

1 **UTAH STUDENT PRIVACY ACT**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Karen Mayne**

5 House Sponsor: Eric K. Hutchings

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7 **LONG TITLE**

8 **General Description:**

9 This bill enacts provisions regarding access to education records.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ provides that a local school board or charter school governing board require a public  
13 school to make a list of individuals who are authorized to access education records;

14 ▶ requires a local school governing board or charter school governing board to:

- 15 • provide training on student privacy laws; and
- 16 • require individuals who are authorized to access education records to complete  
17 training on student privacy laws and certify to the local school board or the  
18 charter school governing board that they have completed the required training  
19 and understand student privacy requirements; and

20 ▶ prohibits a local school board, charter school governing board, public school, or  
21 school employee from sharing an education record with a school employee who is  
22 not authorized.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **53A-1-708**, as last amended by Laws of Utah 2016, Chapters 144 and 221

30 **53A-11a-203**, as last amended by Laws of Utah 2016, Chapter 221

31 **53A-13-301**, as last amended by Laws of Utah 2016, Chapter 221

32 ENACTS:

33 **53A-13-303**, Utah Code Annotated 1953



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

36 Section 1. Section **53A-1-708** is amended to read:

37 **53A-1-708. Grants for online delivery of U-PASS tests.**

38 (1) As used in this section:

39 (a) "Adaptive tests" means tests administered during the school year using an online  
40 adaptive test system.

41 (b) "Core standards for Utah public schools" means the standards developed and  
42 adopted by the State Board of Education that define the knowledge and skills students should  
43 have in kindergarten through grade 12 to enable students to be prepared for college or  
44 workforce training.

45 (c) "Summative tests" means tests administered near the end of a course to assess  
46 overall achievement of course goals.

47 (d) "Uniform online summative test system" means a single system for the online  
48 delivery of summative tests required under U-PASS that:

49 (i) is coordinated by the State Board of Education;

50 (ii) ensures the reliability and security of U-PASS tests; and

51 (iii) is selected through collaboration between the State Board of Education and school  
52 district representatives with expertise in technology, assessment, and administration.

53 (e) "U-PASS" means the Utah Performance Assessment System for Students.

54 (2) The State Board of Education may award grants to school districts and charter  
55 schools to implement [~~one or both of the following~~]:

56 (a) a uniform online summative test system to enable [~~parents of students and~~] school  
57 staff and parents of students to review U-PASS test scores by the end of the school year; or

58 (b) an online adaptive test system to enable parents of students and school staff to  
59 measure and monitor a student's academic progress during a school year.

60 (3) (a) Grant money may be used to pay for any of the following, provided it is directly  
61 related to implementing a uniform online summative test system, an online adaptive test system,  
62 or both:

63 (i) computer equipment and peripherals, including electronic data capture devices  
64 designed for electronic test administration and scoring;

65 (ii) software;

66 (iii) networking equipment;

67 (iv) upgrades of existing equipment or software;

68 (v) upgrades of existing physical plant facilities;

69 (vi) personnel to provide technical support or coordination and management; and

70 (vii) teacher professional development.

71 (b) Equipment purchased in compliance with Subsection (3)(a), when not in use for the  
72 online delivery of summative tests or adaptive tests required under U-PASS may be used for  
73 other purposes.

74 (4) [~~The~~] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
75 Act, the State Board of Education shall make rules:

76 (a) establishing procedures for applying for and awarding grants;

77 (b) specifying how grant money [~~shall be~~] is allocated among school districts and  
78 charter schools;

79 (c) requiring reporting of grant money expenditures and evidence showing that the  
80 grant money has been used to implement a uniform online summative test system, an online  
81 adaptive test system, or both;

82 (d) establishing technology standards for an online adaptive testing system;

83 (e) requiring a school district or charter school that receives a grant under this section  
84 to implement, in compliance with [~~Chapter 1,~~] Part 14, Student Data Protection Act, and  
85 Chapter 13, Part 3, Utah Family Educational Rights and Privacy Act, an online adaptive test

86 system by the 2014-15 school year that:

87 (i) meets the technology standards established under Subsection (4)(d); and

88 (ii) is aligned with the core standards for Utah public schools;

89 (f) requiring a school district or charter school to provide matching funds to implement  
90 a uniform online summative test system, an online adaptive test system, or both in an amount  
91 that is greater than or equal to the amount of a grant received under this section; and

92 (g) ensuring that student identifiable data is not released to any person, except as  
93 provided by [~~Chapter 1,~~] Part 14, Student Data Protection Act, [~~Section 53A-13-301~~] Chapter  
94 13, Part 3, Utah Family Educational Rights and Privacy Act, and rules of the State Board of  
95 Education adopted under [~~that section~~] the authority of those parts.

96 (5) If a school district or charter school uses grant money for purposes other than those  
97 stated in Subsection (3), the school district or charter school is liable for reimbursing the State  
98 Board of Education in the amount of the grant money improperly used.

