

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](mailto:FERPA@ed.gov).

August 11, 1992

Dr. Richard Middleton  
Superintendent  
North East Independent School District  
10333 Broadway  
San Antonio, Texas 78217

Dear Dr. Middleton:

This is in response to your June 3, 1992, letter addressed to Jeffrey C. Martin, General Counsel for the Department. Your letter was forwarded to this Office for response because this Office administers the Family Educational Rights and Privacy Act (FERPA), which relates to some of your concerns.

In your letter you ask several questions, including whether the North East Independent School District (District) would violate FERPA by providing information to the Immigration and Naturalization Service (INS) from the education records of students classified as M-1 or F-1 nonimmigrant aliens as required by 8 CFR § 214.3(g)(1) (question number 6). Your other questions have been forwarded to the INS for response because of the nature of the issues raised.

FERPA generally protects a student's privacy interests in education records. "Education records" are defined as:

those records, files, documents, and other materials which (i) contain information directly related to a student; and (ii) are maintained by an educational agency or institution, or by a person acting for such agency or institution.

20 U.S.C. 1232g(a)(4); 34 CFR 99.3 "Education Records." Further, FERPA provides that a student's "education records," or personally identifiable information from such records, may generally be disclosed to third-parties only after obtaining written consent of a minor student's parent, or of the student who has reached the age of 18 or is attending an institution of postsecondary education. There are several exceptions to the written consent requirement, but none apply to the disclosure of information from education records to the INS.

A student or parent of a student who has signed a Form I-20 for nonimmigrant F-1 or M-1 student status has in fact given written consent for disclosure of information from the student's education records to the INS. The language of the consent on the I-20 appears at the bottom of page five and reads: "I hereby authorize the named school and any school to which I transfer to release to the Immigration and Naturalization Service any information from my education

records which the Service needs to know in order to determine if I am maintaining the lawful nonimmigrant status in which I was admitted to the United States...." This consent authorizes the release of information from education records to the INS as set forth in 8 CFR §214.J(g). Therefore, FERPA would permit an institution to release to the INS personally identifiable information specified in 8 CFR §214.J(g) from a student's education records if the school has a signed copy of the student's form I-20.

I trust that the above information is responsive to your concerns that relate to FERPA.

Sincerely,

/s/

LeRoy S. Rooker  
Director  
Family Policy Compliance Office

cc: Al Cook  
Office of General Counsel  
INS