

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.

February 2, 1995

Complaint No. XXXX
Family Educational Rights
and Privacy Act

Dr. Margaret R. Harrington
Superintendent
Queens High Schools
105-25 Horace Harding Expressway

Dear Dr. Harrington:

This is in regard to the complaint filed with this Office by [Parent] under the Family Educational Rights and Privacy Act (FERPA). [The Parent] alleged that the Queens High Schools (District) violated his rights under FERPA when it denied him access to his daughter [Student's] education records. By letter dated December 20, 1994, we advised you of our finding that the District had violated FERPA as alleged. We requested in that letter that the District provide assurance that [the Parent] has been provided access to [the Student's] education records and that all appropriate school officials have been advised of the provisions of FERPA with respect to the rights of parents and, in particular, the right to have access to their minor children's education records.

By letter dated January 13, 1995, Mr. Lawrence E. Becker, Counsel to the Chancellor, Board of Education of the City of New York, responded to our December 20 letter. In that letter, Mr. Becker raised two issues:

[W]e are unable to release these records for several reasons. First, [the Student's] date of birth is July 20, 1976. Thus, she turned 18 on July 20, 1994, and control over her records passed to her on that date. Secondly, as you can see from the attached affidavit, [the Student] informed school authorities in December of 1993 that she had been abused, threatened and harassed by her father.

The affidavit, signed by [the Student] reads in relevant part:

6. My current relationship with my parents is very negative. I have been subjected to threats and harassment by my father and harassment at my place of employment by my mother as well. My aunt has also received threats and harassment from my father. I wish to have no contact with either of my parents.

As we explained in our December 20 letter, FERPA requires educational agencies and

institutions to comply with parents' requests for access to their minor children's education records within 45 days. 20 U.S.C. § 1232g(a)(1)(A); 34 CFR § 99.10(b). We also explained that the only events that cause the shift of rights under FERPA are the student attaining 18 years of age or attending a postsecondary institution. We note that [the Student] turned 18 on July 20, 1994. However, we further note that [the Parent's] request for access to [the Student's] education records was made March 7, 1994, some four months prior to the date [the Student] turned 18.

In our December 20 letter, we found that the District violated FERPA when it denied [the Parent] access to [the Student's] education records, which he requested before she became an eligible student and, thus, before the rights under FERPA transferred to her. Even though [the Student] has since turned 18, [the Parent's] rights were violated when he was denied access to her education records prior to her 18th birthday. In order to resolve this complaint, we reiterate our request that the District comply with [the Parent's] request for access to [the Student's] education records by sending him copies of [the Student's] records made or maintained on or before March 7, 1994, the date of his request to the school district.

The District also stated in its response that [the Student] had, in a December 1993 affidavit, noted that she had been "abused, threatened and harassed by her father." When there are concerns about a student's safety, FERPA provides that a school does not have to provide records to parents in all instances. For example, [the Student] could submit to the District a court order which prevents the District from providing [the Parent] access to her education records. See 34 CFR §99.4.

In addition, we have determined that even in instances where no court order restricts a parent's right to access education records and where a school district believes that an individual may be at risk (such as in cases where the student or a family member is subject to harassment, threats, or abuse), we will not require the school to disclose a student's home address or telephone number merely because it appears as part of the student's education records. While such information is technically part of his or her education records, it is not information created or developed by the institution that pertains to the student's life as a student, as are academic, disciplinary, or health data. Accordingly, should District officials have reason to believe that [the Student] or other family members may be at risk if her address and telephone number are disclosed to her father, they may choose to redact such information from the records before providing them to [the Parent].

I trust that the above information is helpful in explaining the scope and limitations of FERPA as it relates to this matter. Please provide the assurances we requested in our December 20 letter within two weeks of your receipt of this letter. [Office contact removed.]

Sincerely,

/s/

LeRoy S. Rooker
Director
Family Policy Compliance Office