

**OFFICE OF THE EDUCATION OMBUDSMAN**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karianne Lisonbee**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill creates the Office of the Education Ombudsman.

**Highlighted Provisions:**

This bill:

- ▶ creates the Office of the Education Ombudsman (office) in the governor's office;
- ▶ requires the office to report to the Education Interim Committee;
- ▶ defines terms;
- ▶ creates the Education Ombudsman Appointing Committee and establishes membership;
- ▶ establishes the duties of the office;
- ▶ enacts provisions governing liability and protected communications of the office;
- ▶ enacts provisions governing office confidentiality and privilege;
- ▶ amends provisions protecting certain records created or submitted to the office; and
- ▶ makes conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:



28 **53E-1-201**, as last amended by Laws of Utah 2021, Chapters 64, 251, and 351  
29 **63G-2-305**, as last amended by Laws of Utah 2021, Chapters 148, 179, 231, 353, 373,  
30 and 382

31 ENACTS:

- 32 **53E-10-801**, Utah Code Annotated 1953
- 33 **53E-10-802**, Utah Code Annotated 1953
- 34 **53E-10-803**, Utah Code Annotated 1953
- 35 **53E-10-804**, Utah Code Annotated 1953
- 36 **53E-10-805**, Utah Code Annotated 1953
- 37 **53E-10-806**, Utah Code Annotated 1953



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

40 Section 1. Section **53E-1-201** is amended to read:

41 **53E-1-201. Reports to and action required of the Education Interim Committee.**

42 (1) In accordance with applicable provisions and Section **68-3-14**, the following  
43 recurring reports are due to the Education Interim Committee:

44 (a) the report described in Section **9-22-109** by the STEM Action Center Board,  
45 including the information described in Section **9-22-113** on the status of the computer science  
46 initiative and Section **9-22-114** on the Computing Partnerships Grants Program;

47 (b) the prioritized list of data research described in Section **35A-14-302** and the report  
48 on research described in Section **35A-14-304** by the Utah Data Research Center;

49 (c) the report described in Section **35A-15-303** by the State Board of Education on  
50 preschool programs;

51 (d) the report described in Section **53B-1-402** by the Utah Board of Higher Education  
52 on career and technical education issues and addressing workforce needs;

53 (e) the annual report of the Utah Board of Higher Education described in Section  
54 **53B-1-402**;

55 (f) the reports described in Section **53B-28-401** by the Utah Board of Higher Education  
56 regarding activities related to campus safety;

57 (g) the State Superintendent's Annual Report by the state board described in Section  
58 **53E-1-203**;

- 59 (h) the annual report described in Section 53E-2-202 by the state board on the strategic  
60 plan to improve student outcomes;
- 61 (i) the report described in Section 53E-8-204 by the state board on the Utah Schools for  
62 the Deaf and the Blind;
- 63 (j) the report described in Section 53E-10-703 by the Utah Leading through Effective,  
64 Actionable, and Dynamic Education director on research and other activities;
- 65 (k) the report described in Section 53F-4-203 by the state board and the independent  
66 evaluator on an evaluation of early interactive reading software;
- 67 (l) the report described in Section 53F-4-407 by the state board on UPSTART;
- 68 (m) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board  
69 related to grants for professional learning and grants for an elementary teacher preparation  
70 assessment; ~~and~~
- 71 (n) the report described in Section 53F-5-405 by the State Board of Education  
72 regarding an evaluation of a partnership that receives a grant to improve educational outcomes  
73 for students who are low income[-]; and
- 74 (o) the report described in Section 53E-10-806 by the education ombudsman.
- 75 (2) In accordance with applicable provisions and Section 68-3-14, the following  
76 occasional reports are due to the Education Interim Committee:
- 77 (a) the report described in Section 35A-15-303 by the School Readiness Board by  
78 November 30, 2020, on benchmarks for certain preschool programs;
- 79 (b) the report described in Section 53B-28-402 by the Utah Board of Higher Education  
80 on or before the Education Interim Committee's November 2021 meeting;
- 81 (c) the reports described in Section 53E-3-520 by the state board regarding cost centers  
82 and implementing activity based costing;
- 83 (d) if required, the report described in Section 53E-4-309 by the state board explaining  
84 the reasons for changing the grade level specification for the administration of specific  
85 assessments;
- 86 (e) if required, the report described in Section 53E-5-210 by the state board of an  
87 adjustment to the minimum level that demonstrates proficiency for each statewide assessment;
- 88 (f) in 2022 and in 2023, on or before November 30, the report described in Subsection  
89 53E-10-309(7) related to the PRIME pilot program;

