

NOTE: This letter was reformatted to make it more accessible on the Student Privacy Policy Office's (SPPO's) website. Please note that SPPO administers FERPA and the office's prior name was the Family Policy Compliance Office (FPCO). Some citations in this letter may not be current due to amendments of the law and regulations. SPPO has not revised the content of the original letter. Any questions about the applicability and citations of the FERPA regulations included in this letter may be directed to FERPA@ed.gov.

March 23, 1995

Reverend Ron Singleton
United Methodist Campus Ministry
Clemson University Wesley Foundation
Clemson University
P.O. Box 1703
Clemson, South Carolina 29633

Dear Reverend Singleton:

This is in response to your letter of February 4, 1995, in which you request information regarding the Family Educational Rights and Privacy Act (FERPA). Specifically, you ask whether a university may disclose students' religious preference to officially-recognized campus ministers. Additionally, in a recent telephone conversation with Ms. Ingrid Brault of my staff, you provided as an example, the role of your campus ministry which is to support and encourage those students of the same denomination should such needs arise. You also explained that the campus ministry also offers student loans and would like to make them available to Methodist students at Clemson University (University). Further, you clarified your reference to the campus ministers as being "officially-recognized" by stating that an official written agreement exists between the campus ministry and the University that spells out the purpose of the campus ministry. As you are aware, this Office administers FERPA. As will be explained more fully below, in the situation you describe, a university may disclose religious preference of students to its campus ministry. However, a university is precluded from designating religious preference as "directory information."

You ask three specific questions in your letter. For the purpose of clarity, we will begin by addressing your second question before responding to your first and third questions.

Question

2. May the college or university use and maintain religious preference as directory-type information in its files?

Response

FERPA generally protects a student's privacy interests in "education records." The term education records is defined as those records which contain information directly related to a student and which are maintained by an educational agency or institution or by a party acting for

the agency or institution. FERPA generally requires that a school obtain a student's prior written consent before disclosing "personally identifiable information" from his or her education records. "Personally identifiable information" is defined under FERPA as including, but not limited to, the following:

- (a) The student's name;
- (b) The name of the student's parent or other family member;
- (c) The address of the student or student's family;
- (d) A personal identifier, such as the student's social security number;
- (e) A list of personal characteristics that would make the student's identity easily traceable;
- (f) Other information that would make the student's identity easily traceable.

There are certain exceptions under which a school may disclose personally identifiable information from a student's education records without prior consent. One exception is the disclosure of "directory information." FERPA defines the term "directory information" as information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. The definition then lists items that the standard includes, but is not limited to, such as: a 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 of members of athletic teams, dates of attendance, degrees and awards received, and the most previous educational agency or institution attended. Therefore, in response to your specific question, a university cannot designate religious preference as directory information because to do so, in many situations, may be considered harmful or an invasion of privacy.

Question

1. May a state college or university have on its admissions application a space for religious preference that is clearly marked optional, understanding that such information serves a supportive function? [Emphasis supplied].

Response

FERPA does not address the type of information a university may obtain from its students. Therefore, nothing in FERPA would prevent a university from designating on its application the indication of religious preference. However, if in doing so, the university wishes to express to the students an "understanding that such information serves a supportive function," the university might wish to state the purpose for requesting such information.

Question

3. May the college or university generate directory-type information lists according to religious preference, and provide those lists to the respective, officially-recognized campus ministers for each preference stipulating that such lists will only be used in manners consistent with and supportive of the overall mission of the institution?

Response

FERPA's privacy protections are extended explicitly to records and materials maintained by persons "acting for" an educational agency or institution. In so doing, FERPA recognizes that educational agencies or institutions do not necessarily perform all operations and services on an in-house basis and, in fact, frequently obtain professional, business, and other services in consultation with individuals and organizations outside the institution. FERPA's prior written consent requirement was not intended to and does not prevent institutions from disclosing education records to outside persons performing professional, business, and similar services related to the institution's mission that it otherwise would provide for itself.

As explained above, religious preference cannot be designated as directory information under FERPA. However, based on your explanation of the function of the University's campus ministry and the written agreement between the two entities, it appears that the campus ministry would be considered a party "acting for" the University. Therefore, FERPA would not prevent the University from providing a list of students who have indicated their religious preference as Methodist to the campus ministry without the students' prior consent.

I trust that the above information is helpful in explaining the scope and limitations of FERPA as it relates to your concern. If you have further questions, please do not hesitate to contact this Office again.

Sincerely,

/s/

LeRoy S. Rooker
Director
Family Policy Compliance Office

Enclosures