

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.

July 31, 2002

Mr. Steve Vinsonhaler
Assistant Attorney General
Washington State University Division
P. O. Box 641031
Pullman, Washington 99164-1031

Dear Mr. Vinsonhaler:

This is in response to your telephone call of July 30, 2002, in which you ask about the applicability of the Family Educational Rights and Privacy Act (FERPA) to students parking tickets. This Office administers FERPA and is responsible for investigating complaints and providing technical assistance under the statute and its implementing regulations. 20 U.S.C. §1232g; 34 CFR Part 99.

FERPA protects eligible students' privacy interests in "education records," which 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)(i) and (ii). See also 34 CFR § 99.3 "Education records." As explained more fully below, a parking ticket issued to a student, as well as other motor vehicle information regarding a student, is an "education records" under FERPA because the records are "directly related" to students and maintained by the institution. If, on the other hand, the information were collected and maintained by a university's law enforcement unit for a law enforcement purpose, as explained under 34 CFR § 99.8, then the information would be considered "law enforcement unit records" and not "education records" protected by FERPA.

In general, an educational agency or institution may not disclose education records, or personally identifiable information from education records, unless the student has provided a signed and dated written consent in accordance with 34 CFR § 99.30, or the disclosure meets one of several exceptions set forth in § 99.31 of the regulations to the written consent requirement. ("Eligible student" means a student who has reached 18 years of age or is attending an institution of postsecondary institution at any age. See 34 CFR § 99.3 "Eligible student." The rights under FERPA belong to the parents of minor students at the elementary/secondary level.)

Specifically excluded from the definition of "education records" are records of the law

enforcement unit of an educational agency or institution, subject to the provisions of § 99.8 of the regulations. The regulations define "law enforcement unit" as

any individual, office, department, division, or other component of an educational agency or institution, such as a unit of commissioned police officers or non-commissioned security guards, that is officially authorized or designated by that agency or institution to-

- (i) Enforce any local, State or Federal law, or refer to appropriate authorities a matter for enforcement of any local, State, or Federal law against any individual or organization other than the agency or institution itself; or
- (ii) Maintain the physical security and safety of the agency or institution.

34 CFR § 99.8(a)(1). However, a component of an educational agency or institution does not lose its status as a "law enforcement unit" if it also performs other, non-law enforcement functions for the agency or institution, including investigation of incidents or conduct that constitutes or leads to a disciplinary action or proceedings against the student. 34 CFR § 99.8(a)(2).

The regulations provide further that "records of a law enforcement unit" mean materials that are created¹ and maintained by a law enforcement unit for law enforcement purposes. It does not include law enforcement records that are maintained by another component of the agency or institution, or other records that may be maintained by a law enforcement unit for non-law enforcement purposes, such as disciplinary actions or proceedings conducted by the agency or institution. 34 CFR § 99.8(b). "Disciplinary action or proceeding" is defined in FERPA as "the investigation, adjudication, or imposition of sanctions by an educational agency or institution with respect to an infraction or violation of *the internal rules of conduct applicable to students* of the agency or institution." 34 CFR § 99.3 (emphasis added). Additionally, information that is collected and maintained as records of student disciplinary actions or proceedings conducted by the University for the same conduct (i.e., parking or motor vehicle violations), may not be disclosed without student consent. United States of America v. Miami University; Ohio State University, et al., 2002 FED App. 0213P (6th Cir.).

Accordingly, parking tickets that are maintained by an office in a university other than the . campus law enforcement unit are "education records" under FERPA and may not be disclosed without the prior written consent of the student. On the other hand, parking tickets that are created and maintained by a university's law enforcement unit would generally be considered "law enforcement unit records" and thus not protected by FERPA.

¹ This Office has interpreted "created" to include information gathered or received by a law enforcement unit in the course of an investigation.

I trust that the above information is helpful in explaining the scope and limitations of FERP A as it relates to the issue you have raised. Please let us know if this Office can be of further assistance to you.

Sincerely,

/s/

LeRoy S. Rooker
Director
Family Policy Compliance Office