

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.

March 11, 1999

Mr. Peter W. Shrair
Attorney
Cooley, Shrair, P.C.
1380 Main Street Fifth Floor
Springfield, MA 01103-1616

Dear Mr. Shrair:

This is in response to your October 28, 1998, letter to this Office in which you inquire whether a college would be in violation of the Family Educational Rights and Privacy Act (FERPA) for having students share campus post office boxes. You state that you represent a small private college in Western Massachusetts and that "communications from the school are always sent in sealed envelopes; however, someone has questioned whether the use of shared post office boxes is a violation of FERPA." This Office administers FERPA and is responsible for providing technical assistance under this law.

As you are aware, FERPA is a Federal law that affords parents the right to have access to their children's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of information from the records. When a student turns 18 years of age or attends an institution of postsecondary education, the student becomes an "eligible student" and all FERPA rights transfer to the student.

FERPA broadly defines the term "education records" as those records that contain information that is directly related to a student and that are maintained by an educational agency or institution or a party acting for the agency or institution. Thus, the location or manner in which an education record is maintained does not affect its status as an education record. Any communications from any school officials to a student would generally be education records under FERPA. Additionally, a student's address, and thus post office box number, is information from the student's education record and is thus subject to FERPA's protections.

FERPA generally provides that an educational agency or institution may only disclose a student's education records to a third party if the parent or eligible student has given appropriate written consent. 20 U.S.C. § 1232g(b)(1) and (b)(2)(A); 34 CFR § 99.30. However, FERPA permits the nonconsensual disclosure of education records in certain limited circumstances which are clearly specified by statute.

In general, FERPA would not prohibit a school from sending information to a student at a post office box which the student shares with another student. Individual schools are generally

responsible for determining what precautions are necessary to prevent improper disclosures of information from education records. However, if this Office received a complaint from a student based on an allegation that an improper disclosure of information from his or her education records had been made as a result of that student sharing a post office box with another student, this Office would initiate an investigation into the matter.

Another matter to consider is the disclosure of a student's post office box number to another student with whom the post office box is shared. As noted above, FERPA generally prohibits the nonconsensual disclosure of information derived from education records, except in certain specified circumstances. One of these exceptions permits the nonconsensual disclosure of information derived from education records that has been appropriately designated as "directory information" by the educational agency or institution. 20 U.S.C. § 1232g(b)(I); 34 CFR § 99.31(a)(11). FERPA defines directory information as information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. 20 U.S.C. § 1232g(a)(5)(A); 34 CFR § 99.3 "Directory information." Directory information could include, but is not limited to, information such as name, address, telephone number, date and place of birth, participation in officially recognized activities and sports, and dates of attendance.

FERPA provides that a school may disclose directory information without consent if it has given public notice of the types of information which it has designated as "directory information," the student's right to restrict the disclosure of such information, and the period of time within which a student has to notify the school in writing that he or she does not want any or all of those types of information designated as "directory information." 20 U.S.C. § 1232g(a)(5)(B); 34 CFR § 99.37(a).

Thus, if the college has appropriately informed its students about directory information, it would not be prohibited in disclosing to a student the post office box number of another student with whom the post office box is shared. However, if the college has not appropriately notified students about directory information, or if particular students have informed the college that they do not want directory information about them disclosed without consent, then the college would be prohibited by FERPA from requiring such students to share post office boxes unless the students provide appropriate consent for disclosure of their post office box number to those with whom they share a box.

I trust that the above information responds to your inquiry. Should you have additional questions about this matter or FERPA in general, please do not hesitate to contact this Office again.

Sincerely,

/s/

LeRoy S. Rooker
Director
Family Policy Compliance Office