

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.

December 13, 1989

Mr. Jeffrey Frankel
Assistant Attorney General
Department of the Attorney General
State House Station 23
Augusta, Maine 04333

Dear Mr. Frankel:

This is in response to your letter of October 19, 1989, regarding the Family Educational Rights and Privacy Act (FERPA). This Office administers the implementing regulations for FERPA. Specifically, you asked for a confirmation of oral advice you received from a member of my staff regarding the applicability of FERPA to records of home-schooled students maintained by a state agency.

As you were advised, FERPA applies to individuals who are "students" as defined by the regulations. Section 99.3 of the FERPA regulations defines a "student" as "any individual who is or has been in attendance at an educational agency or institution and regarding whom the agency or institution maintains education records." (Emphasis added.) Therefore, FERPA would not apply to any records maintained by a state agency on home-schooled students.

I trust that the above adequately explains the applicability of FERPA in this regard.

Sincerely,

/s/

LeRoy S. Rooker
Director
Family Policy and
Regulations Office