

1975 S.C. Op. Atty. Gen. 141 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4063, 1975 WL 22360

Office of the Attorney General

State of South Carolina

Opinion No. 4063

July 30, 1975

*1 The release of a student's personally identifiable records, files, or information contained therein by an educational institution to anyone other than to school officials, educational agencies, or other exceptions listed in Section 513(a) Part C of the General Education Provision Act, as amended by Section 438(b)(1)(A)–(D) requires the written consent of the student involved.

Such written consent should specify the records to be released, the reasons for such release and to whom the release is to be made; and a copy of these records should be released to the student if desired.

TO: Director

Office of Manpower Planning and Coordination

QUESTIONS PRESENTED

(1.) Is it proper to disseminate a Trainee Progress and Evaluation Report (Form MX–4, prepared by TEC) so the Employment Security Offices without the written consent of the enrollees involved, in connection with ?? of the General Education Provision Act, as amended by Section 438(b)(1)?

(2.) If written consent is required, will a signed document from the enrollee stating he recognizes his rights under the law and will allow dissemination of this form in accordance with the General Education Provision Act be sufficient?

(3.) Should those enrollees who are no longer having Form MX–4 completed for them but who are still in CETA activities be requested to sign consent slips pursuant to the General Education Provision Act?

DISCUSSION

(1.) Section 513(a) Part C of the General Education Provision Act, as amended by Section 438(b)(1), does not permit the release of any personally identifiable information contained in a student's personal records without the written consent of the student involved. By nature of the fact that Form MX–4 would contain information on a student's progress in class, his work habits, and so on, and presumably would be placed in the student's personal records, the form falls under this provision requiring the enrollee's written consent for the release of the report. Section 438(b) provides specific exceptions to the above rule. In that the Employment Security Office does not fall into one of these exceptions, written consent of the student involved is necessary in this instance.

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(3.) Although there may be students at TEC who are no longer having Form MX–4 completed for them, if these students have ever had such a form completed for them, TEC must have a consent form from such students prior to releasing the form. The consent form for these students must comply with the provisions of Section 438(b)(2)(A).

CONCLUSION

In conclusion, a written consent by the student involved must be obtained before Form MX-4 can be released from TEC to the Employment Security Offices. Also, to achieve full compliance with the statute governing this requirement, more complete information should be provided with the consent, including specifying the records to be released, the reasons for such release, and to whom release is to be made. Finally, a copy of these records should be made for the student, if desired.

Yours very truly,

***2** M. Elizabeth Crum
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