H. R. _____

To amend the General Education Provisions Act to strengthen privacy protections for students and parents.

IN THE HOUSE OF REPRESENTATIVES

M__.___________ introduced the following bill; which was referred to the Committee on ____________________

A BILL

To amend the General Education Provisions Act to strengthen privacy protections for students and parents.

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 “____ Act”.

5 SEC. 2. PROTECTION OF THE RIGHTS AND PRIVACY OF
6 PARENTS AND STUDENTS.

7 Section 444 of the General Education Provisions Act
8 (20 U.S.C. 1232g) is amended to read as follows:
“SEC. 444. PROTECTION OF THE RIGHTS AND PRIVACY OF PARENTS AND STUDENTS.

“(a) IN GENERAL.—No funds shall be made available under any applicable program to any educational agency or institution unless such agency or institution complies with the following requirements:

“(1) PARENTAL ACCESS.—Except as provided in subsection (b), the educational agency or institution shall not deny or effectively prevent the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, the right to inspect and review the educational records of their children. If any material or document in the education record of a student includes information on more than one student, a parent shall have the right to inspect and review only such part of such material or document that relates to such parent’s child.

“(2) REASONABLE RESPONSE TIME.—The educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to the education records of their children within a reasonable period of time, but in no case more than 30 days after the request has been made.
“(3) Inspection and Review.—The agency or institution shall not deny the parents of students the right to inspect and review the education records maintained by the State educational agency on their children who are or have been in attendance at any school of an educational agency or institution that is subject to the provisions of this section.

“(4) Adjustments to Record.—The educational agency or institution shall provide parents of students who are or have been in attendance at a school of such agency or at such institution an opportunity to—

“(A) challenge and correct the content of the record that is inaccurate or misleading at the time of attendance or otherwise in violation of privacy rights of students through a hearing by such agency or institution, in accordance with the regulations of the Secretary; and

“(B) insert into such records a written explanation of the parents respecting the content of such records.

“(5) Release of Records Without Parental Consent.—The educational agency or institution shall not permit the release of education records (or personally identifiable information contained
therein other than directory information) of students without the written consent of their parents to any individual, agency, or organization, [person?] other than to—

“(A) other school officials, including teachers within the educational institution or local educational agency, who have been determined by such agency or institution to have legitimate educational interests, including the educational interests of the child for whom consent would otherwise be required;

“(B) officials of other schools or school systems in which the student seeks or intends to enroll, upon condition that the student’s parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record;

“(C) officials working for or on behalf of the following for audit or evaluation or enforcement [, including monitoring]—

“(i) authorized representatives of (I) the Comptroller General of the United States, (II) the Secretary, (III) State educational authorities, or (IV) the Food and
Nutrition Service for purposes of subparagraph (L); or

“(ii) authorized representatives of the Attorney General for law enforcement purposes;

“(D) officials in connection with a student’s application for, or receipt of, financial aid;

“(E) State and local officials or authorities to whom such information is specifically allowed to be reported or disclosed pursuant to State statute regarding the juvenile justice system, including truancy;

“(F) organizations conducting studies for, or on behalf of, educational agencies or institutions so long as—

“(i) such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted;
(ii) parents have been notified of the study and have had a reasonable amount of time to opt out; and]

“(iii) the organization has agreed to and has appropriate security that meets the requirements under paragraphs (8), (11), and (12);

“(G) accrediting organizations in order to carry out their accrediting functions;

“(H) parents of a dependent student of such parents, as defined in section 152 of the Internal Revenue Code of 1986;

“(I) in connection with an emergency, appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons;

“(J) the entity or persons designated in a Federal grand jury subpoena, in which case the court shall order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or
any information furnished to the grand jury in response to the subpoena;

“(K) the entity or persons designated in any other subpoena issued for a law enforcement purpose, in which case the court or other issuing agency may order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished in response to the subpoena;

“(L) the Secretary of Agriculture, or authorized representative from the Food and Nutrition Service acting on behalf of the Food and Nutrition Service, for the purposes of conducting program monitoring, evaluations, and performance measurements of State and local educational and other agencies and institutions receiving funding or providing benefits of 1 or more programs authorized under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) for which the
results will be reported in an aggregate form 
that does not identify any individual, on the 
conditions that—