90 (g) the report described in Section [53E-10-702](#) by Utah Leading through Effective,  
91 Actionable, and Dynamic Education;

92 (h) if required, the report described in Section [53F-2-513](#) by the state board evaluating  
93 the effects of salary bonuses on the recruitment and retention of effective teachers in high  
94 poverty schools;

95 (i) upon request, the report described in Section [53F-5-207](#) by the state board on the  
96 Intergenerational Poverty Intervention Grants Program;

97 (j) the report described in Section [53F-5-210](#) by the state board on the Educational  
98 Improvement Opportunities Outside of the Regular School Day Grant Program;

99 (k) the report described in Section [53G-7-503](#) by the state board regarding fees that  
100 LEAs charge during the 2020-2021 school year;

101 (l) the reports described in Section [53G-11-304](#) by the state board regarding proposed  
102 rules and results related to educator exit surveys;

103 (m) the report described in Section [62A-15-117](#) by the Division of Substance Abuse  
104 and Mental Health, the State Board of Education, and the Department of Health regarding  
105 recommendations related to Medicaid reimbursement for school-based health services; and

106 (n) the reports described in Section [63C-19-202](#) by the Higher Education Strategic  
107 Planning Commission.

108 Section 2. Section [53E-10-801](#) is enacted to read:

109 **Part 8. Office of the Education Ombudsman**

110 **53E-10-801. Definitions.**

111 As used in this part:

112 (1) "Committee" means the Education Ombudsman Appointing Committee created in  
113 Section [53E-10-802](#).

114 (2) "Office" means the Office of the Education Ombudsman created in Section  
115 [53E-10-802](#).

116 (3) "Ombudsman" means the individual appointed under Section [53E-10-802](#).

117 Section 3. Section [53E-10-802](#) is enacted to read:

118 **53E-10-802. Office of the Education Ombudsman -- Appointing committee.**

119 (1) There is created in the governor's office the Office of the Education Ombudsman.

120 (2) The committee shall appoint an individual with a background and expertise in state

121 and federal elementary and secondary education law and policy to:

122 (a) serve as the ombudsman; and

123 (b) direct the office.

124 (3) An individual serving as the ombudsman:

125 (a) is an exempt employee; and

126 (b) may be terminated without cause by an action of the committee.

127 (4) (a) There is created the Education Ombudsman Appointing Committee.

128 (b) The committee shall consist of the following seven members:

129 (i) a member of the Senate majority caucus who represents rural areas of the state,

130 appointed by the president of the Senate;

131 (ii) a member of the Senate majority caucus who represents urban areas of the state,

132 appointed by the president of the Senate;

133 (iii) a member of the Senate minority caucus, appointed by the president of the Senate;

134 (iv) a member of the House of Representatives majority caucus who represents rural

135 areas of the state, appointed by the speaker of the House of Representatives;

136 (v) a member of the House of Representatives who represents urban areas of the state,

137 appointed by the speaker of House of Representatives;

138 (vi) a member of the House of Representatives minority caucus, appointed by the

139 speaker of the House of Representatives; and

140 (vii) the governor or the governor's designee.

141 (c) (i) The president of Senate shall appoint one of the members described in

142 Subsection (1)(b)(i), (ii), or (iii) as cochair of the commission.

143 (ii) The speaker of the House of Representatives shall appoint one of the members

144 described in Subsection (1)(b)(iv), (v), or (vi) as cochair of the commission.

145 (d) The salary and expenses of a commission member who is a legislator shall be paid

146 in accordance with Section [36-2-2](#) and Legislative Joint Rules, Title 5, Chapter 3, Legislative

147 Compensation and Expenses.

148 (e) A committee member who is not a legislator may not receive compensation for the

149 member's service on the commission, but may receive per diem and reimbursement for travel

150 expenses incurred as a commission member at the rates established by the Division of Finance

151 under:

152 (i) Sections 63A-3-106 and 63A-3-107; and  
153 (ii) rules made by the Division of Finance in accordance with Sections 63A-3-106 and  
154 63A-3-107.

155 (f) (i) A majority of the commission members constitutes a quorum.  
156 (ii) The action of a majority of a quorum constitutes an action of the commission.  
157 (g) The office of the governor shall provide staff support to the commission.

