

- 336 (v) student injury information;  
 337 (w) a cumulative disciplinary record created and maintained as described in Section  
 338 53A-1-1407;  
 339 (x) juvenile delinquency records;  
 340 (y) English language learner status; and  
 341 (z) child find and special education evaluation data related to initiation of an IEP.  
 342 (17) (a) "Optional student data" means student data that is not:  
 343 (i) necessary student data; or  
 344 (ii) student data that an education entity may not collect under Section 53A-1-1406.  
 345 (b) "Optional student data" includes:  
 346 (i) information that is:  
 347 (A) related to an IEP or needed to provide special needs services; and  
 348 (B) ~~is~~ **[is]** ~~not~~ necessary student data;  
 349 (ii) biometric information; and  
 350 (iii) information that is not necessary student data and that is required for a student to  
 351 participate in a federal or other program.  
 352 (18) "Parent" means a student's parent or legal guardian.  
 353 (19) (a) "Personally identifiable student data" means student data that identifies or  
 354 helps to identify a student.  
 355 (b) "Personally identifiable student data" includes:  
 356 (i) a student's first and last name;  
 357 (ii) the name of a student's family member;  
 358 (iii) a student's or a student's family's home or physical address;  
 359 (iv) a student's email address or online contact information;  
 360 (v) a student's telephone number;  
 361 (vi) a student's social security number;  
 362 (vii) a student's biometric identifier;  
 363 (viii) a student's health or disability data;  
 364 (ix) a student's education entity student identification number;  
 365 (x) a student's social media login or alias;  
 366 (xi) a student's persistent identifier, if the identifier is associated with personally

522 (i) the optional student data to be collected; and  
 523 (ii) how the education entity will use the optional student data; and  
 524 (b) obtains a data authorization to collect the optional student data from an individual  
 525 described in Subsection (4).

526 (6) An education entity may collect a student's biometric identifier or biometric  
 527 information into a cumulative record if the education entity:

528 (a) provides, to an individual described in Subsection (4), a biometric information  
 529 disclosure statement that is separate from a student data disclosure statement, which states:

530 (i) the biometric identifier or biometric information to be collected;  
 531 (ii) the purpose of collecting the biometric identifier or biometric information; and  
 532 (iii) how the education entity will use and store the biometric identifier or biometric  
 533 information; and

534 (b) obtains a data authorization to collect the biometric identifier or biometric  
 535 information from an individual described in Subsection (4).

536 Section 9. Section **53A-1-1407** is enacted to read:

537 **53A-1-1407. Using and destroying student data -- Rulemaking -- Cumulative**  
 538 **disciplinary record.**

539 (1) In accordance with Title 63G, Chapter 2, Government Records Access and  
 540 Management Act, and Chapter 3, Utah Administrative Rulemaking Act, the board shall make  
 541 rules regarding using and expunging student data, including:

542 (a) a categorization of cumulative disciplinary records that includes the following  
 543 levels of maintenance:

544 (i) one year;  
 545 (ii) three years; and  
 546 (iii) except as required in Subsection ~~H~~→ [(2)(b)] (3) ←H , as determined by the  
 546a education entity;

547 (b) the types of student data that may be expunged, including:

548 (i) medical records; and  
 549 (ii) behavioral test assessments; and

550 (c) the types of student data that may not be expunged, including:

551 (i) grades;  
 552 (ii) transcripts;

584 identifiable student data from a cumulative record for the education entity as described in this  
585 section; and

586 (b) act as the primary local point of contact for the state student data officer described  
587 in Section 53A-1-1403.

588 (4) (a) Except as provided in this section ~~H~~→ or required by federal law ←~~H~~, a student  
588a data manager may not share,  
589 outside of the education entity, personally identifiable student data from a cumulative record  
590 without a data authorization.

591 (b) A student data manager may share the personally identifiable student data of a  
592 student with the student and the student's parent.

593 (5) A student data manager may share a student's personally identifiable student data  
594 from a cumulative record with:

595 (a) a school official;

596 (b) as described in Subsection (6), an authorized caseworker or other representative of  
597 the Department of Human Services; or

598 (c) a person to whom the student data manager's education entity has outsourced a  
599 service or function:

600 (i) to research the effectiveness of a program's implementation; or

601 (ii) that the education entity's employees would typically perform.

602 (6) A student data manager may share a student's personally identifiable student data  
603 from a cumulative record with a caseworker or representative of the Department of Human  
604 Services if:

605 (a) the Department of Human Services is:

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

607 (ii) providing services to the student;

608 (b) the student's personally identifiable student data is not shared with a person who is  
609 not authorized:

610 (i) to address the student's education needs; or

611 (ii) by the Department of Human Services to receive the student's personally  
612 identifiable student data; and

613 (c) the Department of Human Services maintains and protects the student's personally  
614 identifiable student data.

