

3350 Library

# The State of South Carolina



## Office of the Attorney General

Opinion No 88-72  
#208

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September 28, 1988

The Honorable James H. Hodges  
Member, House of Representatives  
Post Office Box 947  
Lancaster, SC 29720

Dear Representative Hodges:

You have requested the Opinion of this Office as to whether a school district must supply a list of all graduating seniors of a high school in that district. The federal Family Educational Privacy Rights Act (Buckley Amendment) and the regulations thereunder control this matter. See 20 USC § 1232g and 34 CFR Part 99 (copies enclosed). This law prohibits the disclosure of personally identifiable information about a student except for "directory information". Section 1232g(b).

Although status as a senior who is to graduate is not specified under "directory information", such information should be included under a plain reading of the definition of that term (South Carolina Department of Highways and Public Transportation v. Dickinson, 341 S.E.2d 134 S.C. (1986)) in that "directory information" includes such matters as "major field of study...dates of attendance, degrees and awards received...and other similar information (emphasis added)." Section 1232g(a)(5)(A) and 34 CFR §99.3; See Ops. Atty. Gen. (April 29, 1985). In reaching this conclusion, I am assuming that information would be sought only as to whether the students were seniors and not as to whether their academic performance would qualify them for graduation. No opinion is expressed herein as to the disclosure of records concerning a student's level of academic performance.

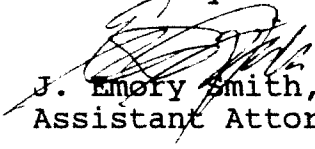
For students who are enrolled, the directory information as to their names and status as graduating seniors could be disclosed only in accordance with the procedure under 34 CFR §99.37. Under this procedure, this directory information about an enrolled graduating senior could be disclosed only if the district first gave public notice that it had designated such information as directory information and that students and their parents had the right to refuse to permit the disclosure of any or all categories of "personally identifiable information" about the students as directory information. 34 CFR §99.37.

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The South Carolina Freedom of Information Act (FOIA) - § 30-4-10 et seq. of the Code of Laws of South Carolina, (1976 as amended) would not bar the disclosure of such information. Although scholastic records are not required to be disclosed under that law (§ 30-4-20(c)), the FOIA contains no exemption from the disclosure requirements for the names of students enrolled in a school and their status as seniors or as graduates. See Ops. Atty. Gen. (July 16, 1987 and April 18, 1978). Such information also would not appear to constitute an "unreasonable invasion of personal privacy" exempting it from disclosure under the FOIA. See Ops. Atty. Gen. (July 16, 1987).


In conclusion, a school district may release the names of currently enrolled graduating seniors if the procedures for disclosure of directory information has been followed by the school district under 34 CFR §99.37. If you have any questions, please let me know.

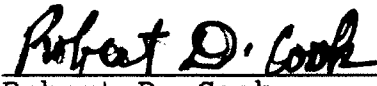
Yours very truly,

  
J. Emory Smith, Jr.  
Assistant Attorney General

JESjr/jps  
Enclosures

REVIEWED AND APPROVED BY:

  
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