

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).

July 16, 1990

Mr. Paul Jerald Ward  
General Counsel  
System Legal Department  
University of South Carolina  
Columbia, South Carolina 29208

Dear Mr. Ward:

This is in response to your letter of June 21, 1990, regarding the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g) as it relates to the release of student financial aid and scholarship information. Specifically, you requested an opinion regarding "the rights of students with respect to the confidentiality of financial aid and scholarship information and the custodial responsibilities of use as the administrator of financial aid and scholarship programs of the records relating thereto." You state that the University of South Carolina has been requested to release the names of students receiving certain scholarships for the purpose of public disclosure.

As explained more fully below, we believe that if a scholarship is considered an honor or award based on academic or athletic or other achievements, the University could disclose such information if that category of information had been properly designated as "directory information as defined by FERPA. However, to the extent that a scholarship could not be considered an honor or award – for example, if it is based not on academic achievement but rather on financial need – the University could not disclose personally identifiable information regarding the scholarship without prior written consent of the student.

FERPA affords university students the right to consent to disclosures of personally identifiable information contained in the student's education records except to the extent that the Act and the regulations allow disclosures without consent. The conditions concerning a student's right to consent to disclosures are set forth in § 99.30 of the FERPA regulations. Section 99.30(a) states that, except as provided in § 99.31, an educational institution shall obtain a student's signed and dated consent before it discloses personally identifiable information from the student's education records.

Section 99.31 of the FERPA regulations describes the conditions under which a university may disclose information from a student's education records without the student's consent. However, the regulations do not "require" an institution to disclose information to any party. Instead, the regulations set forth the conditions under which an institution "may" disclose information without consent. Section 99.31(a)(11) states that a university- may disclose information that it has designated as "directory information" under the conditions set forth in § 99.37.

"Directory information is defined in § 99.3 of the FERPA regulations as information contained in the education records of a student which would generally not be considered harmful or an invasion of privacy if disclosed. The definition then lists items that the standard "includes but is not limited to." The items encompass information that might generally appear in a school yearbook – for example, the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received and the most recent previous educational agency or institution attended.

A university is required to give public notice to its students setting forth the types of personally identifiable information the institution has designated as directory information. Under FERPA, a university is required to afford students the opportunity to notify them in writing if he or she does not wish the information to be designated as directory information.

Therefore, consistent with FERPA, a university could disclose information from a student's education records concerning financial aid or scholarship if the following conditions existed:

- 1) the financial aid or scholarship is considered an honor or award based on academic or athletic achievements;
- 2) the category of information had been properly designated as "directory information" as set forth in § 99.37 of the FERPA regulations: and
- 3) the student whose records have been requested has not indicated that he or she does not wish directory information disclosed.

I trust that the above adequately explains the scope and limitations of FERPA as it pertains to the release of student financial aid and scholarship information. Enclosed for your reference is a model policy for use by postsecondary institutions in developing a student records policy that meets the requirements of § 99.6 of the FERPA regulations.

Please feel free to call if you have any further question.

Sincerely,

/s/

LeRoy S. Rooker  
Director  
Family Policy and  
Regulations Office