

# R1012, Data Sharing between Institutions and the Board<sup>1</sup>

**R1012-1 Purpose:** This policy establishes conditions and procedures for Utah System of Higher Education (“USHE”) institutions to share student data with the Utah Board of Higher Education (“Board”) to ensure that records are maintained in accordance with the requirements of the federal Family and Educational Rights and Privacy Act (“FERPA”), the Utah Higher Education Student Data Protection Act (“HESDP”), and other federal or state laws.

## R1012-2 References

- 2.1 Utah Code Title 53B, Chapter 28, Part 5, Higher Education Student Data Protection
- 2.2 Utah Code Title 63A, Chapter 19, Government Data Privacy Act
- 2.3 Title 20, United States Code, Section 1232g, Family Educational Rights and Privacy Act
- 2.4 Title 34, Code of Federal Regulations, Part 99, Family Educational Rights and Privacy
- 2.5 Board Policy R345, Information Technology Resource Security

## R1012-3 Definitions

- 3.1 **“Commissioner”** means the Commissioner of Higher Education.
  
- 3.2 **“FERPA”** means the Family Educational Rights and Privacy Act, Title 20, United States Code, Section 1232g, and its implementing regulations, Title 34, Code of Federal Regulations, Part 99, collectively.
  
- 3.3 **“HESDP”** means the Higher Education Student Data Protections Act, Utah Code Title 53B, Chapter 28, Part 5.
  
- 3.4 **“Student Personally Identifiable Information” (“Student PII”)** includes any information that, alone or in combination, identifies or is linked or linkable to a specific student in attendance at a USHE institution, including but not limited to information defined as “personally identifiable information from educational records” under FERPA, 34 CFR § 99.3, “personally identifiable student data” under HESDP, Utah Code section 53B-22-501(9), and “personally identifiable information” under Board Policy R345-3.8, Information Technology Resource Security.

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<sup>1</sup> Adopted October 4, 2024.

**3.5 “USHE”** means the Utah System of Higher Education as defined in Utah Code section 53B-1-102(1).

Terms used in this policy that are defined in FERPA or HESDP and not otherwise defined in this policy have the same definitions as stated therein. In the event of a conflict in the definitions of the same term in this policy, FERPA, or HESDP, the order of precedence shall be: (i) this subsection R1012-3, (ii) FERPA, and (iii) HESDP.

#### **R1012-4 Authority to Collect Student PII**

**4.1** The Board is a state educational authority authorized to collect student PII taken from institutional educational records to fulfill the following essential purposes as directed by the Board:

**4.1.1** Meeting the Board’s legislatively mandated duties under Utah Code section 53B-1-402;

**4.1.2** Administering, auditing, evaluating, and studying state and federal higher education programs, including for financial aid, as permitted under 34 CFR sections 99.31(a)(3) and 99.35, including:

**4.1.2.1** Supporting audits or evaluations performed by other state entities, including but not limited to the Office of the Legislative Auditor General and Office of the State Auditor; and

**4.1.2.2** Facilitating future evaluations of federal- or state-supported education programs by establishing an integrated data system to build capacity to regularly evaluate federal-and state-supported education programs;

**4.1.3** Fulfilling the Board’s role as Utah’s administrative authority for postsecondary education under various federal laws, especially the IPEDS submission requirements under 20 USC section 1094(a)(17) and 34 CFR section 668.14(b)(19); and

**4.1.4** Supporting the State of Utah in making and evaluating public policy for Utah’s higher education programs.

**4.2** The essential purposes defined in subsection 4.1:

**4.2.1** Are institutional services or functions for which the institutions would otherwise use employees within the meaning of 34 CFR section 99.31(a)(1)(i)(B)(1); and

**4.2.2** Are legitimate educational interests within the meaning of 34 CFR section 99.31(a)(1)(i)(A).

**4.3** Institutions may disclose student PII to the Board only as permitted by FERPA and other regulations or laws. As the recipient of legally protected student PII from institutions, the Board will protect student PII in compliance with such regulations or laws.

#### **R1012-5 Disclosure of Student PII to the Board**

**5.1** Institutions will submit student PII to the Board according to technical standards specifying the procedures for institutional data submission, establishing data glossaries to ensure consistent form and use of data elements, and an annual calendar for data submissions made by the Office of the Commissioner in cooperation with institutions.

**5.2** The Board will not collect, store, process, or disclose student PII, and institutions will not be required to disclose student PII to the Board, except:

**5.2.1** When the data is collected to fulfill an essential purpose under subsection R1012-4; and

**5.2.2** In accordance with the requirements of FERPA, HESDP, and other federal and state laws.

**5.3** Unless the Board otherwise specifies in its request that an institution disclose student PII, student PII disclosed by institutions to the Board is considered to have been disclosed under the following FERPA authorities:

**5.3.1** Disclosure to school officials with legitimate educational interests in accordance with 20 USC section 1232g(b)(1) and 34 CFR section 99.31(a)(1); or

**5.3.2** Disclosure for the audit or evaluation of federal or state supported education programs, or for the enforcement of or compliance with federal legal requirements that relate to those programs, in accordance with 20 USC section 1232g(b)(5) and 34 CFR sections 99.31(a)(3) and 99.35.

