~~  
276 ~~system~~] education entity and an employee, school official, student aide, volunteer, third party  
277 contractor, or other agent of an education entity shall protect the privacy of [~~students, their~~  
278 ~~parents, and their families~~] a student, the student's parents, and the student's family, and support  
279 parental involvement in the education of their children through compliance with the protections  
280 provided for family and student privacy under [~~Section 53A-13-302 and the Federal Family~~  
281 ~~Educational Rights and Privacy Act and related provisions under 20 U.S.C. 1232g and 1232h,~~]  
282 this part in the administration and operation of all public school programs, regardless of the  
283 source of funding.

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

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

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

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

288 (3) Except as provided in Subsections (5), (7), and (8), beginning with the 2016-17  
289 school year, an education entity may not release a student's personally identifiable information  
290 without student authorization.

291 (4) (a) Beginning with the 2016-17 school year, an education entity shall designate a  
292 student records manager to authorize the release of a student's personally identifiable  
293 information.

294 (b) Beginning with the 2016-17 school year, all requests for a student's personally  
295 identifiable information shall be ~~§~~ :

295a (i) ~~←~~ ~~§~~ handled by a student records manager ~~§~~ [:] ; and

295b (ii) governed by a contract or agreement related to the personally identifiable  
295c information. ←~~§~~

296 (5) Subject to the requirements of this section, beginning with the 2016-17 school year,  
297 a student records manager may release a student's personally identifiable information without  
298 student authorization to:

299 (a) a school official;

300 (b) a higher education institution;

301 (c) subject to the requirements of Subsection (7), an authorized caseworker or other  
302 representative of the Department of Human Services;

303 (d) a third party contractor, consultant, or other party to whom the education entity has  
304 outsourced services or functions for the following purposes:

305 (i) to conduct a study or perform research on the effectiveness of an implementation of  
 306 a program; or

307 (ii) to perform a service or function for which the education entity would otherwise use  
 308 the education entity's employees; or

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

310 (i) the student seeks or intends to enroll, or if the student is already enrolled, at the  
 311 out-of-state education agency; and

312 (ii) the release of personally identifiable information is for purposes related to the  
 313 student's enrollment or transfer.

314 (6) ~~H→ [Beginning with the 2016-17 school year, a student records manager]~~ **An education**  
 314a **entity or school official** ~~←H~~ may release

315 ~~H→ [aggregate]~~ ~~←H~~ student data to a person ~~H→~~ if the student data is ~~S→~~ [:

315a —— ~~(a) de-identified; or~~

315b —— ~~(b)~~ ~~←S~~ provided to the person in ~~S→~~ [the] ~~←S~~ aggregate ~~S→~~ form ~~←S~~ ~~←H~~ .

316 (7) Beginning with the 2016-17 school year, a student records manager may release a  
 317 student's personally identifiable information to a caseworker or other representative of the  
 318 Department of Human Services without student authorization if:

319 (a) the Department of Human Services is:

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

321 (ii) providing services to the student;

322 (b) the personally identifiable information is not disclosed or released to a person:

323 (i) who is not authorized to address the student's education needs; and

324 (ii) who is not authorized by the Department of Human Services to receive the  
 325 information; and

326 (c) the Department of Human Services maintains and secures the personally  
 327 identifiable data in accordance with the requirements of this part.

328 (8) Beginning with the 2016-17 school year, the Department of Human Services, a  
 329 school official, and the Utah Juvenile Court, may share educational information, including a  
 330 student's personally identifiable information, to improve education outcomes for youth:

331 (a) in the custody of, or under the guardianship of, the Department of Human Services;

332 (b) receiving services from the Division of Juvenile Justice Services;

333 (c) in the custody of the Division of Child and Family Services;

334 (d) receiving services from the Division of Services for People with Disabilities; or

335 (e) under the jurisdiction of the Utah Juvenile Court.

