

March 25, 2004

Mr. David R. Powers
Executive Director
Coordinating Commission for Postsecondary Education
140 N. 8th Street, Suite 300
P.O. Box 95005
Lincoln, Nebraska 68509-5005

Dear Mr. Powers:

This responds to your inquiry in which you described the procedures under which Nebraska's Coordinating Commission for Postsecondary Education (CCPE) meets the reporting requirements of the Federal Workforce Investment Act of 1998 (WIA) on behalf of the State's community, state, private career, and other colleges. You explain that you have revised your contract with the Nebraska Department of Labor to comply with the new guidance issued by William D. Hansen, Deputy Secretary of Education, on January 30, 2003, which rescinded previous guidance on meeting WIA reporting requirements in compliance with the Family Educational Rights and Privacy Act (FERPA). (The January 30, 2003, memorandum indicated that the revised guidance was effective April 30, 2003.) You indicated that you would continue to use the wage matching processes described in your April 24 letter for WIA reporting unless you received written communication from the U.S. Department of Education that the process does not comply with the Department's revised guidance, or unless WIA is amended during reauthorization to change the reporting requirements for postsecondary institutions.

This Office is responsible for administration and enforcement of FERPA, including review of WIA data matching procedures for compliance with the revised guidance issued by the Deputy Secretary on January 30, 2003. We have reviewed the process described in your April 24, 2003, letter and find that it complies with the requirement that a State educational authority (CCPE) maintain direct control over any data matching process and ensure that personally identifiable information, such as student social security numbers, is not disclosed to the labor department or other agency that maintains records for the match. In particular, you explained that

[CCPE] has worked under a continuing contract with our State Department of Labor to match graduates' social security numbers against Labor's UI [unemployment insurance] wage data base. One individual in our office has been designated to perform this function. He has been given limited authority, by our contract with the Labor Department to enter the UI wage data base. This

employee has been educated about FERPA limitations and is quite serious about protecting private student information. Thus, an employee of [CCPE] performs the computer match on-site at our agency. Aggregate data showing raw numbers of students who match in various program and industry code categories, with social security numbers and names deleted, is then sent electronically to the Department of Labor, which uses the data to prepare a WIA report for each participating institution.

....

[E]mployees of the Department [of Labor] do not participate in the wage match in the sense that they can actually see student social security numbers. Rather, Labor employees make the UI data for a specific time frame available to a [CCPE] employee who is able to enter the UI data base to conduct the match. All this is handled remotely through electronic communications.

As noted above, we find that this procedure complies with the requirement that CCPE maintain direct control over any data matching process and ensure that personally identifiable information is not disclosed to the labor department or other agency that maintains records for the match.

I trust that this responds to your inquiry and thank you for the opportunity to comment on this matter. Please do not hesitate to contact us again should you have any additional questions.

Sincerely,

/s/

LeRoy S. Rooker
Director
Family Policy Compliance Office