

CENTER FOR CREATIVITY, INNOVATION, AND DISCOVERY

Notice of Student Data Collection and Protection of Pupil Rights

Purpose

The Board of Directors of the Center for Creativity, Innovation, and Discovery (CCID) has established this Student Data Collection Notice to fulfill the requirements of Utah Code §53E-9-301 et seq., the Utah Student Privacy and Data Protection Act, including the requirement to prepare and distribute a student data collection notice statement, and to provide guidance for compliance with the federal Protection of Pupil Rights Amendment.

The Board intends that this notice meet the legally required criteria listed below:

- is a prominent, stand-alone document;
- is updated annually and published on the school's website;
- states the student data that the school collects;
- states what data is **not** collected by the school;
- states what data the school does **not** share without written consent;
- states a student's rights related to student data.

Definitions

Adult Student: means a student who is at least 18 years old; is an emancipated student; or qualifies under the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, 42, U.S.C., Sec. 11431 et seq.

Aggregate Data: means data that are totaled and reported at the group, cohort, school, school district, region, or state level with at least 10 individuals in the level; do not reveal personally identifiable student data; and are collected in accordance with state board rule.

Biometric Identifier: means a retina or iris scan; fingerprint; human biological sample used for valid scientific testing or screening; or scan of hand or face geometry.

Biometric Identifier does not include: a writing sample; a written signature; a voiceprint; a photograph; demographic data; or a physical description, such as height, weight, hair color, or eye color.

Biometric Information: means information, regardless of how the information is collected, converted, stored, or shared: based on an individual's biometric identifier; and used to identify the individual.

Data Breach: means an unauthorized release of or unauthorized access to personally identifiable student data that is maintained by an education entity.

Data Governance Plan: means an education entity's comprehensive plan for managing education data that: incorporates reasonable data industry best practices to maintain and protect student data and other education-related data; describes the role, responsibility, and authority of an education entity data governance staff member; provides for necessary technical assistance, training, support, and auditing; describes the process for sharing student data between an education entity and another person; describes the education entity's data expungement process, including how to respond to the requests for expungement; describes the data breach response process; and is published annually and available on the education entity's website.

Education Entity: means the state board; a local school board; a charter school governing board; a school district; a charter school; or the Utah Schools for the Deaf and Blind.

Expunge: means to seal or permanently delete data, as described in the state board rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, under Utah Code § 53E-9-306.

Individual Health Care Plan (IHP): means a plan created by the parent and the school for students with special health care needs. The plan outlines specific actions that the student will receive based on the student's health needs at school and at school-sponsored functions.

Local Education Agency or LEA: means a school district; a charter school; or the Utah Schools for the Deaf and Blind.

Necessary Student Data: means data required by state statute or federal law to conduct the regular activities of an education entity, including:

- Name;
- Date of birth;
- Sex;
- Parent contact information;
- Custodial parent information;
- Contact information;
- A student identification number;
- Local, state, and national assessment results or an exception from taking a local, state, or national assessment;
- Courses taken and completed, credits earned, and other transcript information;
- Course grades and grade point average;
- Grade level and expected graduation date or graduation cohort;
- Degree, diploma, credential attainment, and other school exit information;
- Attendance and mobility;
- Drop-out data;
- Immunization record or an exception from an immunization record;
- Race;

- Ethnicity;
- Tribal affiliation;
- Remediation efforts;
- An exception from a vision screening required under Utah Code §53G-9-404 or information collected from a vision screening described in Utah Code §53G-9-404;
- Information related to the Utah Registry of Autism and Developmental Disabilities, described in Section 26B-7-115;
- Student injury information;
- A disciplinary record created and maintained as described in Utah Code §53E-9-306;
- Juvenile delinquency records;
- English language learner status; and
- Child find and special education evaluation data related to initiation of an IEP.

Optional Student Data: means student data that is not necessary student data; or student data that an education entity may not collect under Utah Code §53E-9-305.

Optional Student Data: includes information that is related to an IEP or needed to provide special needs services; and not necessary student data; biometric information; and information that is not necessary student data and that is required for a student to participate in a federal or other program.

Parent: means a student's parent; a student's legal guardian; or an individual who has written authorization from a student's parent or legal guardian to act as a parent or legal guardian on behalf of the student.