“(i) any data collected under this sub-
paragraph shall be protected in a manner 
that will not permit the personal identifica-
tion of students and their parents by other 
than the authorized representatives of the 
Secretary;

“(ii) any personally identifiable data 
shall be destroyed when the data are no 
longer needed for program monitoring, 
evaluations, and performance measure-
ments; and

“(iii) the parents of the student have 
been notified that the student’s educational 
records will be released for the purposes 
described in this subparagraph;

“(M) an agency caseworker or other rep-
resentative of a State or local child welfare 
agency, or tribal organization (as defined in 
section 4 of the Indian Self-Determination and 
Education Assistance Act (25 U.S.C. 450b)), 
who has the right to access a foster youth’s 

case plan, as defined and determined by the
State or tribal organization, when such agency or organization is legally responsible, in accordance with State or tribal law, for the care and protection of the student, provided that the education records, or the personally identifiable information contained in such records, of the student will not be disclosed by such agency or organization, except to an individual or entity engaged in addressing the student’s education needs and authorized by such agency or organization to receive such disclosure and such disclosure is consistent with the State or tribal laws applicable to protecting the confidentiality of a student’s education records (except that nothing in this subparagraph shall prevent a State from further limiting the number or type of State or local officials who will continue to have access thereunder);

“(N) a party in compliance with paragraph (11), as long as adequate parental notice is given regarding such access and the parent is given a reasonable amount of time to opt out of such sharing”; or
“(O) an education service provider that is providing services to a school official and is in compliance with paragraphs (8), (11), and (12).

“(6) PROHIBITION ON RELEASE OF PERSONALLY IDENTIFIABLE INFORMATION.—The educational agency or institution shall not have a policy or practice of releasing, or providing access to, any personally identifiable information in education records other than directory information, or as is permitted under paragraph (1), unless—

“(A) there is written consent from the student’s parents specifying records to be released, the reasons for such release, and to whom, and with a copy of the records to be released to the student’s parents and the student if desired by the parents; or

“(B) except as provided in subparagraphs (J) and (K) of paragraph (5), such information is furnished in compliance with a judicial order, or pursuant to any lawfully issued subpoena, upon condition that parents and the students are notified of all such orders or subpoenas in advance of the compliance therewith by the educational institution or agency, except when a parent is a party to a court proceeding involv-
ing child abuse and neglect (as defined in section 3 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 note)) or dependency matters, and the order is issued in the context of that proceeding, additional notice to the parent by the educational agency or institution is not required.

“(7) RECORDKEEPING.—The educational agency or institution shall maintain a record, kept with the education records of each student, which will indicate all individuals (other than those specified [in subsection (b)]), agencies, or organizations [persons?] which have requested or obtained access to a student’s education record maintained by such educational agency or institution, and which will indicate specifically the legitimate interest that each such person, agency, or organization has in obtaining this information. Such record of access shall be available only to parents, to the school official and his assistants who are responsible for the custody of such records, and to the Secretary or his designee as a means of monitoring compliance with this section.

“(8) SECURITY PRACTICES.—The educational agency or institution shall establish, implement, and
enforce 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 party that maintains or stores such personally identifiable information to follow the information security practices established under this paragraph.

“(9) DUTY TO INFORM.—The educational agency or institution shall effectively inform the parents of students, or the students (if such students are 18 years of age or older, or are attending an institution of higher education) of the rights accorded them by this section.

“(10) DESIGNATED OFFICIAL.—The educational agency or institution shall designate an official who shall be responsible for maintaining the security of the education records maintained by such agency or institution.

“(11) WRITTEN AGREEMENT.—Before sharing information with a party, the educational agency or institution shall enter into a contract, memorandum
of understanding, or other means of written agreement with such party, which shall include—

“(A) clear provisions outlining how and what information shall be transferred to the party;

“(B) a description of any subcontractor or person acting for the party approved by the educational agency or institution for providing assistance to the party in carrying out its duties under the agreement;

“(C) an agreement by the party to prohibit any other party from having access to personally identifiable information, except that the agreement described in this subparagraph shall not apply—

“(i) when collection of personally identifiable information is specifically authorized by Federal law; or

“(ii) with respect to a subcontractor or person acting for the party described in subparagraph (B);

“(D) guarantees that personally identifiable information will be secured by digital or physical means by such party and an agreement to demonstrate the digital or physical means
that will secure such information from unau-
thorized access;

“(E) the penalties for a security breach in
violation of the agreement; and

“(F) a requirement that the party notify
parents and students of the policies, procedures,
and means the party uses to protect the secu-

rity of personally identifiable information held
by the party.

