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.

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

SECTION 1. SHORT TITLE.

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

SEC. 2. FERPA IMPROVEMENTS.

Subsection (b) of section 444 of the General Edu-
cation Provisions Act (20 U.S.C. 1232g) (commonly re-
ferred to as the “Family Educational Rights and Privacy Act of 1974”) is amended—

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

(2) by inserting after paragraph (3) the following:

“(4) No funds shall be made available under any applicable program to any educational agency or institution unless the educational agency or institution establishes, implements, and enforces policies and procedures regarding information security practices that—

“(A) serve to protect the education records and personally identifiable information held or maintained by the educational agency or institution; and

“(B) require any outside party who maintains or stores such personally identifiable information, including contractors, volunteers, consultants, or other authorized representatives, to follow the policies and procedures required under this paragraph.

“(5) Notwithstanding any other provision of this section or paragraph (2)(A), no funds shall be made available under any applicable program to any educational agency or institution that has a policy or practice of using, releasing, or otherwise providing access to personally identifiable information, as described in paragraph (2), in the edu-
cation records of a student to advertise or market a product or service.

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

“(A) Any education records that are held by the person shall be handled and stored in a manner that meets or surpasses the privacy protections that would be provided if the records were held or stored by an educational agency or institution in accordance with this section, to include providing parents with—

“(i) the right to access the personally identifiable information held about their students by the person, to the same extent and in the same manner as provided in subsection (a)(1); and

“(ii) a process to challenge, correct, or delete any inaccurate, misleading, or otherwise inappropriate data in any education records of such student that are held by the person,
through an opportunity for a hearing by the agency or institution providing the person with access, in accordance with subsection (a)(2).

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

“(C) The person shall have policies or procedures in place regarding information security practices regarding the education records, in accordance with paragraph (4).

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

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

“(B) requires that all personally identifiable information on an individual student held by any person other than the agency or institution, or an employee of the agency or institution, be destroyed when—
“(i) the individual ceases to be a student
served by the agency or enrolled at the institu-
tion; and
“(ii) the person becomes aware the indi-
vidual is no longer a student.”; and
(3) in paragraph (8)(A), as redesignated by
paragraph (1)—
(A) by inserting “who are employees or of-
ficers of the agency or institution” after “of
this subsection”;
(B) by inserting “, including all persons
who are not employees or officers of the agency
or institution that receive access to the records
pursuant to subparagraph (A) or (C) of para-
graph (1),” after “agencies, or organizations”; and
(C) by inserting “and will describe the in-
formation shared with such person, agency, or
organization” after “obtaining this informa-
tion”.