Personally Identifiable Student Data: means student data that identifies or is used by the holder to identify a student, including:

- A student's first and last name;
- The first and last name of a student's family member;
- A student's or a student's family's home or physical address;
- A student's email address or other online contact information;
- A student's telephone number;
- A student's social security number;
- A student's biometric identifier;
- A student's health or disability data;
- A student's education entity student identification number;
- A student's social media username and password or alias;
- If associated with personally identifiable student data, the student's persistent identifier, including: a customer number held in a cookie; or a processor serial number;
- A combination of a student's last name or photograph with other information that together permits a person to contact the student online;

- Information about a student or a student's family that a person collects online and combines with other personally identifiable student data to identify the student; and
- Information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty;
- School Official: means an employee or agent of an education entity, if the education entity has authorized the employee or agent to request or receive student data on behalf of the education entity;
- Student Data: means information about a student at the individual student level. Student data does *not* include aggregate or de-identified data.
- Student Data Manager: means the state student data officer; or an individual designated as a student data manager by an education entity under Utah Code §53E-9-303, who fulfills the duties described in Utah Code §53E-9-308.
- Third-Party Contractor: means a person who is not an education entity; and pursuant to a contract with an education entity, collects or receives student data in order to provide a product or service, as described in the contract, if the product or service is not related to school photography, yearbooks, graduation announcements, or a similar product or service.
- Written Consent: means written authorization to collect or share a student's student data from the student's parent, if the student is not an adult student; or the student, if the student is an adult student.

Rights of Students and Parents under the Utah Student Privacy and Data Protection Act

The Utah Student Privacy and Data Protection Act asserts that students own their personally identifiable student data; and that only individuals authorized by the act may access a student's data that is maintained by the education entity. The following are authorized to access a student's data maintained by the education entity:

- The student's parent;
- The student;
- In the absence of a parent, an individual acting *in loco parentis* in accordance with school policies and applicable state and federal laws.

In the event of a significant data breach, the school will follow its Student Data Privacy and Security Governance Policy and Plan and the Utah Student Privacy and Data Protection Act in notifying:

- the student, if the student is an adult student; or,
- the student's parent or legal guardian if the student is not an adult student;
- other individuals or authorities, as applicable.

Storage and Protection of Student Data

The school and any third-party contractor who collects, uses, stores, shares, or deletes student data shall protect student data as described in Utah Code §53E-9-302. In addition, the school has in place administrative security, physical security, and logical security controls to protect from a data breach or from an unauthorized data disclosure that follows best industry practices for hard copy records and the cybersecurity framework developed by the Center for Internet Security per the school's Student Data Privacy and Security Governance Policy and Plan.

Student Data Collection Notice and Prohibitions

The school collects necessary student data and any data required to be collected by federal or state law. The collection, use, and sharing of student data have both benefits and risks. Parents and students should learn about these benefits and risks and make choices regarding student data accordingly.

The school is prohibited from collecting a student's social security number or, except as required in Utah Code §80-6-103, a student's criminal record. The school does not collect biometric data unless it is a required part of a student's IEP, Section 504 Plan, or an Individual Health Care Plan (IHP).

Below are descriptions of each of the data the school collects for every student.

Necessary Student Data Collected by the School

Student Demographics

- Name;
- Birthdate;
- Race/Ethnicity;
- Gender.

Enrollment

- Copy of Birth Certificate/Information for State School Identifier (SSID);
- Immunization records (unless opted out);
- Home Address;
- District of attendance;
- District of residence;
- Grade level;
- Entry date/Exit date;
- Exit code;
- Total days enrolled;

- Total days attended;
- Mobility status.

Courses in Which a Student is Enrolled

- Cumulative GPA;
- Grade earned;
- Credits attempted;
- Credits earned;
- Course educator ID;
- School of record;
- Part-time status;
- Data collected by the federal Every Student Succeeds Act.

Program Participation Indicators (only for students participating in programs)

- Title I;
- Special Education status or 504 status;
- Gifted student status;
- Free/reduced lunch status;
- English learner status;
- Homeless (and accompanied status);
- Military child;
- Reading interventions provided (grades 1-3).

Incident and Discipline Data

- Information about the incident;
- Information about the student involved (perpetrator/victim, infraction type(s), weapons(s), injuries, etc.);
- Information about any discipline, referral, or other action taken.

State Assessments

- Statewide summative assessment data;
- Scale scores, sub scores, proficiency levels;
- Accommodated test indicators;
- Student growth percentiles (SGPs);
- Adequate growth percentiles;
- Dynamic Learning Maps (DLM) scores in English and Math;
- Utah Alternative Assessments;
- Kindergarten Entry/Exit Profile (KEEP);
- Acadience Math and Reading.