**5.4** With regard to student PII received from a USHE institution, the Board will:

**5.4.1** Maintain and protect student PII according to the appropriate category under applicable technical standards made by the Office of the Commissioner in cooperation with institutions;

**5.4.2** Secure student PII against unauthorized access, disclosure, or use according to the standards established in Board Policy R345, *Information Technology Resource Security*;

**5.4.3** Protect student PII in a manner that does not permit personal identification by anyone other than authorized employees or representatives of the Office of the Commissioner or the institution with legitimate interests in the student PII disclosed;

**5.4.4** Retain and dispose of student PII according to applicable technical standards for data disposition made by the Office of the Commissioner in cooperation with institutions; and

**5.4.5** Not redisclose student PII other than to the disclosing institution except as permitted by FERPA and as necessary to fulfill an essential function described in subsection R1012-4.

### **R1012-6 Disclosure of Aggregate or De-identified Data to the Board**

**6.1** Institutions will submit aggregate or de-identified data to the Board according to technical standards specifying the procedures for institutional data submission, establishing data glossaries to ensure consistent form and use of data elements, and an annual calendar for data submissions made by the Office of the Commissioner in cooperation with institutions.

**6.2** The Board may collect, store, process, or disclose aggregate or de-identified data, and require or request that institutions disclose aggregate or de-identified data to the Board, for any lawful purpose, in accordance with the requirements of FERPA and HESDP.

**6.3** Unless the Board otherwise specifies when it requests that institutions disclose aggregate or de-identified data, aggregate or de-identified data disclosed by institutions to the Board is considered to have been disclosed under the FERPA authority to disclose records after the removal of all personally identifiable information in accordance with 34 CFR section 99.31(b).

**6.4** Institutions are not required to disclose aggregate or de-identified data unless the institution has first made a reasonable determination that no student's identity is personally identifiable, whether through single or multiple releases, and has taken into account other reasonably available information. If an institution cannot make such a determination with respect to a disclosure, the institution will disclose the data, and the Board will protect the data, as student PII according to the provisions of section 5 of this policy.

### **R1012-7 Disclosure of Student PII by the Board to USHE Institutions**

**7.1** The Board may disclose student PII that originated with the Board or with a third party (including another USHE institution) to USHE institutions only as permitted by law, Board policy, and any applicable data sharing agreement between the Board and the party with which the student PII originated.

**7.2** The Office of the Commissioner, in cooperation with institutions, shall establish terms and conditions for disclosing or redisclosing student PII to a receiving USHE institution that ensure that the receiving institution protects the disclosed student PII in accordance with the requirements of FERPA, HESDP, Board policy, other federal or state laws, and the terms of any applicable data sharing agreement between the Board and the party with which the student PII originated. Institutions shall comply with any applicable terms and conditions when accessing or processing student PII disclosed by the Board.

### **R1012-8 Authorized Representatives of the Board for Audit or Evaluations**

**8.1** The Board designates the following Board administrators and employees as authorized representatives to whom student PII may be disclosed in connection with the audit or evaluation of federal or state supported education programs, or for the enforcement of or compliance with federal legal requirements that relate to those programs:

**8.1.1** Commissioner;

**8.1.2** Deputy Commissioner(s);

**8.1.3** Chief Economist and employees reporting directly or indirectly to the Chief Economist;

**8.1.4** Chief Financial Officer and employees reporting directly or indirectly to the Chief Financial Officer;

**8.1.5** Audit Director and employees reporting directly or indirectly to the Audit Director;  
and

**8.1.6** General Counsel and employees reporting directly or indirectly to the General Counsel.

**8.2** The Commissioner, the Deputy Commissioner, and the Chief Economist may designate other employees of the Office of the Commissioner as authorized representatives to whom student PII may be disclosed in connection with the audit or evaluation of federal or state supported education programs, or for the enforcement of or compliance with federal legal requirements that relate to those programs as necessary to fulfill the Board's functions under subsection 4.1.2. Such a designation shall be in writing (including electronically) and shall specify the specific purposes for which the employee is designated an authorized representative, the student PII to which the employee may have access, the conditions under which the student PII may be used, and the duration of access.

**8.3** The Commissioner may designate persons who are not employees of the Board as authorized representatives to whom student PII may be disclosed in connection with the audit or evaluation of federal or state supported education programs, or for the enforcement of or compliance with federal legal requirements that relate to those programs, as necessary to fulfill the Board’s functions under subsection 4.1.2. Such designation shall be in writing (including electronically) and shall specify the specific purposes for which the person is designated an authorized representative, the student PII to which the designee may have access, the conditions under which the student PII may be used, and the conditions for disposition of the student PII disclosed.

**R1012-9 Institutional FERPA Notice Provisions**

**9.1** An institution’s annual notice of FERPA rights shall include the following provisions:

**9.1.1** “School officials” include the Utah Board of Higher Education and its contractors, consultants, volunteers, or other parties to whom the Board has outsourced services or functions when acting under its statutory authority or as a contractor of the institution; and

**9.1.2** “Legitimate educational interests” include the essential purposes of the Utah Board of Higher Education as defined in Utah Code section 53B-1-402, other state and federal laws, and Board policy.

**9.2** As required by FERPA, institutions will include disclosures to the Office of the Commissioner in their disclosure records.

**R1012-10 Data Delivery to Utah Data Research Center:** Disclosure of student PII, aggregate data, or de-identified data to the Utah Data Research Center is not within the scope of this policy and is governed by the Center’s procedures under laws specifically applicable to the Center.