

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **53E-1-203**, as enacted by Laws of Utah 2019, Chapter 324

31 **53E-3-516**, as last amended by Laws of Utah 2019, Chapters 186 and 324

32 **53E-9-305**, as last amended by Laws of Utah 2019, Chapters 136, 175, and 186

33 **53E-9-309**, as last amended by Laws of Utah 2019, Chapter 186

34 **53G-8-208**, as last amended by Laws of Utah 2019, Chapter 293



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

37 Section 1. Section **53E-1-203** is amended to read:

38 **53E-1-203. State Superintendent's Annual Report.**

39 (1) The state board shall prepare and submit to the governor, the Education Interim
40 Committee, and the Public Education Appropriations Subcommittee, by January 15 of each
41 year, an annual written report known as the State Superintendent's Annual Report that includes:

- 42 (a) the operations, activities, programs, and services of the state board;
- 43 (b) subject to Subsection (4)(b), all reports listed in Subsection (4)(a); and
- 44 (c) data on the general condition of the schools with recommendations considered

45 desirable for specific programs, including:

- 46 (i) a complete statement of fund balances;
- 47 (ii) a complete statement of revenues by fund and source;
- 48 (iii) a complete statement of adjusted expenditures by fund, the status of bonded
49 indebtedness, the cost of new school plants, and school levies;
- 50 (iv) a complete statement of state funds allocated to each school district and charter
51 school by source, including supplemental appropriations, and a complete statement of
52 expenditures by each school district and charter school, including supplemental appropriations,
53 by function and object as outlined in the United States Department of Education publication
54 "Financial Accounting for Local and State School Systems";

55 (v) a statement that includes data on:

- 56 (A) fall enrollments;
- 57 (B) average membership;
- 58 (C) high school graduates;

59 (D) licensed and classified employees, including data reported by school districts on
60 educator ratings described in Section 53G-11-511;

61 (E) pupil-teacher ratios;

62 (F) average class sizes;

63 (G) average salaries;

64 (H) applicable private school data; and

65 (I) data from statewide assessments described in Section 53E-4-301 for each school
66 and school district;

67 (vi) statistical information regarding incidents of delinquent activity in the schools or at
68 school-related activities; and

69 (vii) other statistical and financial information about the school system that the state
70 superintendent considers pertinent.

71 (2) (a) For the purposes of Subsection (1)(c)(v):

72 (i) the pupil-teacher ratio for a school shall be calculated by dividing the number of
73 students enrolled in a school by the number of full-time equivalent teachers assigned to the
74 school, including regular classroom teachers, school-based specialists, and special education
75 teachers;

76 (ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio of
77 the schools within a school district;

78 (iii) the pupil-teacher ratio for charter schools aggregated shall be the median
79 pupil-teacher ratio of charter schools in the state; and

80 (iv) the pupil-teacher ratio for the state's public schools aggregated shall be the median
81 pupil-teacher ratio of public schools in the state.

82 (b) The report shall:

83 (i) include the pupil-teacher ratio for:

84 (A) each school district;

85 (B) the charter schools aggregated; and

86 (C) the state's public schools aggregated; and

87 (ii) identify a website where pupil-teacher ratios for each school in the state may be
88 accessed.

89 (3) For each operation, activity, program, or service provided by the state board, the

90 annual report shall include:

91 (a) a description of the operation, activity, program, or service;

92 (b) data and metrics:

93 (i) selected and used by the state board to measure progress, performance,
94 effectiveness, and scope of the operation, activity, program, or service, including summary
95 data; and

96 (ii) that are consistent and comparable for each state operation, activity, program, or
97 service;

98 (c) budget data, including the amount and source of funding, expenses, and allocation
99 of full-time employees for the operation, activity, program, or service;

100 (d) historical data from previous years for comparison with data reported under
101 Subsections (3)(b) and (c);

102 (e) goals, challenges, and achievements related to the operation, activity, program, or
103 service;

104 (f) relevant federal and state statutory references and requirements;

105 (g) contact information of officials knowledgeable and responsible for each operation,
106 activity, program, or service; and

107 (h) other information determined by the state board that:

108 (i) may be needed, useful, or of historical significance; or

109 (ii) promotes accountability and transparency for each operation, activity, program, or
110 service with the public and elected officials.