615 (7) The Department of Human Services, a school official, or the Utah Juvenile Court  
 616 may share education information, including a student's personally identifiable student data, to  
 617 improve education outcomes for youth:

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

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

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

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

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

623 (8) Subject to Subsection (9), a student data manager may share aggregate data.

624 (9) (a) If a student data manager receives a request to share data for the purpose of  
 625 external research or evaluation, the student data manager shall:

626 (i) submit the request to the education entity's external research review process; and

627 (ii) fulfill the instructions that result from the review process.

628 (b) A student data manager may not share personally identifiable student data for the  
 629 purpose of external research or evaluation.

629a **H→ (10) (a) A student data manager may share personally identifiable student data in**  
 629b **response to a subpoena issued by a court.**

629c **(b) A person who receives personally identifiable student data under Subsection (10)(a)**  
 629d **may not use the personally identifiable student data outside of the use described in the**  
 629e **subpoena.**

629f **(11) (a) In accordance with board rule, a student data manager may share personally**  
 629g **identifiable information that is directory information.**

629h **(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the**  
 629i **board shall make rules to:**

629j **(i) define directory information; and**

629k **(ii) determine how a student data manager may share personally identifiable**  
 629l **information that is directory information. ←H**

630 Section 12. Section **53A-1-1410** is enacted to read:

631 **53A-1-1410. Third-party contractors -- Use and protection of student data --**

632 **Contract requirements -- Completion of contract -- Restrictions on use of student data.**

633 **(1) H→ [(a)] ←H A third-party contractor shall use student data received through a contract**  
 633a **with**

634 **an education entity strictly for the purpose of providing the contracted product or service.**

635 **H→ [(b) A third-party contractor shall maintain and protect student data in accordance with**  
 636 **this part and board rule.Ⓢ**

637 ~~Ⓢ(i) If a third-party contractor collects student data, the third-party contractor shall abide~~  
638 ~~by the same provisions as an education entity under Section 53A-1-1406.~~

639 ~~(ii) If a third-party contractor shares student data outside of the education entity, the~~  
640 ~~third-party contractor shall work with the student data manager to fulfill the requirements of~~  
641 ~~Section 53A-1-1409.] ←Ĥ~~

642 (2) When contracting with a third-party contractor, an education entity shall require the  
643 following provisions in the contract:

644 ~~Ĥ→ [(a) requirements and restrictions on the use of student data by the third-party~~  
645 ~~contractor, including an acknowledgment that the third-party contractor will abide byⓈ~~

646 ~~Subsection (1):~~

646a (a) requirements and restrictions related to collection, use, storage, or sharing of student data  
 646b by the third-party contractor that are necessary for the education entity to ensure compliance  
 646c with the provisions of this part and board rule; ←H

647 (b) a prohibition on the sharing of student data with any entity or affiliate of the  
 648 third-party contractor if the entity or affiliate of the third-party contractor is not named and  
 649 authorized in the contract to receive the student data;

650 (c) dates that govern the permanent destruction of student data received by the  
 651 third-party contractor;

652 (d) prohibitions on the secondary use of personally identifiable student data by a  
 653 third-party contractor, including sales, marketing, or advertising; and

654 (e) an agreement by the third-party contractor that, at the request of the education entity  
 655 that is a party to the contract, the education entity or the education entity's designee may audit  
 656 the third-party contractor to verify compliance with the contract.

657 (3) At the completion of a contract with an education entity, if the contract has not  
 658 been renewed, a third-party contractor shall:

659 (a) return all personally identifiable student data to the education entity; or

660 (b) destroy all personally identifiable student data related to the third-party contractor's  
 661 work.

662 (4) A third-party contractor may not:

663 (a) sell student data; or

664 (b) collect, use, or share student data in a way that is not authorized in the contract with  
 665 an education entity.

666 Section 13. Section **53A-1-1411** is enacted to read:

667 **53A-1-1411. Penalties.**

668 (1) (a) A third-party contractor that knowingly or recklessly permits unauthorized  
 669 collecting, sharing, or use of student data under this part:

670 (i) except as provided in Subsection (1)(b), may not enter into a future contract with an  
 671 education entity;

672 (ii) may be required by the board to pay a civil penalty of up to \$25,000; and

673 (iii) may be required to pay:

674 (A) the education entity's cost of notifying parents and students of the unauthorized  
 675 sharing or use of student data; and

676 (B) expenses incurred by the education entity as a result of the unauthorized sharing or