

August 5, 2004

Mr. Dale Hill
Education & Credentialing Specialist
North Carolina Office of Emergency Medical Services
2707 Mail Service Center
Raleigh, NC 27699-2707

Dear Mr. Hill:

This responds to your email of June 23, 2004, in which you asked whether the North Carolina Office of Emergency Medical Services (OEMS) qualifies as an “accrediting organization” for purposes of 34 CFR § 99.31(a)(7), and whether this allows OEMS to review individual student records in connection with credentialing exams. This Office administers the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, and provides technical assistance to educational agencies and institutions to ensure compliance with the statute and regulations set forth at 34 CFR Part 99.

You explained that OEMS is responsible under State law for regulating the delivery of emergency medical services (EMS) in North Carolina, which includes authority to “establish standards and criteria for the credentialing of EMS educational institution.” N.C. Gen. Stat. § 143-508(d)(4). An educational institution that seeks approval to provide EMS training is required to submit to OEMS an education plan, which the agency reviews for compliance with established criteria. As part of the credentialing process, OEMS also audits the delivery of EMS educational programs, which may involve review of individual student records. OEMS would also review a student’s records in order to resolve any concerns regarding an individual’s eligibility to sit for the credentialing exams.

As explained more fully below, educational agencies and institutions may provide personally identifiable information from education records to OEMS without prior written consent under 34 CFR § 99.31(a)(7) in connection with the credentialing process for an organization or program. However, a parent or eligible student must provide prior written consent before the agency or institution may disclose personally identifiable information from education records in connection with any concerns OEMS may have regarding an individual’s eligibility to sit for credentialing exams.

FERPA protects the privacy interests of parents and students in a student’s education records. It applies to an “educational agency or institution” that receives funds under any program administered by the U.S. Secretary of Education. An educational agency or institution subject to FERPA may not have a policy or practice of releasing personally identifiable information from education records without the prior written consent of the student’s parent, except as specified by law. See 34 CFR § 99.30. (All FERPA rights transfer to a student who has reached 18 years of age or attends an institution of postsecondary education. See 34 CFR § 99.3, “Eligible student.”)

One of the exceptions to the “prior written consent” rule in FERPA allows educational agencies and institutions to disclose information to “accrediting organizations to carry out their accrediting functions.” The terms “accrediting organization” and “accrediting functions” are not defined in FERPA, but this Office follows a commonly accepted understanding of these terms to mean organizations that are legally authorized to evaluate and recognize the quality of the instruction or training provided by an educational agency, institution, or program. See, e.g., 34 CFR §§ 602.1(a) and 602.3, which describe accrediting agencies recognized by the U.S. Secretary of Education.

North Carolina law has established a comprehensive Statewide EMS system in the Department of Health and Human Services, which includes OEMS. See N.C. Gen. Stat. § 143-507. This Department has responsibility for recognizing the credentials of EMS educational institutions in accordance with requirements of the North Carolina Medical Care Commission. N.C. Gen. Stat. §§ 143-508(d)(4) and 143-509. Under this authority, OEMS has published “Credentialing Guidelines and Application Process” for institutions seeking credentials as an EMS educational institution, available at the OEMS website at <http://facility-services.state.nc.us/EMS/credguid.pdf>. Based on these facts, we conclude that OEMS constitutes an “accrediting organization” for purposes of 34 CFR § 99.31(a)(7), and that educational agencies and institutions may disclose personally identifiable information from student’s education records without prior written consent in connection with OEMS’ responsibilities for credentialing EMS institutions or programs.

However, there is no exception to the “prior written consent” rule in § 99.30 of the FERPA regulations that allows disclosure to OEMS in connection with any concerns it may have about a particular student’s eligibility to sit for credentialing exams. See 34 CFR § 99.31 for a listing of exceptions to the requirements of § 99.30. In these circumstances, the educational agency or institution must obtain the parent’s or eligible student’s prior written consent in accordance with the requirements of section 99.30.

I trust that this information is helpful in explaining the scope of FERPA as it relates to your concerns.

Sincerely,
/s/
LeRoy S. Rooker
Director
Family Policy Compliance Office