“(12) REQUIREMENTS FOR ACCESS.—

“(A) The educational agency or institution
shall ensure that any party with access to edu-
cation records with personally identifiable infor-
mation complies with the following:

“(i) Any education records that are
held by the party shall be handled and
stored in a manner that meets or surpasses
the privacy protection that would be pro-
vided if the records were held or stored by
an educational agency or institution in ac-
cordance with this section, to include pro-
viding parents with—

“(I) the right to access, either
through the educational agency or in-
stitution providing access to the party
or the party directly if agreed to in paragraph (11), the personally identifiable information held about their students by the party, to the same extent and in the same manner as provided in paragraph (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 party, through a hearing by the agency or institution providing the party with access, in accordance with paragraph (4).]

“(ii) The party shall maintain a record of all individuals, agencies, or organizations [persons?] that have requested or obtained access to the education records of a student held by the party, in the same manner as is required under paragraph (7).

“(iii) The party shall have policies or procedures in place regarding information security practices regarding education
records, in accordance with paragraph (8), and shall meet the requirements of each agreement with an educational agency or institution entered into pursuant to paragraph (11).

“(B) The educational agency or institution shall not transfer personally identifiable information to a party or any subcontractor or person acting for a party, unless such agency or institution and the party have an agreement that meets the requirements of paragraph (11), and the party is in compliance with the requirements of paragraphs (8) and (12). If a party permits access to information or fails to destroy information in violation of this section, the educational agency or institution shall be prohibited from permitting access to information from education records to that party or individuals who worked for or with such party at that time for a period of not less than 12 years.

“(13) PARENTAL NOTICE ON DISCLOSURE OF INFORMATION.—

“(A) Any educational agency or institution making public directory information shall—
“(i) give public notice of the categories of information which it has designated as such information with respect to each student attending the institution or agency;

“(ii) provide the information in such public notice to the parents of each such student in an easy-to-understand notice; and

“(iii) allow a reasonable period of time after such notice has been given under clause (ii), but not less than 15 days, for a parent to inform the institution or agency that any or all of the information designated should not be released without the parent’s prior consent.

“(B) Any educational agency or institution sharing information contained in an education record shall—

“(i) give parents notice of the sharing in an easy-to-understand format; and

“(ii) make available the written agreements between the agency or institution and the party receiving the information.
“(b) Restrictions on Student Access.—Nothing in this section shall be construed to make available to students in institutions of higher education the following materials:

“(1) Financial records of the parents of the student or any information contained therein.

“(2) Confidential letters and statements of recommendation, which were placed in the education records prior to January 1, 1975, if such letters or statements are not used for purposes other than those for which they were specifically intended.

“(3) If the student has signed a waiver of the student’s right of access in accordance with subsection (c), confidential recommendations—

“(A) respecting admission to any educational agency or institution;

“(B) respecting an application for employment; and

“(C) respecting the receipt of an honor or honorary recognition.

“(c) Waiver.—A student or a person applying for admission may waive the right to access to confidential statements described in subsection (b)(3), except that such waiver shall apply to recommendations only if—
“(1) the student is, upon request, notified of the names of all persons making confidential recommendations; and

“(2) such recommendations are used solely for the purposes for which they were specifically intended. Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from such agency or institution.

“(d) Access by Authorized Representatives.—

“(1) An authorized representative shall not release any educational records or personally identifiable information collected while serving as an authorized representative to any individual, agency, or organization, other than the official under whom the authorized representative is under the direct control.

“(2) An authorized representative may collect and share personally identifiable information when—

“(A) there is written consent from the student’s parent specifying the records to be released or the collection of personally identifiable information is specifically authorized by Federal law as described in paragraph (3), and
“(B) the authorized representative is in compliance with the requirements of paragraphs (8), (11), and (12) of subsection (a).