99 (6) A school district or charter school may not use federal funds to provide the  
100 matching funds required to receive a grant under this section.

101 (7) A school district may not impose a tax rate above the certified tax rate for the  
102 purpose of generating revenue to provide matching funds for a grant under this section.

103 Section 2. Section **53A-11a-203** is amended to read:

104 **53A-11a-203. Parental notification of certain incidents and threats required.**

105 (1) For purposes of this section, "parent" includes a student's guardian.

106 (2) A school shall:

107 (a) notify a parent if the parent's student threatens to commit suicide; or

108 (b) notify the parents of each student involved in an incident of bullying, cyber-bullying,  
109 harassment, hazing, or retaliation, of the incident involving each parent's student.

110 (3) (a) If a school notifies a parent of an incident or threat required to be reported under  
111 Subsection (2), the school shall produce and maintain a record that verifies that the parent was  
112 notified of the incident or threat.

113 (b) A school shall maintain a record described in Subsection (3)(a) in accordance with

114 the requirements of:

115 (i) Chapter 1, Part 14, Student Data Protection Act;

116 [~~(ii) Sections 53A-13-301 and 53A-13-302;~~]

117 (ii) Chapter 13, Part 3, Utah Family Educational Rights and Privacy Act;

118 (iii) ~~[Federal]~~ the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g; and

119 (iv) 34 C.F.R. Part 99.

120 (4) A local school board or charter school governing board shall adopt a policy

121 regarding the process for:

122 (a) notifying a parent as required in Subsection (2); and

123 (b) producing and retaining a record that verifies that a parent was notified of an  
124 incident or threat as required in Subsection (3).

125 (5) At the request of a parent, a school may provide information and make  
126 recommendations related to an incident or threat described in Subsection (2).

127 (6) A school shall:

128 (a) provide a student a copy of a record maintained in accordance with this section that  
129 relates to the student if the student requests a copy of the record; and

130 (b) expunge a record maintained in accordance with this section that relates to a student  
131 if the student:

132 (i) has graduated from high school; and

133 (ii) requests the record be expunged.

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

135 **53A-13-301. Application of state and federal law to the administration and**  
136 **operation of public schools -- Local school board and charter school governing board**  
137 **policies.**

138 (1) As used in this section "education entity" means:

139 (a) the State Board of Education;

140 (b) a local school board or charter school governing board;

141 (c) a school district;

- 142 (d) a public school; or
- 143 (e) the Utah Schools for the Deaf and the Blind.

144 (2) An education entity and an employee, student aide, volunteer, third party  
145 contractor, or other agent of an education entity shall protect the privacy of a student, the  
146 student's parents, and the student's family and support parental involvement in the education of  
147 their children through compliance with the protections provided for family and student privacy  
148 under [~~Section 53A-13-302~~] this part and the Family Educational Rights and Privacy Act and  
149 related provisions under 20 U.S.C. Secs. 1232g and 1232h, in the administration and operation  
150 of all public school programs, regardless of the source of funding.

151 (3) A local school board or charter school governing board shall enact policies  
152 governing the protection of family and student privacy as required by this [~~section and Section~~  
153 ~~53A-13-302~~] part.

154 Section 4. Section **53A-13-303** is enacted to read:

155 **53A-13-303. Access to education records -- Training requirement -- Certification.**

156 (1) As used in this section, "education record" means the same as that term is defined in  
157 the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

158 (2) A local school board or charter school governing board shall require each public  
159 school to:

160 (a) create and maintain a list that includes the name and position of each school  
161 employee who the public school authorizes, in accordance with Subsection (4), to have access  
162 to an education record; and

163 (b) provide the list described in Subsection (2)(a) to the school's local school board or  
164 charter school governing board.

165 (3) A local school board or charter school governing board shall:

166 (a) provide training on student privacy laws; and

167 (b) require a school employee on the list described in Subsection (2) to:

168 (i) complete the training described in Subsection (3)(a); and

169 (ii) provide to the local school board or charter school governing board a certified

170 statement, signed by the school employee, that certifies that the school employee completed the  
171 training described in Subsection (3)(a) and that the school employee understands student  
172 privacy requirements.

173 (4) (a) Except as provided in Subsection (4)(b), a local school board, charter school  
174 governing board, public school, or school employee may only share an education record with a  
175 school employee if:

176 (i) that school employee's name is on the list described in Subsection (2); and  
177 (ii) federal and state privacy laws authorize the education record to be shared with that  
178 school employee.

179 (b) A local school board, charter school governing board, public school, or school  
180 employee may share an education record with a school employee if the board, school, or  
181 employee obtains written consent from:

182 (i) the parent or legal guardian of the student to whom the education record relates, if  
183 the student is younger than 18 years old; or

184 (ii) the student to whom the education record relates, if the student is 18 years old or  
185 older.