



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

November 18, 1996

The Honorable Fred R. Sheheen
Commissioner
South Carolina Commission on Higher Education
1333 Main Street
Columbia, SC 29201

Dear Fred:

You have requested the advice of this Office as to whether the Commission on Higher Education may release data concerning students such as SAT scores when the "student identifier" is not released. You reference the Family Educational Right to Privacy Act (FERPA), 20 USC §1232g, which provides that "[n]o funds shall be made available ...to any educational agency or institution which has a policy or practice of releasing education records (or personally identifiable information contained therein...) without ... written consent...."

The following authority indicates that the removal of identifying information may permit the release of information in student records, but that whether the released information is "personally identifiable" is a fact question. Doe v. Knox County Board of Education, 918 F. Supp. 181 (E.D.K.Y. 1996); Kryston v. Board of Education, 77 A.D. 2d, 430 N.Y.S. 2d 688 (1980). Accordingly, whether the requested information is not "personally identifiable" so as to be subject to release appears to be a fact question which is beyond the scope of an Opinion of this Office. Ops. Atty. Gen. (December 12, 1983).

This letter is an informal opinion. It has been written by the designated Assistant Deputy Attorney General and represents the opinion of the undersigned attorney as to the specific questions asked. It has not, however, been personally reviewed by the Attorney General nor officially published in the manner of a formal opinion.

I hope that this information is of assistance to you.

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Yours very truly,

J. Emory Smith, Jr.
Assistant Deputy Attorney General

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