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June 22, 1995

Ms. Judith Horowitz Richter  
Office of the General Counsel  
University of Maryland Medical Systems  
22 South Green Street  
Baltimore, Maryland 21201

Dear Ms. Richter:

This is in response to your June 5, 1995, inquiry regarding the applicability of the Family Educational Rights and Privacy Act (FERPA) to the records of medical residents. As discussed further below, the records of medical residents are not protected by FERPA.

FERPA generally protects a student's privacy interests in education records. "Education records" 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). The term "student" is defined as "any individual who is or has been in attendance at an educational agency or institution and regarding whom the agency or institution maintains education records." 34 CFR § 99.3

A medical resident who works at a hospital is not a "student" as that term is defined in FERPA. The individual has received the Doctor of Medicine degree--the terminal degree for the profession--from a medical school and has completed his or her education as a "student." In most states, persons who receive a medical degree may not practice medicine without supervision until they have completed a period of residency and passed a State licensing examination. As medical residents, the individuals refine their skills and their work is evaluated for the purpose of determining whether they should be licensed to practice medicine. Evaluative records pertaining to their practical experience as doctors who have completed their education are not "education records" under FERPA. They are not directly related to students in attendance at educational agencies or institutions.

I trust that the above information satisfactorily responds to your inquiry. Should you have further questions regarding 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