

The UCPA (effective December 31, 2023) governs entities that control (“controllers”) or process (“processors”) and, as applicable, sell, the personal data of Utah residents, other than in the employment or business-to-business contexts (“consumers”). It also grants Utah residents certain rights with respect to their personal data.

Applicability

The UCPA applies to persons or entities that conduct business for-profit or produce products or services that are targeted to consumers, have an annual revenue of at least **\$25,000,000**, and who either:

- Control or process the personal data of at least **100,000** consumers per calendar year, or
- Derive over **50%** of their gross revenue from the sale of personal data and control or process the personal data at least **25,000** consumers.

Practical Application for Businesses

Consumer Rights:

- (1) **Right to Access:** the right to confirm whether a controller is processing personal data and access such data.
- (2) **Right to Delete:** the right to delete personal data concerning the consumer.
- (3) **Right to Data Portability:** the right to obtain the personal data in, to the extent technically feasible, a portable, and, to the extent practicable, readily usable format that allows the consumer to transmit the data to another entity without impediment, where processing is by automated means.
- (4) **Right to Opt-out:** the right to opt out of the processing of personal data for purposes of (i) targeted advertising or (ii) the sale of personal data.

Controller Obligations:

- Publish a privacy notice that contains requisite details and is reasonably accessible and clear.
- Provide consumers with methods to exercise their rights
- Act on consumer requests within **45 days**; provide notice of extensions as necessary
- Before processing sensitive data, provide consumers with notice and an opportunity to opt out of the processing.
- If selling personal data or engaging in targeted advertising, clearly and conspicuous disclose how a consumer can opt out of such sale or processing for targeted advertising.
- Enter into binding data processing agreements with requisite limitations for third-party processors.

Recommendations for Controllers:

- Regularly update data maps to detail personal data collection, including sensitive data and targeted advertising.
- Train employees how to handle consumer inquiries and requests.
- Maintain clear and executable data retention policies and procedures.

Penalties:

- The Utah Attorney General has the exclusive enforcement authority.
- There is a 30-day cure period to correct violations following notice from the Utah Attorney General.
- Penalties may include actual damages and fines up to **\$7,500 per violation**.