



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF POSTSECONDARY EDUCATION

THE ASSISTANT SECRETARY

GEN-07-05

September 7, 2007

Subject: Releasing Student Information

Summary: This letter clarifies an institution's responsibilities to release information under the Federal Freedom of Information Act (FOIA) and the Federal Family Educational Rights and Privacy Act (FERPA).

Dear Colleague:

We have recently been notified that outside entities, including student lending organizations, have contacted institutions and have requested student, or former student, information under either the Federal Freedom of Information Act (FOIA), 5 U.S.C. §552, or under a state freedom of information law. We have been asked to clarify whether institutions must comply with these requests.

The Federal FOIA only applies to Federal agencies and their employees. Institutions that participate in the Title IV, HEA programs are not subject to the Federal FOIA and therefore are not required to release any student information under this law.

We would like to remind institutions that, regardless of the reason why an institution may be releasing student information, the requirements of the Federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g, apply to all postsecondary educational institutions that receive funds under any program administered by the Department. Under FERPA, a postsecondary institution may not have a policy or practice of disclosing personally identifiable information from a student's education records without his or her prior written consent, except as specified by law. Specific requirements for written consent are presented in the Department's FERPA regulations at 34 C.F.R. §99.30, and exceptions to the consent requirement are contained at §99.31.

These regulations can be found by visiting:

<http://www.ed.gov/policy/gen/guid/fpco/index.html>.

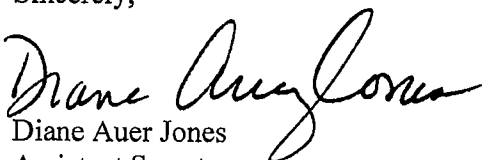
One of the exceptions to the prior written consent requirement in FERPA permits an institution to disclose information that has been appropriately designated as "directory information" by the institution. Directory information includes information such as the student's name, address, telephone listing, e-mail address, major field of study, and other information that generally would not be considered harmful or an invasion of privacy.

However, an institution may not disclose “directory information” that is linked to non-directory information, such as information on a student’s financial aid status. Therefore, if an institution receives a request for information about a student’s financial aid status, or if the request is only for directory information for students who have received student financial aid, the institution is restricted, under FERPA, from releasing that information without first securing the student’s or former student’s written consent. Institutions are not required by FERPA to actively seek such consent. Finally, institutions may not release any directory information for any students or former students who have opted out of the disclosure of that information.

We suggest that institutions consult with their legal counsel to ensure that any release of information is consistent with the requirements of FERPA and any applicable state public disclosure or privacy laws.

We hope that institutions find this information useful. If you have any questions about the issues discussed in this letter, please contact Michelle Belton at Michelle.Belton@ed.gov or at (202) 502-7821. Officials that have questions about FERPA may contact the Department’s Family Policy Compliance Office at FERPA@ED.Gov.

Sincerely,



Diane Auer Jones
Assistant Secretary
Office of Postsecondary Education