

1976 S.C. Op. Atty. Gen. 119 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4298, 1976 WL 22918

Office of the Attorney General

State of South Carolina

Opinion No. 4298

March 15, 1976

\*1 Mrs. Ruth Q. Seigler, R.N.  
Executive Director  
State Board of Nursing for South Carolina  
Suite 102  
1777 St. Julian Place  
Columbia, SC 29204

Dear Mrs. Seigler:

This letter is in response to your letter of February 6, 1976, concerning the legality of sending State Board Test Pool Examinations marked with the applicant's name to the applicant's former or present school.

Initially, I can inform you that the scope of the two recent federal laws passed in the area of privacy does not concern the State Board of Nursing. [20 U.S.C.A. 1232](#) amended in 1974 and commonly known as the 'Buckley Amendments' applies only to educational agencies or institutions which receive federal funds. [5 U.S.C.A. 552](#), added in 1974 and known as the 'Privacy Act' applies only to federal agencies. Therefore, the Acts to which Ms. Labecki referred do not affect your agency.

However, I wish to caution you concerning your continued practice of sending names and score reports together. The Constitutional Right of Privacy has been given increased scope in recent years through Supreme Court cases such as [Griswold v. Connecticut](#), 381 U.S. 479 (1965); [Stanley v. Georgia](#), 394 U.S. 557 (1969); and [Roe v. Wade](#), 410 U.S. 113 (1973). A court, if this practice were challenged, might consider your practice an invasion of an applicant's right to privacy, especially since this information is sent gratuitously rather than at the request of a student. Therefore, I suggest that you either omit names from the range of scores which you send to each school or secure permission to send the scores from each applicant. I believe a release from could be incorporated into the examination or application in a simple form as a check-off box. If you wish a more detailed discussion of this problem, I will be happy to discuss this further with you. Sincerely,

Kenneth L. Childs  
Staff Attorney

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