158 Section 4. Section 53E-10-803 is enacted to read:

159 **53E-10-803. Duties.**

160 (1) Subject to Subsection (2), the office shall:

161 (a) develop and maintain expertise in state and federal kindergarten, elementary, and  
162 secondary education law;

163 (b) develop parental involvement materials, including instructional guides to inform  
164 parents of:

165 (i) the core standards implemented in accordance with Section 53E-4-202;

166 (ii) a statewide assessment, as defined in Section 53E-4-301;

167 (iii) education governance and administration, including the respective roles of the  
168 Legislature, state board, an LEA governing board, LEA administrators, school administrators,  
169 and parents;

170 (iv) the requirements of Title 53, Chapter 4, Open and Public Meetings Act;

171 (v) a program or curriculum that, under a state law or a policy or rule, a parent has a  
172 right to consent to before a student may participate in the program or receive the curriculum;

173 (vi) school discipline regulations and procedures as described in Title 53G, Chapter 8,  
174 Discipline and Safety; and

175 (vii) resources to support parents in assisting with their student's education;

176 (c) provide information to students, parents, and members of the public regarding the  
177 state's kindergarten, elementary, and secondary school system;

178 (d) facilitate the resolution of complaints made by parents and students with regard to  
179 the state's kindergarten, elementary, and secondary education system; and

180 (e) refer complaints, if necessary, or individuals who need further assistance to  
181 appropriate state and federal agencies or resources.

182 (2) The office may not:

183 (a) facilitate complaints concerning the following:  
 184 (i) an elected member of the state board or an LEA governing board;  
 185 (ii) an allegation or complaint in which the investigation or resolution of is governed  
 186 by Chapter 6, Education Professional Licensure; or

187 (iii) a complaint regarding an individualized education program or Section 504  
 188 accommodation plan; or

189 (b) respond to inquiries or complaints about:  
 190 (i) a private school;  
 191 (ii) a preschool;  
 192 (iii) a childcare center;  
 193 (iv) a public or private institution of higher education; or  
 194 (v) any other private organization, business, or entity.

195 (3) The office may not charge a fee.

196 Section 5. Section **53E-10-804** is enacted to read:

197 **53E-10-804. Liability for good faith performance -- Communications protected.**

198 (1) Neither the ombudsman nor an employee of the office is liable for good faith  
 199 performance of responsibilities under this part.

200 (2) (a) Neither the office nor an individual attorney employed by the office, if any, may  
 201 represent a person in a legal action that arises from or relates to a matter addressed in this part.

202 (b) An action by an attorney employed by the office, if any, does not create an  
 203 attorney-client relationship between the office or the office's attorney and a person.

204 (3) (a) No discriminatory, disciplinary, or retaliatory action may be taken against any  
 205 student, employee of an LEA, or an employee of the state board, for any communication made,  
 206 or information given or disclosed, to aid an employee of the office in carrying out the  
 207 employee's duties and responsibilities, unless the communication is made, or information is  
 208 given or disclosed, without good faith or maliciously.

209 (b) The provisions of Subsection (3)(a) do not prohibit an LEA or the state board from  
 210 supervising, disciplining, or terminating an employee for reasons other than those described in  
 211 Subsection (3)(a).

212 (4) (a) A communication by the ombudsman or an employee of the office, if reasonably  
 213 related to duties and responsibilities as described in this part, and done in good faith, are

214 privileged.

215 (b) The privilege created in Subsection (4)(a) is a defense to any action in libel or  
216 slander.

217 Section 6. Section **53E-10-805** is enacted to read:

218 **53E-10-805. Confidentiality.**

219 (1) The office shall treat all matters, including the identities of parents, students,  
220 complainants, and individuals from whom information is acquired, as confidential, except as  
221 necessary to enable the office to perform the duties as described in this part.

222 (2) Upon receipt of information that by law is confidential or privileged, the office:

223 (a) shall maintain the confidentiality; and

224 (b) may not disclose or disseminate the information except as provided by applicable  
225 state or federal law.

226 Section 7. Section **53E-10-806** is enacted to read:

227 **53E-10-806. Report.**

228 (1) No later than November 1, the ombudsman shall, in accordance with Section  
229 68-3-14, report annually to the Education Interim Committee.

230 (2) The report shall include:

231 (a) what services of the office have been requested and by whom without identifying  
232 individual requestors;

233 (b) an accounting of the most frequent type of conflicts the office is asked to help  
234 resolve;

235 (c) materials and trainings the office has created or conducted in the last year;

236 (d) recommendations to eliminate barriers and obstacles to meaningful parent and  
237 community involvement in public education; and

238 (e) any other information requested by the Education Interim Committee.