460 (F) how the student data is stored and a general description of security measures used  
 461 to protect the student data; and

462 (G) the parent's and adult student's rights related to the student's student data, including  
 463 the information described in Subsection 53A-13-301(2) ~~§~~ → [ ] ; and

463a (iii) includes a disclosure that:

463b (A) the education entity does not manage, control, or regulate the access, collection, or  
 463c use of student data, including personally identifiable information, related to a student's access  
 463d to a general audience application, software, website or service; and

463e (B) a student's access or use of a general audience application, software, website, or  
 463f service may include marketing or advertising as part of the student's access or use of the  
 463g general audience application, software, website, or service. ~~←~~ ~~§~~

464 (b) Beginning with the 2016-17 school year, in addition to providing a written student  
 465 data disclosure described in Subsection (4)(a), an education entity that collects ~~§~~ → optional ~~←~~ ~~§~~  
 465a student data, as

466 a condition of a student's participation in a program, shall develop a separate written student  
 467 data disclosure specific to the program, that includes:

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

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

472 (c) Beginning with the 2016-17 school year, an education entity may collect, capture,  
 473 purchase, or otherwise obtain a student's biometric identifier or biometric information if:

474 (i) in addition to the written student data disclosures described in Subsections (4)(a)  
 475 and (b), the education entity provides a separate student data disclosure specific to the  
 476 biometric information;

477 (ii) the disclosure described in Subsection (4)(c)(i) informs the student's parent or an  
 478 adult student:

479 (A) that a biometric identifier or biometric information will be collected or stored;

480 (B) of the specific purpose and length of term for which the biometric identifier or  
 481 biometric information is being collected, stored, and used; and

482 (iii) the student's parent or the adult student consents to the collection of the biometric  
 483 identifier or biometric information.

484 (5) On or before January 31, 2016, the board shall develop model student data  
 485 disclosures in accordance with Subsection (4).

553 (v) privacy and annual security audits;

554 (vi) breach planning, notification, and procedures; and

555 (vii) data retention and disposition policies approved by the State Records Committee  
556 as described in Section 63G-2-502;

557 (c) develop a model governance policy for education entities regarding the collection,  
558 access, security, and use of student data; and

559 (d) ensure that the following entities adopt a governance policy in accordance with the  
560 requirements of this part:

561 (i) local school boards;

562 (ii) charter schools; and

563 (iii) the Utah Schools for the Deaf and the Blind.

564 (3) (a) Except as provided in Subsection (3)(b), at the end of a contract between an  
565 education entity and a third party contractor, the third party contractor shall:

566 (i) return all personally identifiable information to the education entity; or

567 (ii) destroy all personally identifiable information related to the contract.

568 (b) Subsection (3)(a) does not apply to a third party contractor if:

569 (i) the third party contractor is affiliated with a higher education institution; and

570 (ii) the personally identifiable information is maintained in accordance with policies  
571 established by the higher education institution.

572 (4) A third party contractor may not:

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

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

577 (c) sell student data.

577a **§→ (5)(a) Nothing in this part shall be construed to prohibit the use or disclosure of student**  
577b **data, including personally identifiable information, if a student or student's parent**  
577c **self-initiates access or use of a general audience application, software, website, or service.**

577d **(b) A student or student's parent, may access or use a general audience application,**  
577e **software, website, or service.**

577f **(c) If a student or student's parent accesses or uses a general audience application,**  
577g **software, website, or service, the student or parent maintains the responsibility for agreeing or**  
577h **consenting to the third party's use of student data that may be shared as part of the student's**  
577i **or parent's access or use of the general audience application, software, website, or service. ☻**

577j           ⊕ (d) A general audience application, software, website, or service may allow for sales,  
577k marketing, or advertising if:

577l           (i) a student or student's parent accesses or uses the general audience application,  
577m software, website, or service; and

577n           (ii) the student or student's parent consents to the sales, marketing, or advertising. ←§

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

579           **53A-13-305. Chief privacy officer -- Reports of violations of student privacy laws**

580 -- **Penalties.**

581           (1) (a) The board shall designate a chief privacy officer.

582           (b) The chief privacy officer shall:

583           (i) oversee the administration of student privacy laws, including the requirements of