“(3) Nothing contained in this subsection shall preclude an authorized representative from having access to student or other records which may be necessary in connection with the audit and evaluation of a federally supported education program, or in connection with the enforcement [including monitoring,] of the Federal legal requirements which relate to such program.

“(e) ACCESS BY STATE AND LOCAL OFFICIALS.— Nothing in this section shall be construed to prohibit State and local educational officials from having access to student or other records which may be necessary in connection with the audit and evaluation of any federally supported or State-supported education program or in connection with the enforcement [including monitoring,] of the Federal legal requirements which relate to any such program, subject to the conditions specified in this section.

“(f) DISCLOSURE IN DISCIPLINARY PROCEEDINGS.—

“(1) Nothing in this section shall be construed to prohibit an institution of higher education from disclosing, to an alleged victim of any crime of violence (as that term is defined in section 26 of title
18, United States Code), or a nonforcible sex offense, the final results of any disciplinary proceeding conducted by such institution against the alleged perpetrator of such crime or offense with respect to such crime or offense.

“(2) Nothing in this section shall be construed to prohibit an institution of postsecondary education from disclosing the final results of any disciplinary proceeding conducted by such institution against a student who is an alleged perpetrator of any crime of violence (as that term is defined in section 16 of title 18, United States Code), or a nonforcible sex offense, if the institution determines as a result of that disciplinary proceeding that the student committed a violation of the institution's rules or policies with respect to such crime or offense.

“(3) For the purpose of this paragraph, the final results of any disciplinary proceeding—

“(A) shall include only the name of the student, the violation committed, and any sanction imposed by the institution on that student; and

“(B) may include the name of any other student, such as a victim or witness, only with the written consent of that other student.
“(g) Disclosures Under Adam Walsh Child Protection and Safety Act of 2006.—

“(1) Nothing in this section may be construed to prohibit an educational institution from disclosing information provided to the institution under the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16901 et seq.).

“(2) The Secretary shall take appropriate steps to notify educational institutions that disclosure of information described in paragraph (1) is permitted.

“(h) Marketing and Advertising Ban.—Except for an educational authority sharing information on education opportunities—

“(1) no person with access to education records or student personally identifiable information contained in the education record shall market or otherwise advertise directly to students with the use of the information gained through access to personally identifiable information or the education record; and

“(2) an educational agency or institution shall not contract or enter into an agreement with an education service provider that has a policy or practice of using, releasing, or otherwise providing access to personally identifiable information in the education records of a student, without the written consent of
the parents of such student, to advertise or market
a product or service or for the development of com-
mercial products or services, except that this prohi-
bition shall not include official school pictures.
“(i) Regulations.—
“(1) The Secretary, in accordance with this sec-
tion and section 446, shall adopt appropriate regula-
tions or procedures or identify existing regulations
or procedures, which protect the rights of privacy of
students and their families in connection with any
surveys or data-gathering activities conducted, as-
sisted, or authorized by the Secretary or an adminis-
trative head of an education agency and ensure that
parents are aware of their rights under those sec-
tions.
“(2) Regulations established under this sub-
section shall include provisions controlling the use,
dissemination, and protection of such data.
“(j) Prohibition on Data Gathering.—No survey
or data-gathering activities shall be conducted by the Sec-
retary, or an administrative head of an education agency
under an applicable program, unless such activities are au-
thorized by law.
“(k) Consent of Student.—For the purposes of
this section, whenever a student has attained 18 years of
age, or is attending an institution of higher education, the
permission or consent required of and the rights accorded
to the parents of the student shall thereafter only be re-
quired of and accorded to the student.

“(l) Enforcement.—The Secretary shall take ap-
propriate actions to enforce this section and to address
violations of this section by an educational agency or insti-
tution or a party with which such agency or institution
has agreed to share information, in accordance with this
Act, which may include action to terminate Federal assist-
ance if there is not voluntary compliance [and fines of
$2,000 per student harmed up to a maximum of
$500,000].

“(m) Disclosure of Disciplinary Actions.—
Nothing in this section shall prohibit an educational agen-
ecy or institution from—

“(1) including appropriate information in the
education record of any student concerning discipli-
nary action taken against such student for conduct
that posed a significant risk to the safety or well-
being of that student, other students, or other mem-
bers of the school community; and

“(2) disclosing such information to teachers
and school officials, including teachers and school of-
ficials in other schools, who have legitimate educational interests in the behavior of the student.