111 (4) (a) Except as provided in Subsection (4)(b), the annual report shall also include:

112 (i) the report described in Section 53E-3-507 by the state board on career and technical
113 education needs and program access;

114 (ii) through October 1, 2022, the report described in Section 53E-3-515 by the state
115 board on the Hospitality and Tourism Management Career and Technical Education Pilot
116 Program;

117 (iii) beginning on July 1, [2020] 2023, the report described in Section 53E-3-516 by the
118 state board on certain incidents that occur on school grounds;

119 (iv) the report described in Section 53E-4-202 by the state board on the development
120 and implementation of the core standards for Utah public schools;

121 (v) the report described in Section 53E-5-310 by the state board on school turnaround
122 and leadership development;

123 (vi) the report described in Section 53E-10-308 by the state board and State Board of
124 Regents on student participation in the concurrent enrollment program;

125 (vii) the report described in Section 53F-2-503 by the state board on early literacy;

126 (viii) the report described in Section 53F-5-506 by the state board on information
127 related to competency-based education;

128 (ix) the report described in Section 53G-9-802 by the state board on dropout prevention
129 and recovery services; and

130 (x) the report described in Section 53G-10-204 by the state board on methods used, and
131 the results being achieved, to instruct and prepare students to become informed and responsible
132 citizens.

133 (b) The Education Interim Committee or the Public Education Appropriations
134 Subcommittee may request a report described in Subsection (4)(a) to be reported separately
135 from the State Superintendent's Annual Report.

136 (5) The annual report shall be designed to provide clear, accurate, and accessible
137 information to the public, the governor, and the Legislature.

138 (6) The state board shall:

139 (a) submit the annual report in accordance with Section 68-3-14; and

140 (b) make the annual report, and previous annual reports, accessible to the public by
141 placing a link to the reports on the state board's website.

142 (7) (a) Upon request of the Education Interim Committee or Public Education
143 Appropriations Subcommittee, the state board shall present the State Superintendent's Annual
144 Report to either committee.

145 (b) After submitting the State Superintendent's Annual Report in accordance with this
146 section, the state board may supplement the report at a later time with updated data,
147 information, or other materials as necessary or upon request by the governor, the Education
148 Interim Committee, or the Public Education Appropriations Subcommittee.

149 Section 2. Section 53E-3-516 is amended to read:

150 **53E-3-516. School disciplinary and law enforcement action report -- Rulemaking**
151 **authority.**

152 (1) As used in this section:

153 (a) "Disciplinary action" means an action by a public school meant to formally
154 discipline a student of that public school that includes a suspension or expulsion.

155 (b) "Law enforcement agency" means the same as that term is defined in Section
156 77-7a-103.

157 (c) "Minor" means the same as that term is defined in Section 53G-6-201.

158 (d) "Other law enforcement activity" means a significant law enforcement interaction
159 with a minor that does not result in an arrest, including:

160 (i) a search and seizure by an SRO;

161 (ii) issuance of a criminal citation;

162 (iii) issuance of a ticket or summons;

163 (iv) filing a delinquency petition; or

164 (v) referral to a probation officer.

165 (e) "School is in session" means the hours of a day during which a public school
166 conducts instruction for which student attendance is counted toward calculating average daily
167 membership.

168 (f) (i) "School-sponsored activity" means an activity, fundraising event, club, camp,
169 clinic, or other event or activity that is authorized by a specific public school, according to LEA
170 governing board policy, and satisfies at least one of the following conditions:

171 (A) the activity is managed or supervised by a school district, public school, or public
172 school employee;

173 (B) the activity uses the school district or public school facilities, equipment, or other
174 school resources; or

175 (C) the activity is supported or subsidized, more than inconsequentially, by public
176 funds, including the public school's activity funds or Minimum School Program dollars.

177 (ii) "School-sponsored activity" includes preparation for and involvement in a public
178 performance, contest, athletic competition, demonstration, display, or club activity.

179 (g) "Student resource officer" or "SRO" means the same as that term is defined in
180 Section 53G-8-701.

181 (2) Beginning on July 1, [2020] 2023, the state board[~~, in collaboration with school~~
182 ~~districts, charter schools, and law enforcement agencies,~~] shall develop an annual report

183 regarding the following incidents that occur on school grounds while school is in session or
184 during a school-sponsored activity:

- 185 (a) arrests of a minor;
- 186 (b) other law enforcement activities; and
- 187 (c) disciplinary actions.

188 (3) Pursuant to state and federal law, law enforcement agencies shall collaborate with
189 the state board and LEAs to provide and validate data and information necessary to complete
190 the report described in Subsection (2), as requested by an LEA or the state board.

