

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.

June 21, 1983

Mr. Donald A. Gemberling
Director
Data Privacy Division
Department of Administration
203 Administration Building
St. Paul, Minnesota 55155

Dear Mr. Gemberling:

This is in response to your request for an opinion as to whether a school district would violate the Family Educational Rights and Privacy Act (FERPA) if a hearing to challenge the accuracy of a student's education records were held at the State, rather than the local level.

It is our view that the law requires the hearing to be held at the local level. We base our opinion on the fact that each section under Subpart C of the FERPA regulations (Amendment of Education Records) with the language "An (The) educational agency or institution shall ..." By specifically referring to the educational agency, the regulations clearly stipulate that the hearing is to be held at the local level. Additionally, the regulations clearly indicate that the decision made as the result of the hearing must be the decision of the educational agency.

In further support of that position, the Buckley/Pell Statement as recorded in the December 13, 1974, *Congressional Record* reads:

The Law is not specific concerning the format, procedure, or mechanism for the conduct of such a hearing at the local level. It is the intent of the sponsors of these amendments that again a rule of reason would be followed by -those participants involved. Since the hearing is to be conducted at the local level, a detailed specification of procedures cannot be drawn that could possibly apply to each of the thousands of school districts and colleges across the nation ... In some cases, a school district might wish to offer the parent a hearing at the district level; in other instances, disputes about the content of records might be better handled at the local school level. It is not the intent of the Amendment to burden schools with onerous hearing procedures. [Emphasis supplied.]

I initially indicated to you my believe that a hearing held at the State level would suffice as a FERPA hearing. However, as a result of my research, I am now of the opinion that the hearing must be conducted at the local level.

Sincerely yours,

/s/

Patricia Ballinger
Director
Family Educational Rights
and Privacy Act Office