

113TH CONGRESS
2D SESSION

S. _____

To amend the Family Educational Rights and Privacy Act of 1974 to ensure that student data handled by private companies is protected, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MARKEY (for himself and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Family Educational Rights and Privacy Act of 1974 to ensure that student data handled by private companies is protected, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Student
5 Privacy Act of 2014”.

6 **SEC. 2. FERPA IMPROVEMENTS.**

7 Subsection (b) of section 444 of the General Edu-
8 cation Provisions Act (20 U.S.C. 1232g) (commonly re-

1 ferred to as the “Family Educational Rights and Privacy
2 Act of 1974”) is amended—

3 (1) by redesignating paragraphs (4) through
4 (7) as paragraphs (8) through (11), respectively;

5 (2) by inserting after paragraph (3) the fol-
6 lowing:

7 “(4) No funds shall be made available under any ap-
8 plicable program to any educational agency or institution
9 unless the educational agency or institution establishes,
10 implements, and enforces policies and procedures regard-
11 ing information security practices that—

12 “(A) serve to protect the education records and
13 personally identifiable information held or main-
14 tained by the educational agency or institution; and

15 “(B) require any outside party who maintains
16 or stores such personally identifiable information, in-
17 cluding contractors, volunteers, consultants, or other
18 authorized representatives, to follow the policies and
19 procedures required under this paragraph.

20 “(5) Notwithstanding any other provision of this sec-
21 tion or paragraph (2)(A), no funds shall be made available
22 under any applicable program to any educational agency
23 or institution that has a policy or practice of using, releas-
24 ing, or otherwise providing access to personally identifiable
25 information, as described in paragraph (2), in the edu-

1 cation records of a student to advertise or market a prod-
2 uct or service.

3 “(6) Each State educational agency receiving funds
4 under an applicable program, and each educational agency
5 or institution, shall ensure that any person with access
6 to education records with personally identifiable informa-
7 tion who is not an employee or officer of the educational
8 agency or institution (such as any contractor, volunteer,
9 consultant, other authorized representative, or any other
10 entity) complies with the following:

11 “(A) Any education records that are held by the
12 person shall be handled and stored in a manner that
13 meets or surpasses the privacy protections that
14 would be provided if the records were held or stored
15 by an educational agency or institution in accord-
16 ance with this section, to include providing parents
17 with—

18 “(i) the right to access the personally iden-
19 tifiable information held about their students by
20 the person, to the same extent and in the same
21 manner as provided in subsection (a)(1); and

22 “(ii) a process to challenge, correct, or de-
23 lete any inaccurate, misleading, or otherwise in-
24 appropriate data in any education records of
25 such student that are held by the person,

1 through an opportunity for a hearing by the
2 agency or institution providing the person with
3 access, in accordance with subsection (a)(2).

4 “(B) The person shall maintain a record of all
5 individuals, agencies, or organizations that have re-
6 quested or obtained access to the education records
7 of a student held by the person, in the same manner
8 as is required under paragraph (8).

9 “(C) The person shall have policies or proce-
10 dures in place regarding information security prac-
11 tices regarding the education records, in accordance
12 with paragraph (4).

13 “(7) No funds under any applicable program shall be
14 made available to any educational agency or institution,
15 or any State educational agency, unless the agency or in-
16 stitution has a policy or practice that—

17 “(A) promotes data minimization in order to
18 safeguard individual privacy by meeting any request
19 for student information with information that is not
20 personally identifiable if applicable; and

21 “(B) requires that all personally identifiable in-
22 formation on an individual student held by any per-
23 son other than the agency or institution, or an em-
24 ployee of the agency or institution, be destroyed
25 when—

1 “(i) the individual ceases to be a student
2 served by the agency or enrolled at the institu-
3 tion; and

4 “(ii) the person becomes aware the indi-
5 vidual is no longer a student.”; and

6 (3) in paragraph (8)(A), as redesignated by
7 paragraph (1)—

8 (A) by inserting “who are employees or of-
9 ficers of the agency or institution” after “of
10 this subsection”;

11 (B) by inserting “, including all persons
12 who are not employees or officers of the agency
13 or institution that receive access to the records
14 pursuant to subparagraph (A) or (C) of para-
15 graph (1),” after “agencies, or organizations”;
16 and

17 (C) by inserting “and will describe the in-
18 formation shared with such person, agency, or
19 organization” after “obtaining this informa-
20 tion”.