191 [~~3~~] (4) The report described in Subsection (2) shall include the following information
192 [by school district and charter school] listed separately for each LEA:

- 193 (a) the number of arrests of a minor, including the reason why the minor was arrested;
- 194 (b) the number of other law enforcement activities, including the following information
- 195 for each incident:

- 196 (i) the reason for the other law enforcement activity; and
- 197 (ii) the type of other law enforcement activity used;
- 198 (c) the number of disciplinary actions imposed, including:
- 199 (i) the reason for the disciplinary action; and
- 200 (ii) the type of disciplinary action; and
- 201 (d) the number of SROs employed.

202 [~~4~~] (5) The report described in Subsection (2) shall include the following
203 information, in aggregate, for each element described in Subsections [~~3~~] (4)(a) through (c):

- 204 (a) age;
- 205 (b) grade level;
- 206 (c) race;
- 207 (d) sex; and
- 208 (e) disability status.

209 [~~5~~] (6) Information included in the annual report described in Subsection (2) shall
210 comply with:

- 211 (a) Chapter 9, Part 3, Student Data Protection;
- 212 (b) Chapter 9, Part 2, Student Privacy; and
- 213 (c) the Family Education Rights and Privacy Act, 20 U.S.C. Secs. 1232g and 1232h.

214 [(6)] (7) The state board shall make rules to compile the report described in Subsection
215 (2).

216 [(7)] (8) The state board shall provide the report described in Subsection (2) in
217 accordance with Section 53E-1-203 for incidents that occurred during the previous school year.

218 Section 3. Section 53E-9-305 is amended to read:

219 **53E-9-305. Collecting student data -- Prohibition -- Student data collection notice**
220 **-- Written consent.**

221 (1) An education entity may not collect a student's:

222 (a) social security number; or

223 (b) except as required in Section 78A-6-112, criminal record.

224 (2) [Am] Except as provided in Subsection (3), an education entity that collects student
225 data shall, in accordance with this section, prepare and distribute~~[-except as provided in~~
226 ~~Subsection (3);]~~ to parents and students a student data collection notice statement that:

227 (a) is a prominent, stand-alone document;

228 (b) is annually updated and published on the education entity's website;

229 (c) states the student data that the education entity collects;

230 (d) states that the education entity will not collect the student data described in
231 Subsection (1);

232 (e) states the student data described in Section 53E-9-308 that the education entity may
233 not share without written consent;

234 (f) includes the following statement:

235 "The collection, use, and sharing of student data has both benefits and risks. Parents
236 and students should learn about these benefits and risks and make choices regarding student
237 data accordingly.";

238 (g) describes in general terms how the education entity stores and protects student data;
239 and

240 (h) states a student's rights under this part.

241 (3) The state board may publicly post the state board's collection notice described in
242 Subsection (2).

243 (4) An education entity may collect the necessary student data of a student if the
244 education entity provides a student data collection notice to:

- 245 (a) the student, if the student is an adult student; or
246 (b) the student's parent, if the student is not an adult student.
- 247 (5) An education entity may collect optional student data if the education entity:
248 (a) provides, to an individual described in Subsection (4), a student data collection
249 notice that includes a description of:
250 (i) the optional student data to be collected; and
251 (ii) how the education entity will use the optional student data; and
252 (b) obtains written consent to collect the optional student data from an individual
253 described in Subsection (4).
- 254 (6) An education entity may collect a student's biometric identifier or biometric
255 information if the education entity:
256 (a) provides, to an individual described in Subsection (4), a biometric information
257 collection notice that is separate from a student data collection notice, which states:
258 (i) the biometric identifier or biometric information to be collected;
259 (ii) the purpose of collecting the biometric identifier or biometric information; and
260 (iii) how the education entity will use and store the biometric identifier or biometric
261 information; and
262 (b) obtains written consent to collect the biometric identifier or biometric information
263 from an individual described in Subsection (4).
- 264 (7) Except under the circumstances described in Subsection [53G-8-211\(2\)](#), an
265 education entity may not refer a student to an evidence-based alternative intervention described
266 in Subsection [53G-8-211\(3\)](#) without written consent.
- 267 (8) Nothing in this section prohibits an education entity from including additional
268 information related to student and parent privacy in the notice described in Subsection (2).
- 269 Section 4. Section **53E-9-309** is amended to read:
270 **53E-9-309. Third-party contractors.**
- 271 (1) A third-party contractor shall use personally identifiable student data received
272 under a contract with an education entity strictly for the purpose of providing the contracted
273 product or service within the negotiated contract terms.
- 274 (2) When contracting with a third-party contractor, an education entity, or a
275 government agency contracting on behalf of an education entity, shall require the following

