

1978 WL 34862 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 18, 1978

*1 Col. James R. Woods
Director
Citadel Staff
The Citadel
Charleston, S.C. 29409

Dear Col. Woods:

I am in receipt of your letter of March 27, 1978, requesting an opinion from this Office concerning the release of student information.

Two statutes potentially affect this request. First, [20 U.S.C.A. § 1232g](#) (The Buckley Amendment) prohibits disclosure of educational records except in certain circumstances. Second, the State Freedom of Information Act (§ 30-3-10 thru § 30-3-50, Code of Laws of South Carolina (1976)) requires disclosure of public records except in certain circumstances.

[20 U.S.C.A. § 1232g\(b\)\(1\)](#) lists officials and agencies to which educational records or personally identifiable portions thereof may be released without the prior written consent of the student. Generally, the list includes educational authorities and other school officials. A State representative does not fit under any of the categories.

Further, [20 U.S.C.A. § 1232g\(c\)](#) provides that no survey or data-gathering activities shall be conducted by . . . an administrative head of an education agency under an applicable program, unless such activities are authorized by law. In addition to not being made by an administrative head of an education agency, the Representative's request does not appear to be made pursuant to a study authorized by law.

The federal statute prevents the release of 'personal identifiable' information. This term is defined at [45 C.F.R. § 99.3](#) to include information which would make the student's identity easily traceable. The issue basically is whether a list of GPR's and nothing more is 'personally identifiable.' Clearly, the inclusion of the students' names would violate the Amendment.

The statute provides that each educational agency shall adopt its own guidelines on how information shall be released. Therefore, the initial determination of whether this type information should be released is up to the guidelines established by the Citadel.

Section 30-3-20, et seq. of the 1976 Code of Laws of South Carolina specifically excludes scholastic records from its requirements. However, an opinion issued by this Office (1976 Ops.Att'y.Gen. 333, No. 4471) indicates that group statistical summaries of confidential records may be released. A listing of GPR's is probably not a statistical summary. An indication of the percentage of a certain group that has passing marks and the percentage that have failing marks might be permissible under this exception. However, the exception in no way compels disclosure, it merely permits it. Therefore, the initial decision is up to the Citadel. It should be noted that the Citadel should take into consideration whether this information was already compiled or would have to be compiled specifically for this request.

It is the opinion of this Office that the Citadel is not compelled to disclose this information under the State Freedom of Information Act or the Buckley Amendment.

*2 I trust this answers the question raised in your letter, however, if I can be of any further assistance, please do not hesitate to contact me.

Very truly yours,

Perry M. Buckner
Assistant Attorney General

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