

1 **Privacy Compliance for Education Technology Vendors**

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tiara Auxier

Senate Sponsor:

2
3 **LONG TITLE**

4 ~~→~~ **[Committee Note:**

5 ~~**The Education Interim Committee recommended this bill.**~~

6 ~~**Legislative Vote: 13 voting for 2 voting against 4 absent**~~ } ~~←~~

7 **General Description:**

8 This bill requires the termination of a contract with a third-party provider in certain
9 circumstances involving a failure to comply with state or federal privacy laws.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ requires an education entity or a government agency contracting on behalf of an education
13 entity to:

- 14 • include certain provisions in a contract with a third-party contractor;
- 15 • notify a third-party contractor of the contractor's unauthorized sale of student data or
16 information in violation of state or federal privacy laws; and
- 17 • terminate a contract with a third-party contractor that does not remedy the privacy
18 violation after notification;

19 ▶ repeals a provision allowing a third-party contractor to respond to a student's request for
20 information or feedback; ~~→~~ **[-and]**

20a ▶ **requires the State Board of Education to conduct investigations of certain alleged**
20b **violations and audits of certain agreements; and** ←~~→~~

21 ▶ makes technical changes.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 This bill provides a special effective date.

26 **Utah Code Sections Affected:**

27 AMENDS:

28 **53E-9-309**, as last amended by Laws of Utah 2020, Chapter 388

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

Section 1. Section **53E-9-309** is amended to read:

53E-9-309 . Third-party contractors.

(1) A third-party contractor shall use personally identifiable student data received under a contract with an education entity strictly for the purpose of providing the contracted product or service within the negotiated contract terms.

(2)(a) When contracting with a third-party contractor, an education entity, or a government agency contracting on behalf of an education entity, shall[-] :

(i) require the following provisions in the contract:

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

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

~~[(c)]~~ (C) provisions that, at the request of the education entity, govern the deletion of the student data received by the third-party contractor;

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

~~[(e)]~~ (E) an agreement by the third-party contractor that, at the request of the education entity that is a party to the contract, the education entity or the education entity's designee may audit the third-party contractor to verify compliance with the contract[-] ; and

(F) provisions describing the education entity's or government agency's statutory duty to terminate the contract in the case of a privacy violation in accordance with Subsection (2)(a)(iii) and prohibiting any fee or financial liability for the termination;

(ii) within 30 days after the day on which the education entity or government agency discovers a third-party contractor's unauthorized ~~â~~→ [sale] usage ←~~â~~ of student data or information in violation of state or federal privacy laws, including this chapter, the

62 Family Education Rights and Privacy Act and related provisions under 20 U.S.C.
 63 Secs. 1232g and 1232h, the Children's Online Privacy Protection Act, 15 U.S.C.
 64 Sec. 6501 et seq., and any associated regulations, provide notice to the third-party
 65 contractor of:

66 (A) the violation of the relevant state or federal privacy law; and

67 (B) the education entity's or government agency's duty to terminate the contract
 68 under Subsection (2)(a)(iii); and

69 (iii) no sooner than 30 days after the day on which the education entity or
 70 government agency provides the notice described in Subsection (2)(a)(ii),

71 terminate the contract with the third-party contractor if the contractor does not:

72 (A) remedy the privacy violation to the greatest extent practicable, in the
 73 determination of the education entity or government agency; and

74 (B) establish processes and procedures to prevent the failure of compliance from
 75 re-occurring.

76 (b) A third-party contractor may not impose a fee, seek damages, or otherwise assert any
 77 financial liability against an education entity or government agency that terminates a
 78 contract as a consequence of the contractor's unauthorized ~~use~~ **use** of
 78a student data or
 79 information in violation of a relevant state or federal privacy law under Subsection
 80 (2)(a)(iii).