276 provisions in the contract:

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

280 (b) a description of a person, or type of person, including an affiliate of the third-party
281 contractor, with whom the third-party contractor may share student data;

282 (c) provisions that, at the request of the education entity, govern the deletion of the
283 student data received by the third-party contractor;

284 (d) except as provided in Subsection (4) and if required by the education entity,
285 provisions that prohibit the secondary use of personally identifiable student data by the
286 third-party contractor; and

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

290 (3) As authorized by law or court order, a third-party contractor shall share student data
291 as requested by law enforcement.

292 (4) A third-party contractor may:

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

294 (b) market an educational application or product to a parent of a student if the
295 third-party contractor did not use student data, shared by or collected on behalf of an education
296 entity, to market the educational application or product;

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

298 (i) content that relates to learning or employment, within the third-party contractor's
299 application, if the recommendation is not motivated by payment or other consideration from
300 another party; or

301 (ii) services that relate to learning or employment, within the third-party contractor's
302 application, if the recommendation is not motivated by payment or other consideration from
303 another party;

304 (d) respond to a student request for information or feedback, if the content of the
305 response is not motivated by payment or other consideration from another party;

306 (e) use student data to allow or improve operability and functionality of the third-party

307 contractor's application; or

308 (f) identify for a student nonprofit institutions of higher education or scholarship
309 providers that are seeking students who meet specific criteria:

310 (i) regardless of whether the identified nonprofit institutions of higher education or
311 scholarship providers provide payment or other consideration to the third-party contractor; and

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

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

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

315 (5) At the completion of a contract with an education entity, if the contract has not
316 been renewed, a third-party contractor shall return or delete upon the education entity's request
317 all personally identifiable student data under the control of the education entity unless a student
318 or the student's parent consents to the maintenance of the personally identifiable student data.

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

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

321 (ii) collect, use, or share student data, if the collection, use, or sharing of the student
322 data is inconsistent with the third-party contractor's contract with the education entity; or

323 (iii) use student data for targeted advertising.

324 (b) A person may obtain student data through the purchase of, merger with, or
325 otherwise acquiring a third-party contractor if the third-party contractor remains in compliance
326 with this section.

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

328 (a) apply to the use of a general audience application, including the access of a general
329 audience application with login credentials created by a third-party contractor's application;

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

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

332 [~~(b)~~] (c) apply to the providing of Internet service; or

333 [~~(c)~~] (d) impose a duty on a provider of an interactive computer service, as defined in
334 47 U.S.C. Sec. 230, to review or enforce compliance with this section.

335 (8) A provision of this section that relates to a student's student data does not apply to a
336 third-party contractor if the education entity or third-party contractor obtains authorization from
337 the following individual, in writing, to waive that provision:

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

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

340 Section 5. Section **53G-8-208** is amended to read:

341 **53G-8-208. Student suspended or expelled -- Responsibility of parent --**

342 **Application for students with disabilities.**

343 (1) If a student is suspended or expelled from a public school under this part for more
344 than 10 school days, the parent is responsible for undertaking an alternative education plan
345 which will ensure that the student's education continues during the period of suspension or
346 expulsion.

347 (2) (a) The parent shall work with designated school officials to determine how that
348 responsibility might best be met through private education, an alternative program offered by
349 or through the district or charter school, or other alternative which will reasonably meet the
350 educational needs of the student.

351 (b) The parent and designated school official may enlist the cooperation of the Division
352 of Child and Family Services, the juvenile court, or other appropriate state agencies to meet the
353 student's educational needs.

354 (3) Costs for educational services which are not provided by the school district or
355 charter school are the responsibility of the student's parent.

356 (4) (a) Each school district or charter school shall maintain a record of all suspended or
357 expelled students and a notation of the recorded suspension or expulsion shall be attached to
358 the individual student's ~~transcript~~ cumulative folder.

359 (b) The district or charter school shall contact the parent of each suspended or expelled
360 student under the age of 16 at least once each month to determine the student's progress.

361 (5) (a) This part applies to students with disabilities to the extent permissible under
362 applicable law or regulation.

363 (b) If application of any requirement of this part to a student with a disability is not
364 permissible under applicable law or regulation, the responsible school authority shall
365 implement other actions consistent with the conflicting law or regulation which shall most
366 closely correspond to the requirements of this part.