“(n) COMPLIANCE OFFICE.—

“(1) The Secretary shall establish or designate an office within the Department for the purpose of monitoring compliance with this section, investigating, processing, reviewing, and adjudicating violations of this section and investigating, processing, reviewing, and adjudicating complaints which may be filed concerning alleged violations of this section.

“(2) Except for the conduct of hearings, none of the functions of the Secretary under this section shall be carried out in any of the regional offices of such Department.

“(o) DISCLOSURE OF DRUG AND ALCOHOL VIOLATIONS.—

“(1) IN GENERAL.—Nothing in this Act or the Higher Education Act of 1965 shall be construed to prohibit an institution of higher education from disclosing, to a parent or legal guardian of a student, information regarding any violation of any Federal, State, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance, regardless of whether
that information is contained in the student’s education records—

“(A) the student is under the age of 21;

and

“(B) the institution determines that the student has committed a disciplinary violation with respect to such use or possession.

“(2) State law regarding disclosure.—

Nothing in subsection (n) shall be construed to supersede any provision of State law that prohibits an institution of higher education from making the disclosure described in subsection (a)(1).

“(3) Protection of educational agency or institution.—An educational agency or institution that, in good faith, produces education records in accordance with an order issued under this subsection shall not be liable to any person for that production.

“(p) Investigation and prosecution of terrorism.—

“(1) In general.—Notwithstanding subsections (a) through (o) or any provision of State law, the Attorney General (or any Federal officer or employee, in a position not lower than an Assistant Attorney General, designated by the Attorney Gen-
eral) may submit a written application to a court of
cOMPETENT JURISDICTION FOR AN EX PARTE ORDER REQUIR-
ing an educational agency or institution to permit
the Attorney General (or his designee) to—

“(A) collect education records in the pos-
session of the educational agency or institution
that are relevant to an authorized investigation
or prosecution of an offense listed in section
2332b(g)(5)(B) of title 18, United States Code,
or an act of domestic or international terrorism
as defined in section 2331 of that title; and

“(B) for official purposes related to the in-
vestigation or prosecution of an offense de-
dscribed in paragraph (1)(A), retain, dissemi-
nate, and use (including as evidence at trial or
in other administrative or judicial proceedings)
such records, consistent with such guidelines as
the Attorney General, after consultation with
the Secretary, shall issue to protect confiden-
tiality.

“(2) APPLICATION AND APPROVAL.—

“(A) An application under paragraph (1)
shall certify that there are specific and
articulable facts giving reason to believe that
the education records are likely to contain information described in paragraph (1)(A).

“(B) The court shall issue an order described in paragraph (1) if the court finds that the application for the order includes the certification described in subparagraph (A).

“(3) RECORDKEEPING EXCEPTION.—Subsection (a)(7) does not apply to education records subject to a court order under this subsection.

“(q) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

“(1) AUTHORIZED REPRESENTATIVE.—The term ‘authorized representative’ means a person who—

[(“(A) is an employee or contracted individual of an organization;]

“(B) is designated as an authorized representative by—

“(i) the Attorney General for purposes of subsection (a)(5)(C)(ii);

“(ii) Comptroller General of the United States;

“(iii) the Secretary;

“(iv) the State or local educational authorities; or
“(v) the Food and Nutrition Service for purposes of subsection (a)(5)(L); and

[(“(C) is under the direct control, as a contractor or employee, of an official described in subparagraph (B).]

“(2) DIRECTORY INFORMATION.—The term ‘directory information’ includes, with respect to a student, the student’s name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height (if the student is a member of an athletic team), dates of attendance, degrees and awards received, and the name of the educational agency or institution most recently attended by the student].

“(3) EDUCATIONAL AGENCY OR INSTITUTION.—The term ‘educational agency or institution’ means any public or private agency or institution which is—

“(A) the recipient of funds under any applicable program; and

“(B) principally engaged in the provision of education to students or which directs and controls public elementary schools, public sec-
(4) Education Program.—The term ‘education program’ means any program that—

“(A) is principally engaged in the provision of education, including early childhood education, elementary and secondary education, higher education, special education, employment or workforce development, career and technical education, and adult education; and

“(B) is administered by an educational agency or institution.

