

The State of South Carolina



Office of the Attorney General

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ATTORNEY GENERAL

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April 29, 1985

Mr. Robert H. White
Executive Director
S. C. Advisory Council on
Vocational and Technical Education
2221 Devine Street, Suite 420
Columbia, SC 29205

Dear Mr. White:

You have requested the advice of this Office as to whether the Office of Vocational Education within the South Carolina Department of Education (Department) may disclose information concerning former vocational education students. You would like to be supplied a list of the names, telephone numbers and specific vocational programs completed by these former students. The purpose of this request is for a marketing firm to conduct telephone interviews with a sample of the 1983 graduates for the purpose of the Advisory Council's study of the State's vocational education system. This study is required by the Education Improvement Act, Act 512, Part II, §9, Division II, Subdivision A, Subpart 5, Acts and Joint Resolutions of South Carolina, 1984.

This matter appears to be controlled by the Family Educational Privacy Rights law (Buckley Amendment) and the regulations thereunder. See 20 U.S.C. §1232g and 34 CFR Part 99. The information that you are seeking appears to be "directory information" under this law. Directory information includes the student's name, address, telephone number and major field of study. See §1232g(a)(5)(A) and 34 CFR §99.3.

Educational agencies or institutions are expressly authorized to disclose directory information from the education records of an individual who is no longer in attendance at the agency or institution without following the procedures normally required for disclosure of directory information. 34 CFR §99.37(b). The Department has advised that the information has been reported to it from the school districts pursuant to Federal requirements (See §1232g(b)(1)(C)); however, the Department is not the "agency or institution" at which the individuals were "in attendance".

REQUEST LETTER

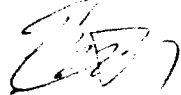
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Therefore, the State Department of Education may not have direct authority to release directory information. See also §1232g(b)(1)(F), 34 CFR §§99.31(5) and 99.33.

This possible problem would appear to be capable of being overcome by the Department's obtaining blanket authorization from the school districts to the disclosures of the directory information held by the Department. In effect, these authorizations would be releases of the directory information by the school districts. Therefore, they would appear to be permissible under the authority of the above quoted regulation. Moreover, the disclosures are consistent with Buckley Amendment provisions for disclosure related to surveys conducted for the purpose of improving instruction. See Act 512, supra, and 34 CFR §99.31(5). To simplify obtaining the authorizations, I suggest that the Department call the school districts and obtain verbal authorization which can then be confirmed by letter sent by the Department.

If we may be of additional assistance, please let me know.

Yours very truly,

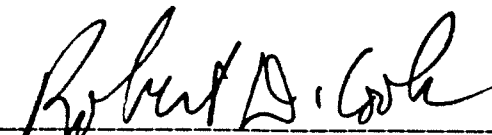

J. Emory Smith, Jr.
Assistant Attorney General

JESJr/rho

cc: Dr. Moody M. Oswald, Office of Vocational Education
South Carolina Department of Education

Mr. Ron Jordan, Office of Vocational Education
South Carolina Department of Education

REVIEWED AND APPROVED:



ROBERT D. COOK
Executive Assistant for Opinions