



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF INNOVATION AND IMPROVEMENT

Mr. Louis A. Tedesco
Freeholder
County of Bergen
Board of Chosen Freeholders
One Bergen County Plaza, Fifth Floor
Hackensack, New Jersey 07601-7076

FEB 14 2003

Dear Mr. Tedesco:

This is in response to your December 6, 2001, letter to the Department of Education regarding concerns you raised relative to the release of information on parents of students in the Bergen County Special Services School District (District). You state that the District apparently disclosed information from students' education records to a political candidate and that a campaign mailing was sent to parents of students in the District. I apologize for the late response to your inquiry; however, your letter was misdirected in the Department. This Office has been asked to respond to your letter because we administer the Family Educational Rights and Privacy Act (FERPA), a federal law that protects the privacy of education records.

FERPA is a Federal law that protects a parent's privacy interest in his or her child's "education records." In particular, FERPA provides that an educational agency or institution may not have a policy or practice of denying parents the right to: inspect and review their children's education records; seek to amend education records; or consent to the disclosure of information from education records, except as provided by law. The term "education records" is defined as:

[T]hose 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.

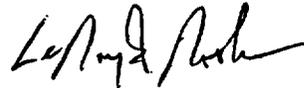
20 U.S.C. § 1232g(a)(4). See also 34 CFR § 99.3 "Education records." Moreover, the records of a student which pertain to services provided to that student under the Individuals with Disabilities Education Act (IDEA) are "education records" under FERPA and are subject to the confidentiality provisions under IDEA (see 34 CFR § 300.560-300.576) and to all of the provisions of FERPA.

In order for this Office to investigate your allegation that FERPA may have been violated, we would have to receive a complaint from a parent whose child's information was disclosed. FERPA vests the rights it affords with the parent or eligible student. The statute does not provide for these rights to be vested in a third party that has not suffered an alleged violation. Thus, an individual must have "standing," i.e., have suffered an alleged violation, in order to file a complaint under FERPA. For your information, we have enclosed a complaint form that you may provide to a parent for filing a complaint.

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Thank you for bringing this matter to our attention. We hope that this adequately explains the scope and limitations of FERPA, as it applies to your inquiry.

Sincerely,

A handwritten signature in black ink, appearing to read "LeRoy S. Rooker". The signature is fluid and cursive, with a prominent initial "L" and a long, sweeping underline.

LeRoy S. Rooker
Director
Family Policy Compliance Office

cc: JoLeta Reynolds
OSEP