

117TH CONGRESS
1ST SESSION

H. R. 5339

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

SEPTEMBER 22, 2021

Mr. LUETKEMEYER (for himself and Mr. SESSIONS) introduced the following bill; which was referred to the Committee on Education and Labor

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-
9 ily Educational Rights and Privacy Act of 1974”) is
10 amended—

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

3 (2) in paragraph (3)—

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

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

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

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

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

10 (F) by striking “programs:” and inserting
11 “programs.”;

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

14 “(B) Except”;

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

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

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

22 “(I) is designated as an authorized
23 representative by an official described in
24 item (i), (ii), or (iii) of subparagraph (A);
25 and

1 “(II) is under the direct control, as a
2 contractor or employee, of such official.

3 “(ii) An authorized representative shall not
4 release any personally identifiable information
5 contained in education records collected while
6 serving as an authorized representative to any
7 individual, agency, or organization, other than
8 the official under whom the authorized rep-
9 resentative is under the direct control.”; and
10 (3) by adding at the end the following new
11 paragraph:

12 “(8)(A) Nothing in this section may be con-
13 strued to authorize the personally identifiable infor-
14 mation contained in education records of students to
15 be shared, without the written consent of their par-
16 ents, for the development of commercial products or
17 services.

18 “(B) In this section, the term ‘commercial
19 products or services’ does not include official school
20 pictures, class rings, yearbooks, or other traditional
21 school-sanctioned commemorative products, events,
22 or activities.”.

23 **SEC. 3. FERPA REGULATIONS.**

24 (a) REPEALS.—The definitions of the terms “author-
25 ized representative”, “early childhood education pro-

1 gram”, and “education program” in section 99.3 of title
2 34, Code of Federal Regulations, are repealed and shall
3 have no legal effect.

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

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