239 Section 8. Section **63G-2-305** is amended to read:

240 **63G-2-305. Protected records.**

241 The following records are protected if properly classified by a governmental entity:

242 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret  
243 has provided the governmental entity with the information specified in Section 63G-2-309;

244 (2) commercial information or nonindividual financial information obtained from a



245 person if:

246 (a) disclosure of the information could reasonably be expected to result in unfair  
247 competitive injury to the person submitting the information or would impair the ability of the  
248 governmental entity to obtain necessary information in the future;

249 (b) the person submitting the information has a greater interest in prohibiting access  
250 than the public in obtaining access; and

251 (c) the person submitting the information has provided the governmental entity with  
252 the information specified in Section [63G-2-309](#);

253 (3) commercial or financial information acquired or prepared by a governmental entity  
254 to the extent that disclosure would lead to financial speculations in currencies, securities, or  
255 commodities that will interfere with a planned transaction by the governmental entity or cause  
256 substantial financial injury to the governmental entity or state economy;

257 (4) records, the disclosure of which could cause commercial injury to, or confer a  
258 competitive advantage upon a potential or actual competitor of, a commercial project entity as  
259 defined in Subsection [11-13-103\(4\)](#);

260 (5) test questions and answers to be used in future license, certification, registration,  
261 employment, or academic examinations;

262 (6) records, the disclosure of which would impair governmental procurement  
263 proceedings or give an unfair advantage to any person proposing to enter into a contract or  
264 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this  
265 Subsection (6) does not restrict the right of a person to have access to, after the contract or  
266 grant has been awarded and signed by all parties:

267 (a) a bid, proposal, application, or other information submitted to or by a governmental  
268 entity in response to:

269 (i) an invitation for bids;

270 (ii) a request for proposals;

271 (iii) a request for quotes;

272 (iv) a grant; or

273 (v) other similar document; or

274 (b) an unsolicited proposal, as defined in Section [63G-6a-712](#);

275 (7) information submitted to or by a governmental entity in response to a request for

276 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict  
277 the right of a person to have access to the information, after:

278 (a) a contract directly relating to the subject of the request for information has been  
279 awarded and signed by all parties; or

280 (b) (i) a final determination is made not to enter into a contract that relates to the  
281 subject of the request for information; and

282 (ii) at least two years have passed after the day on which the request for information is  
283 issued;

284 (8) records that would identify real property or the appraisal or estimated value of real  
285 or personal property, including intellectual property, under consideration for public acquisition  
286 before any rights to the property are acquired unless:

287 (a) public interest in obtaining access to the information is greater than or equal to the  
288 governmental entity's need to acquire the property on the best terms possible;

289 (b) the information has already been disclosed to persons not employed by or under a  
290 duty of confidentiality to the entity;

291 (c) in the case of records that would identify property, potential sellers of the described  
292 property have already learned of the governmental entity's plans to acquire the property;

293 (d) in the case of records that would identify the appraisal or estimated value of  
294 property, the potential sellers have already learned of the governmental entity's estimated value  
295 of the property; or

296 (e) the property under consideration for public acquisition is a single family residence  
297 and the governmental entity seeking to acquire the property has initiated negotiations to acquire  
298 the property as required under Section [78B-6-505](#);

299 (9) records prepared in contemplation of sale, exchange, lease, rental, or other  
300 compensated transaction of real or personal property including intellectual property, which, if  
301 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value  
302 of the subject property, unless:

303 (a) the public interest in access is greater than or equal to the interests in restricting  
304 access, including the governmental entity's interest in maximizing the financial benefit of the  
305 transaction; or

306 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of

307 the value of the subject property have already been disclosed to persons not employed by or  
308 under a duty of confidentiality to the entity;

309 (10) records created or maintained for civil, criminal, or administrative enforcement  
310 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if  
311 release of the records:

312 (a) reasonably could be expected to interfere with investigations undertaken for  
313 enforcement, discipline, licensing, certification, or registration purposes;

314 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement  
315 proceedings;

316 (c) would create a danger of depriving a person of a right to a fair trial or impartial  
317 hearing;

318 (d) reasonably could be expected to disclose the identity of a source who is not  
319 generally known outside of government and, in the case of a record compiled in the course of  
320 an investigation, disclose information furnished by a source not generally known outside of  
321 government if disclosure would compromise the source; or

322 (e) reasonably could be expected to disclose investigative or audit techniques,  
323 procedures, policies, or orders not generally known outside of government if disclosure would  
324 interfere with enforcement or audit efforts;

