

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.

August 22, 1989

Ms. Marilyn C. Jaeger
Director
Financial Aid and Loan Collection
University of California
Office of the President
Berkeley, California 94720

Dear Ms. Jaeger:

This is in response to your letter of March 7, 1989, inquiring whether the Family Educational Rights and Privacy Act (FERPA) would allow an educational institution to disclose to credit reporting bureaus all student loan information, including the status of a loan prior to delinquency. I apologize for the delay in answering your letter.

It is the opinion of this Office that disclosing loan information on students who are receiving financial aid would not be a violation of FERPA, because it would help to "enforce the terms or conditions of the financial aid" (34 CFR 99.31(a)(4)). Previously, as indicated in the letter you enclosed from this Office dated August 28, 1985, this disclosure was limited to a loan that was in default status. Recently, after reviewing the issue further and studying the legislative history of the issue, the Department has determined that the same right of disclosure without prior consent would apply to loans in non-default status.

A Senate report accompanying the Education Amendments of 1980 (S 1839) states:

The Committee bill authorizes the use of credit bureau organizations in the exchange of information concerning past performance of student borrowers. Several States have made information concerning student repayment or defaults available to credit bureaus, with substantial success. [Senate Report No. 96-733 p.34. Emphasis added.]

As indicated above, Congress was impressed about the utility of reporting good credit history as well as the utility of reporting defaulted loans.

Therefore, section 99.31(a)(4)(iv), which authorizes disclosures without consent to help enforce the terms or conditions of the loan, may be interpreted to permit the release of information concerning loans in both default and non-default status. However, the University is obligated by section 99.33(d) to inform the credit bureau of the requirements of section 99.33 concerning the limitations of redisclosure.

Section 99.33(b) provides a basis for a credit bureau to redisclose information about a loan to other parties to which the university could disclose under section 99.31, specifically in this case, section 99.31(a)(4)(i). Thus, a credit bureau may redisclose to any party if that disclosure is necessary to enforce the terms and conditions of the financial aid.

In addition, the University is required by section 99.32(b)(1) and (2) to maintain a record of the "names of the additional parties to which the receiving party [credit bureau] may disclose the information ... and the legitimate educational interests ... which each of the additional parties has in requesting or obtaining the information." Those entities which receive this information may not redisclose it because such redisclosure would not aid in enforcing the terms and conditions of the financial aid.

Based on this interpretation of FERPA, a credit bureau may redisclose, without the consent of the student, information regarding the student's loan status to a third party. Such a disclosure aids in the collection of the debt. Those entities which receive this information may not redisclose it because such redisclosure would not aid in the collection of the debt.

I trust the above satisfactorily explains the scope and limitations of FERPA in this regard. Enclosed is some information on FERPA, including a model policy for use on the university level.

Sincerely,

/s/

LeRoy S. Rooker
Director
Family Policy Compliance Office