

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To increase parental involvement and protect student privacy.

**IN THE SENATE OF THE UNITED STATES—107th Cong., 1st Sess.**

**S. 1**

To extend programs and activities under the Elementary and Secondary Education Act of 1965.

Referred to the Committee on \_\_\_\_\_  
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by  
\_\_\_\_\_

Viz:

1 On page 778, after line 21, add the following:

2 **“PART C—INCREASING PARENTAL INVOLVEMENT**

3 **AND PROTECTING STUDENT PRIVACY**

4 **“SEC. 6301. INTENT.**

5 “It is the purpose of this part to provide parents with  
6 notice of and opportunity to make informed decisions re-  
7 garding the collection of information for commercial pur-  
8 poses occurring in their children’s classrooms.

1 **“SEC. 6302. COMMERCIALIZATION POLICIES AND PRIVACY**  
2 **FOR STUDENTS.**

3 “(a) PROHIBITION.—Except as provided in sub-  
4 section (b), no State educational agency or local edu-  
5 cational agency that is a recipient of funds under this Act  
6 may—

7 “(1) disclose data or information the agency  
8 gathered from a student to a person or entity that  
9 seeks disclosure of the data or information for the  
10 purpose of benefiting the person or entity’s commer-  
11 cial interests; or

12 “(2) permit a person or entity to gather from  
13 a student, or assist a person or entity in gathering  
14 from a student, data or information, if the purpose  
15 of gathering the data or information is to benefit the  
16 commercial interests of the person or entity.

17 “(b) PARENTAL CONSENT.—

18 “(1) DISCLOSURE.—A State educational agency  
19 or local educational agency that is a recipient of  
20 funds under this Act may disclose data or informa-  
21 tion under subsection (a)(1) if the agency, prior to  
22 the disclosure—

23 “(A) explains to the student’s parent, in  
24 writing, what data or information will be dis-  
25 closed, to which person or entity the data or in-  
26 formation will be disclosed, the amount of class

1 time, if any, that will be consumed by the dis-  
2 closure, and how the person or entity will use  
3 the data or information; and

4 “(B) obtains the parent’s written permis-  
5 sion for the disclosure.

6 “(2) GATHERING.—A State educational agency  
7 or local educational agency that is a recipient of  
8 funds under this Act may permit or assist a person  
9 or entity with the gathering of data or information  
10 under subsection (a)(2) if the agency, prior to the  
11 gathering—

12 “(A) explains to the student’s parent, in  
13 writing, what data or information will be gath-  
14 ered including whether any of the information  
15 is personally identifiable, which person or entity  
16 will gather the data or information, the amount  
17 of class time if any, that will be consumed by  
18 the gathering, and how the person or entity will  
19 use the data or information; and

20 “(B) obtains the parent’s written permis-  
21 sion for the gathering.

22 “(c) DEFINITIONS.—In this part:

23 “(1) STUDENT.—The term ‘student’ means a  
24 student under the age of 18.

1           “(2) COMMERCIAL INTEREST.—The term ‘com-  
2           mercial interest’ does not include the interest of a  
3           person or entity in developing, evaluating, or pro-  
4           viding educational products or services for or to stu-  
5           dents or educational institutions, such as—

6                   “(A) college and other post-secondary edu-  
7                   cation recruiting;

8                   “(B) book clubs and other programs pro-  
9                   viding access to low cost books or other related  
10                  literary products;

11                  “(C) curriculum and instructional mate-  
12                  rials used by elementary and secondary schools  
13                  to teach if—

14                          “(i) the information is not used to sell  
15                          or advertise another product;

16                          “(ii) the information is not used to  
17                          develop another product that is not covered  
18                          by the exemption from commercial interest  
19                          in this paragraph; and

20                          “(iii) the curriculum and instructional  
21                          materials are used in accordance with ap-  
22                          plicable Federal, State, and local policies,  
23                          if any; and

24                          “(D) the development and administration  
25                          of tests and assessments used by elementary

1 and secondary schools to provide cognitive, eval-  
2 uative, diagnostic, clinical, aptitude, or achieve-  
3 ment information about students (or to gen-  
4 erate other statistically useful data for the pur-  
5 pose of securing such tests and assessments)  
6 and the subsequent analysis and public release  
7 of aggregate data if—

8 “(i) the information is not used to sell  
9 or advertise another product;

10 “(ii) the information is not used to  
11 develop another product that is not covered  
12 by the exemption from commercial interest  
13 in this paragraph; and

14 “(iii) the tests are conducted in ac-  
15 cordance with applicable Federal, State,  
16 and local policies, if any.

17 “(d) **LOCALLY DEVELOPED EXCEPTIONS.**—A local  
18 educational agency, in consultation with parents, may de-  
19 velop appropriate exceptions to the consent requirements  
20 contained in this part if—

21 “(1) the information to be collected is not per-  
22 sonally identifiable;

23 “(2) the local educational agency provides writ-  
24 ten notice to all parents of its policy regarding data

1 or information collection activities for commercial  
2 purposes; and

3 “(3) with respect to any particular data or in-  
4 formation gathering or disclosure, the agency pro-  
5 vides written notice to all parents of—

6 “(A) the data or information to be col-  
7 lected;

8 “(B) the person or entity to whom the  
9 data or information will be disclosed;

10 “(C) the amount of class time, if any, that  
11 will be consumed by the collection activities;  
12 and

13 “(D) the manner in which the person or  
14 entity will use the data or information.

15 “(e) FUNDING.—A State educational agency or local  
16 educational agency may use funds provided under part A  
17 of title VI to enhance parental involvement in areas affect-  
18 ing children’s in-school privacy.

19 “(f) TECHNICAL ASSISTANCE.—Upon the request of  
20 a State educational agency or local educational agency, the  
21 Secretary shall provide technical assistance to such an  
22 agency concerning compliance with this part.

23 “(g) ENFORCEMENT.—The Secretary shall take ap-  
24 propriate actions to enforce, and address violations of, this  
25 section, in accordance with this chapter.

1           “(h) OFFICE, FUNCTIONS.—The Secretary shall des-  
2   ignate an office to enforce this section and to provide tech-  
3   nical assistance.

4           “(i) RULE OF CONSTRUCTION.—Nothing in this sec-  
5   tion shall be construed to supersede the Family Edu-  
6   cational Rights and Privacy Act (20 U.S.C. 1232g).”.