325 (11) records the disclosure of which would jeopardize the life or safety of an  
326 individual;

327 (12) records the disclosure of which would jeopardize the security of governmental  
328 property, governmental programs, or governmental recordkeeping systems from damage, theft,  
329 or other appropriation or use contrary to law or public policy;

330 (13) records that, if disclosed, would jeopardize the security or safety of a correctional  
331 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere  
332 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

333 (14) records that, if disclosed, would reveal recommendations made to the Board of  
334 Pardons and Parole by an employee of or contractor for the Department of Corrections, the  
335 Board of Pardons and Parole, or the Department of Human Services that are based on the  
336 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's  
337 jurisdiction;

338 (15) records and audit workpapers that identify audit, collection, and operational  
339 procedures and methods used by the State Tax Commission, if disclosure would interfere with  
340 audits or collections;

341 (16) records of a governmental audit agency relating to an ongoing or planned audit  
342 until the final audit is released;

343 (17) records that are subject to the attorney client privilege;

344 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,  
345 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,  
346 quasi-judicial, or administrative proceeding;

347 (19) (a) (i) personal files of a state legislator, including personal correspondence to or  
348 from a member of the Legislature; and

349 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of  
350 legislative action or policy may not be classified as protected under this section; and

351 (b) (i) an internal communication that is part of the deliberative process in connection  
352 with the preparation of legislation between:

353 (A) members of a legislative body;

354 (B) a member of a legislative body and a member of the legislative body's staff; or

355 (C) members of a legislative body's staff; and

356 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of  
357 legislative action or policy may not be classified as protected under this section;

358 (20) (a) records in the custody or control of the Office of Legislative Research and  
359 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated  
360 legislation or contemplated course of action before the legislator has elected to support the  
361 legislation or course of action, or made the legislation or course of action public; and

362 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the  
363 Office of Legislative Research and General Counsel is a public document unless a legislator  
364 asks that the records requesting the legislation be maintained as protected records until such  
365 time as the legislator elects to make the legislation or course of action public;

366 (21) research requests from legislators to the Office of Legislative Research and  
367 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared  
368 in response to these requests;

- 369 (22) drafts, unless otherwise classified as public;
- 370 (23) records concerning a governmental entity's strategy about:
- 371 (a) collective bargaining; or
- 372 (b) imminent or pending litigation;
- 373 (24) records of investigations of loss occurrences and analyses of loss occurrences that
- 374 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
- 375 Uninsured Employers' Fund, or similar divisions in other governmental entities;
- 376 (25) records, other than personnel evaluations, that contain a personal recommendation
- 377 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
- 378 personal privacy, or disclosure is not in the public interest;
- 379 (26) records that reveal the location of historic, prehistoric, paleontological, or
- 380 biological resources that if known would jeopardize the security of those resources or of
- 381 valuable historic, scientific, educational, or cultural information;
- 382 (27) records of independent state agencies if the disclosure of the records would
- 383 conflict with the fiduciary obligations of the agency;
- 384 (28) records of an institution within the state system of higher education defined in
- 385 Section [53B-1-102](#) regarding tenure evaluations, appointments, applications for admissions,
- 386 retention decisions, and promotions, which could be properly discussed in a meeting closed in
- 387 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
- 388 the final decisions about tenure, appointments, retention, promotions, or those students
- 389 admitted, may not be classified as protected under this section;
- 390 (29) records of the governor's office, including budget recommendations, legislative
- 391 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
- 392 policies or contemplated courses of action before the governor has implemented or rejected
- 393 those policies or courses of action or made them public;
- 394 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
- 395 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
- 396 recommendations in these areas;
- 397 (31) records provided by the United States or by a government entity outside the state
- 398 that are given to the governmental entity with a requirement that they be managed as protected
- 399 records if the providing entity certifies that the record would not be subject to public disclosure

400 if retained by it;

401 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a  
402 public body except as provided in Section [52-4-206](#);

403 (33) records that would reveal the contents of settlement negotiations but not including  
404 final settlements or empirical data to the extent that they are not otherwise exempt from  
405 disclosure;

406 (34) memoranda prepared by staff and used in the decision-making process by an  
407 administrative law judge, a member of the Board of Pardons and Parole, or a member of any  
408 other body charged by law with performing a quasi-judicial function;