(5) Education Records.—

“(A) Except as provided in subparagraph (B), the term ‘education records’ means those records, files, documents, and other materials which contain information directly related to a student and are—

“(i) maintained, electronically or physically, by an educational agency or institution, or by a person acting for such agency or institution;

“(ii) accessible, collected, used, or maintained by an education service pro-
(iii) created by or for the State educational authority even though a student who attends a school subject to this section may not attend a school run by such State educational authority.

“(B) The term ‘education records’ does not include—

“(i) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person;

“(ii) records maintained by a law enforcement unit of the educational agency or institution that were created by that law enforcement unit for the purpose of law enforcement;

“(iii) in the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of
business which relate exclusively to such
person in that person’s capacity as an em-
ployee and are not available for use for any
other purpose; or

“(iv) records on a student who is 18
years of age or older, or is attending an in-
stitution of postsecondary education, which
are made or maintained by a physician,
psychiatrist, psychologist, or other recog-
nized professional or paraprofessional act-
ing in his professional or paraprofessional
capacity, or assisting in that capacity, and
which are made, maintained, or used only
in connection with the provision of treat-
ment to the student, and are not available
to anyone other than the student or per-
sons providing such treatment, except that
such records can be personally reviewed by
a physician or other appropriate profes-
sional of the student’s choice.

“(6) EDUCATION SERVICE PROVIDER.—The
term ‘education service provider’ means any pro-
vider, other than a school official or employee, of
services developed and targeted to students for an
educational purpose, whether specifically marketed
to schools, institutions of higher education, educational agency or institution employees or officers, or other individuals primarily engaged in the provision of education services.

“(7) INSTITUTION OF HIGHER EDUCATION.— The term ‘institution of higher education’ has the meaning given the term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002).

“(8) PARTY.—

“(A) Except as provided in subparagraph (B), the term ‘party’ means any person in possession of education records or personally identifiable information contained in an education record.

“(B) The term ‘party’ does not include—

“(i) the student to whom an education record pertains or a parent of such student;

“(ii) an educational agency or institution that maintains the education record or personally identifiable information, an employee or officer of such educational agency or institution, or an individual, agency, or organization acting for such educational agency or institution;
“(iii) an authorized representative; or

“(iv) an official indicated in subpar-

graphs (A) through (M) and (O) of sub-

section (a)(5).

“(9) PERSONALLY IDENTIFIABLE INFOR-

MATION.—The term ‘personally identifiable informa-

tion’ means—

“(A) any information (such as the stu-

dent’s name, Social Security number, email ad-

dress, or parent’s name), or compilation of in-

formation, in electronic, digital, or paper form

that, alone or in combination, is linked or

linkable to a specific student that would allow

a reasonable person in the school community,

who does not have personal knowledge of the

relevant circumstances, to identify the student

with reasonable certainty;

“(B) biometric information, including any

record of one or more measurable biological or

behavioral characteristics that may be used for

automated recognition of a student, such as fin-

gerprints, retina and iris patterns, voiceprints,

DNA sequence, facial characteristics, and hand-

writing; or
“(C) information in an education record requested by a person who an educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

“(10) STUDENT.—The term ‘student’ includes any person with respect to whom an educational agency or institution maintains education records or personally identifiable information, but does not include a person who has not been in attendance at such agency or institution.”.

SEC. 3. CONFORMING AMENDMENT.

Section 446(a) of the General Education Provisions Act (20 U.S.C. 1232i(a)) is amended by striking “444(b)(1)(D)” and inserting “444(a)(5)(D)”.

SEC. 4. FERPA REGULATIONS.

(a) REPEAL.—The definition of the term “early childhood education program” in section 99.3 of title 34, Code of Federal Regulations, is repealed and shall have no legal effect.

(b) CERTAIN REGULATION PROHIBITED.—The Secretary of Education shall not promulgate or enforce any regulation or rule that defines “early childhood education program” for any purpose under section 444 of the General Education Provisions Act (20 U.S.C. 1232g) (com-
monly known as the “Family Educational Rights and Privacy Act of 1974” on or after the date of enactment of this Act.