

115TH CONGRESS
2D SESSION

H. R. 5224

To clarify the requirements of authorized representatives under the Family Educational Rights and Privacy Act of 1974, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 2018

Mr. LUETKEMEYER (for himself, Mr. SESSIONS, Mrs. WAGNER, and Mr. COLE) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To clarify the requirements of authorized representatives under the Family Educational Rights and Privacy Act of 1974, 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 Education
5 Privacy Act”.

6 **SEC. 2. AMENDMENTS TO FERPA.**

7 Section 444(b) of the General Education Provisions
8 Act (20 U.S.C. 1232g(b)) (commonly known as the “Fam-

1 ily Educational Rights and Privacy Act of 1974”) is
 2 amended—

3 (1) in paragraph (1)(C)(i)(III), by inserting “or
 4 local” after “State”;

5 (2) in paragraph (3)—

6 (A) by striking “(A)” and inserting “(i)”;

7 (B) by striking “(B)” and inserting “(ii)”;

8 (C) by striking “(C)” and inserting “(iii)”;

9 (D) by striking “(3) Nothing” and insert-
 10 ing the following: “(3)(A) Nothing”;

11 (E) by inserting “or local” after “State”;

12 (F) by striking “programs:” and inserting
 13 “programs.”;

14 (G) by striking “*Provided, That* except”
 15 and by inserting the following:

16 “(B) Except”;

17 (H) by striking “such officials” and insert-
 18 ing “the officials described in items (i) through
 19 (iii) of subparagraph (A)”;

20 (I) by adding at the end the following:

21 “(C)(i) For purposes of this section, the
 22 term ‘authorized representative’ means an indi-
 23 vidual who—

24 “(I) is designated as an author-
 25 ized representative by an official de-

1 scribed in item (i), (ii), or (iii) of sub-
2 paragraph (A); and

3 “(II) is under the direct control,
4 as a contractor or employee, of such
5 official.

6 “(ii) An authorized representative
7 shall not release any educational records or
8 personally identifiable information collected
9 while serving as an authorized representa-
10 tive to any individual, agency, or organiza-
11 tion, other than the official under whom
12 the authorized representative is under the
13 direct control.”; and

14 (3) by adding at the end the following new
15 paragraph:

16 “(8) Nothing in this section may be construed
17 to authorize the educational records or the person-
18 ally identifiable information of students to be
19 shared, without the written consent of their parents,
20 for the development of commercial products or serv-
21 ices.”.

22 **SEC. 3. FERPA REGULATIONS.**

23 (a) REPEALS.—The definitions of the terms “author-
24 ized representative”, “early childhood education pro-
25 gram”, and “education program” in section 99.3 of title

1 34, Code of Federal Regulations, are repealed and shall
2 have no legal effect.

3 (b) CERTAIN REGULATIONS PROHIBITED.—The Sec-
4 retary of Education shall not promulgate or enforce any
5 regulation or rule that defines “early childhood education
6 program” or “education program” for any purpose under
7 section 444 of the General Education Provisions Act (20
8 U.S.C. 1232g) (commonly known as the “Family Edu-
9 cational Rights and Privacy Act of 1974”) on or after the
10 date of enactment of this Act.

○