409 (35) records that would reveal negotiations regarding assistance or incentives offered  
410 by or requested from a governmental entity for the purpose of encouraging a person to expand  
411 or locate a business in Utah, but only if disclosure would result in actual economic harm to the  
412 person or place the governmental entity at a competitive disadvantage, but this section may not  
413 be used to restrict access to a record evidencing a final contract;

414 (36) materials to which access must be limited for purposes of securing or maintaining  
415 the governmental entity's proprietary protection of intellectual property rights including patents,  
416 copyrights, and trade secrets;

417 (37) the name of a donor or a prospective donor to a governmental entity, including an  
418 institution within the state system of higher education defined in Section [53B-1-102](#), and other  
419 information concerning the donation that could reasonably be expected to reveal the identity of  
420 the donor, provided that:

421 (a) the donor requests anonymity in writing;

422 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be  
423 classified protected by the governmental entity under this Subsection (37); and

424 (c) except for an institution within the state system of higher education defined in  
425 Section [53B-1-102](#), the governmental unit to which the donation is made is primarily engaged  
426 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority  
427 over the donor, a member of the donor's immediate family, or any entity owned or controlled  
428 by the donor or the donor's immediate family;

429 (38) accident reports, except as provided in Sections [41-6a-404](#), [41-12a-202](#), and  
430 [73-18-13](#);

431 (39) a notification of workers' compensation insurance coverage described in Section  
432 34A-2-205;

433 (40) (a) the following records of an institution within the state system of higher  
434 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,  
435 or received by or on behalf of faculty, staff, employees, or students of the institution:

436 (i) unpublished lecture notes;

437 (ii) unpublished notes, data, and information:

438 (A) relating to research; and

439 (B) of:

440 (I) the institution within the state system of higher education defined in Section  
441 53B-1-102; or

442 (II) a sponsor of sponsored research;

443 (iii) unpublished manuscripts;

444 (iv) creative works in process;

445 (v) scholarly correspondence; and

446 (vi) confidential information contained in research proposals;

447 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public  
448 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

449 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;

450 (41) (a) records in the custody or control of the Office of the Legislative Auditor

451 General that would reveal the name of a particular legislator who requests a legislative audit  
452 prior to the date that audit is completed and made public; and

453 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the  
454 Office of the Legislative Auditor General is a public document unless the legislator asks that  
455 the records in the custody or control of the Office of the Legislative Auditor General that would  
456 reveal the name of a particular legislator who requests a legislative audit be maintained as  
457 protected records until the audit is completed and made public;

458 (42) records that provide detail as to the location of an explosive, including a map or  
459 other document that indicates the location of:

460 (a) a production facility; or

461 (b) a magazine;

462 (43) information:  
463 (a) contained in the statewide database of the Division of Aging and Adult Services  
464 created by Section 62A-3-311.1; or  
465 (b) received or maintained in relation to the Identity Theft Reporting Information  
466 System (IRIS) established under Section 67-5-22;  
467 (44) information contained in the Licensing Information System described in Title  
468 62A, Chapter 4a, Child and Family Services;  
469 (45) information regarding National Guard operations or activities in support of the  
470 National Guard's federal mission;  
471 (46) records provided by any pawn or secondhand business to a law enforcement  
472 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and  
473 Secondhand Merchandise Transaction Information Act;  
474 (47) information regarding food security, risk, and vulnerability assessments performed  
475 by the Department of Agriculture and Food;  
476 (48) except to the extent that the record is exempt from this chapter pursuant to Section  
477 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or  
478 prepared or maintained by the Division of Emergency Management, and the disclosure of  
479 which would jeopardize:  
480 (a) the safety of the general public; or  
481 (b) the security of:  
482 (i) governmental property;  
483 (ii) governmental programs; or  
484 (iii) the property of a private person who provides the Division of Emergency  
485 Management information;  
486 (49) records of the Department of Agriculture and Food that provides for the  
487 identification, tracing, or control of livestock diseases, including any program established under  
488 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control  
489 of Animal Disease;  
490 (50) as provided in Section 26-39-501:  
491 (a) information or records held by the Department of Health related to a complaint  
492 regarding a child care program or residential child care which the department is unable to



493 substantiate; and

494 (b) information or records related to a complaint received by the Department of Health  
495 from an anonymous complainant regarding a child care program or residential child care;

496 (51) unless otherwise classified as public under Section 63G-2-301 and except as  
497 provided under Section 41-1a-116, an individual's home address, home telephone number, or  
498 personal mobile phone number, if:

499 (a) the individual is required to provide the information in order to comply with a law,  
500 ordinance, rule, or order of a government entity; and

