

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.

October 29, 1990

Mr. Keith E. Richards
Superintendent
Westlake City Schools
2260 Dover Center Road
Westlake, Ohio 44145

Dear Mr. Richards:

This is in response to your letter of May 17, 1990, in which you requested an opinion regarding the applicability of the Family Educational Rights and Privacy Act (FERPA) to certain classroom activities. In your letter, you inquired whether these practices comply with FERPA.

FERPA is intended, in part, to afford parents the right to have some control over disclosure of information from their children's education records. In this regard, it provides that information from a student's education records cannot, with certain exceptions, be disclosed without parental written consent. Under FERPA, the term "education records" is broadly defined to include all records, files, documents and other materials which contain information directly related to a student and are maintained by the educational institution. The provisions concerning a parent's right to consent to disclosures are set forth in sections 99.30 and 99.31 of the FERPA regulations.

FERPA is not, on the other hand, intended to interfere with a school's, or classroom teacher's, ability to carry out what are generally considered to be normal and legitimate educational activities and functions. Thus, a thoughtful, common sense, and flexible approach is necessary in judging the impact of some classroom activities on a student's right to privacy and vice versa.

Following are the specific questions you presented, along with our responses:

Question(s)

Can a teacher take all of their grade book reporting data and weekly post it in the classroom to assist students in knowing their progress?

Is it permissible for teachers to list final exam grades on a posted list outside their classroom if the students are not identified by name but each student is issued a number such as a social security number?

Discussion

The Department has long held that a teacher may not post a roster or listing of students' grades by name, social security number, or other personal identifier, without prior parental consent. We suggest the use of a code that is non-identifiable to other students but recognizable to the student and the teacher.

Question

Many teachers verbally go through their grade book and inform each student as to the work that is yet to be completed and due for the next week; is this an acceptable practice?

Discussion

This generally accepted classroom practice would not be a violation of FERPA because the teacher is not disclosing information from a record that has previously been recorded and maintained. Such information is, therefore, not information from an "education record."

Question

What about the elementary teacher that displays students' work? Must parental permission be obtained before such work can be displayed?

Discussion

The generally accepted classroom practice of displaying exemplary papers or projects, whether graded or ungraded, would be consistent with the part of the directory information definition that covers awards received, 34 CFR 99.3. As long as the conditions in section 99.37 have been met and the parent of an elementary or secondary school student has not refused disclosure of directory information, then such a paper or project may be displayed without the consent of the student's parent. Additionally, a teacher may display any paper or project of a student whose parents have given prior written consent for doing so.

Question

When elementary teachers have students exchange papers and grade in class, obviously another student knows the grade earned of the student whose paper is being graded, is this acceptable?

Discussion

This classroom practice does not violate FERPA. Such papers could be considered to fall outside the FERPA definition of education records because they are not, strictly speaking, "maintained" by a school at that point.

Question(s)

All of our buildings have annual honors assemblies where students are recognized for perfect attendance, for not having received any disciplinary action over the course of the year, as well as, for being on the school honor roll of receiving all A's and B's for the year. First is this legal and second, if it is legal, is parent permission necessary to comply with standards?

What about the posting of school honor rolls? This information is posted by grading period and supplied to the newspapers. Again, is this practice legal and second, if legal, must parent permission be obtained before distributing such data to the newspapers?

Discussion

Again, as in the question regarding the display of exemplary papers, these practices would be consistent with the part of the directory information definition that covers awards received, 34 CFR 99.3. As long as the conditions in section 99.37 have been met and the parent of an elementary or secondary school student has not refused disclosure of directory information, then students may receive recognition at honors assemblies and honor rolls may be supplied to the newspapers without the consent of the student's parent.

I trust the above satisfactorily explains the scope and limitations of the FERPA regulations as they pertain to your concern. The new name and address of this Office are as follows:

Family Policy Compliance Office
U.S, Department of Education
400 Maryland Avenue, SW
Room 3017, FB-6
Washington, D,C, 20202-4605

Enclosed for your review is some information on FERPA, including a copy of the regulations and a model policy for use on the elementary and secondary levels.

Sincerely,

/s/

LeRoy S. Rooker
Director
Family Policy Compliance Office

Enclosures [Not Included]