Special Education

- Disability type(s);
- Services received (time, regular percent, environment, extended school year, intensive services);
- Parent contact information;
- Alternative Assessment Eligibility;
- Entry date/Exit date, exit code;
- Evaluations;
- Medical History.

Youth in Care

- Custody type;
- Services received (time, environment);
- Entry/Exit date, exit code.

English Learners

- Primary native language;
- Parents' language;
- English language proficiency level;
- EL instruction types.

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- Copy of Birth Certificate/information for SSID;
- Eligibility information.

Other Student Data Collected with Written Parental Consent

- Court Orders;
- School-Related DCFS Information;
- Evaluations;
- Medical History.

Optional Student Data Collected by the School

The school collects information that is related to an IEP or needed to provide special needs services; biometric information related to an IEP, a Section 504 Plan, or an Individual Health Care Plan (IHP); and information that is not necessary student data and that is required for a student to participate in a federal or other program.

Prohibitions on Gathering Sensitive Student Data without Prior Written Consent

The federal Protection of Pupil Rights Amendment affords parents of elementary and secondary students certain rights regarding the conducting of surveys, physical exams, curriculum, and marketing. PPRA also prohibits schools from requiring students to

provide information about political affiliations and mental or psychological matters that could be embarrassing to the student or their family.

Utah Code §53E-9-203 requires prior written consent from a student's parent or guardian for any survey, analysis, or evaluation of which the purpose or effect is to cause the student to reveal information, whether the information is personally identifiable or not, concerning the student or any family member.

Requirement for Prior Written Consent for Gathering Sensitive Student Data

In accordance with Utah Code §53E-9-203, the school will obtain prior written consent from a student's parent when administering to a student:

- Any psychological or psychiatric examination, test, or treatment;
- Any survey, analysis, or evaluation in which the purpose or effective is to cause the student to reveal information, whether the information is personally identifiable or not, concerning the student's or any family member's:
 - Political affiliations or political philosophies;
 - Mental or psychological problems;
 - Sexual behavior, orientation, gender identity, or attitudes;
 - Illegal, anti-social, self-incriminating, or demeaning behavior;
 - Critical appraisals of individuals with whom the student or family member has close family relationships;
 - Religious affiliations or beliefs;
 - Legally recognized privileged and analogous relationships, such as those with lawyers, medical personnel, or ministers; and
 - Income, except as required by law to determine program eligibility.

The school must take the following action/s prior to gathering sensitive information:

- Consent before students are required to submit to a psychological or psychiatric examination, test, or treatment, or any survey, analysis, or evaluation, in which the evident intended effect is to cause the student to reveal information concerning one or more of the following protected areas about the student or any family member ("protected information survey"), except as part of a suicide prevention program as described in Utah Code §53G-9-702, if the protected information survey is administered by the State of Utah, or if there is a reasonable belief that there is an emergency, child abuse, neglect, or a serious threat to the well-being of the student;
- Consent before students are required to submit sensitive information as described in Utah Code §53E-9-203;
- Receipt of notice and an opportunity to opt a student out of the following:

- Any protected information survey that is part of a suicide prevention program described in Utah Code §53G-9-702;
- Any protected information survey administered by the State of Utah;
- Any non-emergency, invasive physical exam or screening required as a condition of attendance, administered by the school or its agent, and not necessary to protect the immediate health and safety of a student, except for hearing, vision, or scoliosis screenings, or any physical exam or screening permitted or required under Utah state law; and,
- Activities involving collection, disclosure, or use of personal information collected from students for marketing or to sell or otherwise distribute the information to others. (This does not apply to the collection, disclosure, or use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for or to students, or to educational institutions).
- Inspection, upon request and before administration or use, of the following:
 - Protected information surveys of students;
 - Any survey created by a third party, including student surveys created by the State of Utah;
 - Instruments used to collect personal information from students for any of the above marketing, sales, or other distribution purposes; and,
 - Instructional material used as part of the educational curriculum.

Expungement of Collected Data

In accordance with Title 63G, Chapter 2, Government Records Access and Management Act and Title 63G, Chapter 2, Government Records Access and Management Act, the school gathers and categorizes disciplinary records with the following levels of maintenance:

- One year;
- Three years; and
- As determined by the school;
- As recognized in Utah Code §53E-9-304, and to ensure maximum student data privacy, the school shall expunge a student's student data that is stored by the education entity in accordance with Utah Code §63G-2-604 and applicable USBE rule.

The types of collected student data that may be expunged include:

- Medical records; and
- Behavioral test assessments.

The types of collected student data that may not be expunged include:

- Grades;
- Transcripts;

- A record of the student's enrollment; and
- Assessment information.