

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.

October 11, 1988

[To High School Student]

Dear [Student]:

This is in response to your letter of June 22, 1988, concerning your application for admission to Boston University. You are concerned because your high school counselor informed you that the school's policy is that counselors will not prepare a recommendation unless a student signs a waiver of his or her right of access. You indicate that you believe this policy is a potential violation of rights afforded by the Family Educational Rights and Privacy Act (FERPA).

The issue of "waivers" is discussed in § 99.12(a)(3) of the FERPA regulations and only pertains to postsecondary institutions. This section states that postsecondary institutions do not have to permit a student to inspect and review confidential recommendations related to an application for admission if the student has waived his or her right to inspect and review the recommendations. Although the provision does not address waivers at the secondary school level, the decision of a school to establish such a policy would not violate FERPA. There is no provision in FERPA that would require a school or a school counselor to issue a letter of recommendation.

I trust the above satisfactorily explains the scope and limitations of FERPA concerning the subject of waivers.

Sincerely,

/s/

LeRoy S. Rooker
Director
Family Policy and Regulations Office