

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.

May 13, 1998

Mr. Larry Hollstein
Director of Financial Aid
San Juan Basin Area Vocational -
Technical School
P.O. Box 970
Cortez, Colorado 81321

Dear Mr. Hollstein:

This is in response to your May 1, 1997, letter of inquiry. Ms. Ingrid Brault of my staff informed me that after receiving your inquiry, she called you to discuss the issues you raised relative to the Family Educational Rights and Privacy Act (FERPA), and that you requested a follow-up letter to confirm the telephone conversation. I apologize for the delay in responding to your request for a follow-up letter but, due the large amount of correspondence this Office receives, we currently have a significant backlog we are working to resolve.

In your letter, you ask about posting non-directory information under the Family Educational Rights and Privacy Act (FERPA). Specifically, you explained two situations in which San Juan Basin Area Vocational-Technical School (School) posts a grid sheet which contains student information. You describe the situations as follows and ask if these practices are in compliance with FERPA:

1. We use a grid sheet, in several programs, that will have students names listed down the left hand column and levels of achievement listed across the top row. As a student reaches a level of achievement. there is an entry made in the appropriate grid square to so indicate. My concern comes from the fact that while this chart is not a grade posting, the level of achievement-will be used, along with other data, by the instructor to determine a grade. Obviously, the posting of these student progress levels spurs some students into a competition mode and therefore tends to improve student grades.
2. We use the same type of grid sheet for students to sign for attendance at Lab sessions. Again, the student name is listed down the left hand column while the dates are listed across the top row. The student is required to initial the appropriate grid square to indicate attendance. While this is not a posting of a grade, the attendance of a student is a factor in determining a grade.

As you are aware, FERPA generally provides that personally identifiable information may not be disclosed from a student's education records to outside parties without his or her prior written

consent. However, disclosure may be made without prior written consent consistent with FERPA if it meets one of several exceptions listed in § 99.31 of the FERPA regulations. 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.

The student progress information which appears on the grid sheets in the first scenario and attendance records which appear on the grid sheets in the second scenario do not fit the directory information exception allowing for disclosure of education records absent the students' consent. Therefore, in general, in order to post such information, the School would need to obtain the students' prior written consent. With regard to the second scenario, however, we note that it is the student who places his or her initials on the grid to indicate attendance. Because the student and not the school official is providing the information, it is permissible under FERPA for the School to continue this practice for keeping attendance. However, if a student refused to provide for public display such attendance information, the School could not require that he or she do so.

I trust that the above information is responsive to your inquiry. Should you have any further questions regarding this matter, please do not hesitate to contact this Office again. For your reference, the name and address are as follows:

Family Policy Compliance Office
U.S. Department of Education
600 Independence Avenue, SW
Washington, DC 20202-4605

Sincerely,

/s/

LeRoy S. Rooker
Director
Family Policy Compliance Office

Enclosure