80a **use** → **(c)(i) A person may submit a report of a suspected violation directly to the**
 80b **state board student data privacy team, through a reporting process that state board**
 80c **policy establishes.**

80d **(ii) Upon receipt of a report described in Subsection (2)(c)(i), the state board**
 80e **student data privacy team shall, in accordance with state board policies and**
 80f **procedures:**

80g **(A) conduct an initial review to determine whether the report is credible,**
 80h **relevant, and sufficiently specific to warrant action; and**

80i **(B) if the report meets the standard described in Subsection ((2)(c)(ii)(A),**
 80j **initiate a compliance audit or investigation of the relevant vendor or contractor.**

80k **(d) The state board, through the state board's student data privacy team, in**
 80l **conjunction with the relevant LEA, and in accordance with state board policies and**
 80m **procedures, shall conduct a compliance audit within six months of:**

80n **(i) the execution of any new or renewed contract between an LEA and a**

- 80o **third-party contractor that is subject to this section; or**
- 80p **(ii) the creation or revision of a data privacy agreement.** ←~~fi~~
- 81 (3) As authorized by law or court order, a third-party contractor shall share student data as
- 82 requested by law enforcement.
- 83 (4) A third-party contractor may:
- 84 (a) use student data for adaptive learning or customized student learning purposes;
- 85 (b) market an educational application or product to a parent of a student if the third-party
- 86 contractor did not use student data, shared by or collected on behalf of an education
- 87 entity, to market the educational application or product;
- 88 (c) use a recommendation engine to recommend to a student:
- 89 (i) content that relates to learning or employment, within the third-party contractor's
- 90 application, if the recommendation is not motivated by payment or other
- 91 consideration from another party; or
- 92 (ii) services that relate to learning or employment, within the third-party contractor's
- 93 application, if the recommendation is not motivated by payment or other
- 94 consideration from another party;
- 95 [~~(d) respond to a student request for information or feedback, if the content of the~~
- 96 ~~response is not motivated by payment or other consideration from another party;]~~
- 97 [(~~e~~) (d) use student data to allow or improve operability and functionality of the
- 98 third-party contractor's application; or
- 99 [(~~f~~) (e) identify for a student nonprofit institutions of higher education or scholarship
- 100 providers that are seeking students who meet specific criteria if the criteria does not
- 101 include a personal identity characteristic as that term is defined in Section 53B-1-118:
- 102 (i) regardless of whether the identified nonprofit institutions of higher education or
- 103 scholarship providers provide payment or other consideration to the third-party
- 104 contractor; and
- 105 (ii) only if the third-party contractor obtains authorization in writing from:
- 106 (A) a student's parent through the student's school or LEA; or
- 107 (B) for an adult student, the student.
- 108 (5) At the completion of a contract with an education entity, if the contract has not been
- 109 renewed, a third-party contractor shall return or delete upon the education entity's
- 110 request all personally identifiable student data under the control of the education entity
- 111 unless a student or the student's parent consents to the maintenance of the personally
- 112 identifiable student data.

- 113 (6)(a) A third-party contractor may not:
- 114 (i) except as provided in Subsection (6)(b), sell student data;
- 115 (ii) collect, use, or share student data, if the collection, use, or sharing of the student
- 116 data is inconsistent with the third-party contractor's contract with the education
- 117 entity; or
- 118 (iii) use student data for targeted advertising.
- 119 (b) A person may obtain student data through the purchase of, merger with, or otherwise
- 120 acquiring a third-party contractor if the third-party contractor remains in compliance
- 121 with this section.
- 122 (7) The provisions of this section do not:
- 123 (a) apply to the use of a general audience application, including the access of a general
- 124 audience application with login credentials created by a third-party contractor's
- 125 application;
- 126 (b) apply if the student data is shared in accordance with the education entity's directory
- 127 information policy, as described in 34 C.F.R. 99.37;
- 128 (c) apply to the providing of Internet service; or
- 129 (d) impose a duty on a provider of an interactive computer service, as defined in 47
- 130 U.S.C. Sec. 230, to review or enforce compliance with this section.
- 131 (8) A provision of this section that relates to a student's student data does not apply to a
- 132 third-party contractor if the education entity or third-party contractor obtains
- 133 authorization from the following individual, in writing, to waive that provision:
- 134 (a) the student's parent, if the student is not an adult student; or
- 135 (b) the student, if the student is an adult student.

136 Section 2. **Effective Date.**

137 This bill takes effect on July 1, 2026.