501 (b) the subject of the record has a reasonable expectation that this information will be  
502 kept confidential due to:

503 (i) the nature of the law, ordinance, rule, or order; and

504 (ii) the individual complying with the law, ordinance, rule, or order;

505 (52) the portion of the following documents that contains a candidate's residential or  
506 mailing address, if the candidate provides to the filing officer another address or phone number  
507 where the candidate may be contacted:

508 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,  
509 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408,  
510 20A-9-408.5, 20A-9-502, or 20A-9-601;

511 (b) an affidavit of impecuniosity, described in Section 20A-9-201; or

512 (c) a notice of intent to gather signatures for candidacy, described in Section  
513 20A-9-408;

514 (53) the name, home address, work addresses, and telephone numbers of an individual  
515 that is engaged in, or that provides goods or services for, medical or scientific research that is:

516 (a) conducted within the state system of higher education, as defined in Section  
517 53B-1-102; and

518 (b) conducted using animals;

519 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance  
520 Evaluation Commission concerning an individual commissioner's vote on whether or not to  
521 recommend that the voters retain a judge including information disclosed under Subsection  
522 78A-12-203(5)(e);

523 (55) information collected and a report prepared by the Judicial Performance

524 Evaluation Commission concerning a judge, unless Section [20A-7-702](#) or Title 78A, Chapter  
525 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,  
526 the information or report;

527 (56) records provided or received by the Public Lands Policy Coordinating Office in  
528 furtherance of any contract or other agreement made in accordance with Section [63L-11-202](#);

529 (57) information requested by and provided to the 911 Division under Section  
530 [63H-7a-302](#);

531 (58) in accordance with Section [73-10-33](#):

532 (a) a management plan for a water conveyance facility in the possession of the Division  
533 of Water Resources or the Board of Water Resources; or

534 (b) an outline of an emergency response plan in possession of the state or a county or  
535 municipality;

536 (59) the following records in the custody or control of the Office of Inspector General  
537 of Medicaid Services, created in Section [63A-13-201](#):

538 (a) records that would disclose information relating to allegations of personal  
539 misconduct, gross mismanagement, or illegal activity of a person if the information or  
540 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services  
541 through other documents or evidence, and the records relating to the allegation are not relied  
542 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation  
543 report or final audit report;

544 (b) records and audit workpapers to the extent they would disclose the identity of a  
545 person who, during the course of an investigation or audit, communicated the existence of any  
546 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or  
547 regulation adopted under the laws of this state, a political subdivision of the state, or any  
548 recognized entity of the United States, if the information was disclosed on the condition that  
549 the identity of the person be protected;

550 (c) before the time that an investigation or audit is completed and the final  
551 investigation or final audit report is released, records or drafts circulated to a person who is not  
552 an employee or head of a governmental entity for the person's response or information;

553 (d) records that would disclose an outline or part of any investigation, audit survey  
554 plan, or audit program; or

555 (e) requests for an investigation or audit, if disclosure would risk circumvention of an  
556 investigation or audit;

557 (60) records that reveal methods used by the Office of Inspector General of Medicaid  
558 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or  
559 abuse;

560 (61) information provided to the Department of Health or the Division of Occupational  
561 and Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections  
562 58-68-304(3) and (4);

563 (62) a record described in Section 63G-12-210;

564 (63) captured plate data that is obtained through an automatic license plate reader  
565 system used by a governmental entity as authorized in Section 41-6a-2003;

566 (64) any record in the custody of the Utah Office for Victims of Crime relating to a  
567 victim, including:

568 (a) a victim's application or request for benefits;

569 (b) a victim's receipt or denial of benefits; and

570 (c) any administrative notes or records made or created for the purpose of, or used to,  
571 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim  
572 Reparations Fund;

573 (65) an audio or video recording created by a body-worn camera, as that term is  
574 defined in Section 77-7a-103, that records sound or images inside a hospital or health care  
575 facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care  
576 provider, as that term is defined in Section 78B-3-403, or inside a human service program as  
577 that term is defined in Section 62A-2-101, except for recordings that:

578 (a) depict the commission of an alleged crime;

579 (b) record any encounter between a law enforcement officer and a person that results in  
580 death or bodily injury, or includes an instance when an officer fires a weapon;

581 (c) record any encounter that is the subject of a complaint or a legal proceeding against  
582 a law enforcement officer or law enforcement agency;

583 (d) contain an officer involved critical incident as defined in Subsection  
584 76-2-408(1)(f); or

585 (e) have been requested for reclassification as a public record by a subject or

586 authorized agent of a subject featured in the recording;

587 (66) a record pertaining to the search process for a president of an institution of higher  
588 education described in Section [53B-2-102](#), except for application materials for a publicly  
589 announced finalist;

590 (67) an audio recording that is:

591 (a) produced by an audio recording device that is used in conjunction with a device or  
592 piece of equipment designed or intended for resuscitating an individual or for treating an  
593 individual with a life-threatening condition;

594 (b) produced during an emergency event when an individual employed to provide law  
595 enforcement, fire protection, paramedic, emergency medical, or other first responder service:

596 (i) is responding to an individual needing resuscitation or with a life-threatening  
597 condition; and

598 (ii) uses a device or piece of equipment designed or intended for resuscitating an  
599 individual or for treating an individual with a life-threatening condition; and

600 (c) intended and used for purposes of training emergency responders how to improve  
601 their response to an emergency situation;

602 (68) records submitted by or prepared in relation to an applicant seeking a  
603 recommendation by the Research and General Counsel Subcommittee, the Budget  
604 Subcommittee, or the Audit Subcommittee, established under Section [36-12-8](#), for an  
605 employment position with the Legislature;

606 (69) work papers as defined in Section [31A-2-204](#);

607 (70) a record made available to Adult Protective Services or a law enforcement agency  
608 under Section [61-1-206](#);

609 (71) a record submitted to the Insurance Department in accordance with Section  
610 [31A-37-201](#);

611 (72) a record described in Section [31A-37-503](#);

612 (73) any record created by the Division of Occupational and Professional Licensing as  
613 a result of Subsection [58-37f-304\(5\)](#) or [58-37f-702\(2\)\(a\)\(ii\)](#);

614 (74) a record described in Section [72-16-306](#) that relates to the reporting of an injury  
615 involving an amusement ride;

616 (75) except as provided in Subsection [63G-2-305.5\(1\)](#), the signature of an individual

617 on a political petition, or on a request to withdraw a signature from a political petition,  
618 including a petition or request described in the following titles:

- 619 (a) Title 10, Utah Municipal Code;
- 620 (b) Title 17, Counties;
- 621 (c) Title 17B, Limited Purpose Local Government Entities - Local Districts;
- 622 (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and
- 623 (e) Title 20A, Election Code;

624 (76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in  
625 a voter registration record;

626 (77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a  
627 signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a  
628 local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

629 (78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part  
630 5, Victims Guidelines for Prosecutors Act;

631 (79) a record submitted to the Insurance Department under Subsection  
632 31A-48-103(1)(b);

633 (80) personal information, as defined in Section 63G-26-102, to the extent disclosure is  
634 prohibited under Section 63G-26-103;

635 (81) (a) an image taken of an individual during the process of booking the individual  
636 into jail, unless:

- 637 (i) the individual is convicted of a criminal offense based upon the conduct for which  
638 the individual was incarcerated at the time the image was taken;
- 639 (ii) a law enforcement agency releases or disseminates the image after determining  
640 that:
  - 641 (A) the individual is a fugitive or an imminent threat to an individual or to public  
642 safety; and
  - 643 (B) releasing or disseminating the image will assist in apprehending the individual or  
644 reducing or eliminating the threat; or
- 645 (iii) a judge orders the release or dissemination of the image based on a finding that the  
646 release or dissemination is in furtherance of a legitimate law enforcement interest[-];

647 (82) a record:

648 (a) concerning an interstate claim to the use of waters in the Colorado River system;

649 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a  
650 representative from another state or the federal government as provided in Section

651 [63M-14-205](#); and

652 (c) the disclosure of which would:

653 (i) reveal a legal strategy relating to the state's claim to the use of the water in the  
654 Colorado River system;

655 (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to  
656 negotiate the best terms and conditions regarding the use of water in the Colorado River  
657 system; or

658 (iii) give an advantage to another state or to the federal government in negotiations  
659 regarding the use of water in the Colorado River system; [~~and~~]

660 (83) any part of an application described in Section [63N-16-201](#) that the Governor's  
661 Office of Economic Opportunity determines is nonpublic, confidential information that if  
662 disclosed would result in actual economic harm to the applicant, but this Subsection (83) may  
663 not be used to restrict access to a record evidencing a final contract or approval decision[-]; and

664 (84) a record generated in the facilitation of a resolution of a complaint in accordance  
665 with Section [53E-10-803](#).