

## “Directory Information” and Student Assistants.

The Federal Educational Rights and Privacy Act (FERPA) generally prohibits the disclosure of personally identifiable information from a student’s education records without the prior consent of the student. Among the more common exceptions to that general prohibition are the disclosure of directory information and the disclosure of information in response to a lawfully issued subpoena or court order. Directory information typically includes a student's name, address (local and permanent), telephone number, e-mail address, date and place of birth, enrollment status (full-time or part-time), class schedule/class roster, major field of study, participation in officially recognized activities and sports, weight and height statistics of athletic team members, dates of attendance, degrees and awards received, the most recent institution previously attended, and a photograph of the student. Students also may object to the release of directory information and deny its disclosure without prior consent as well. Universities that receive federal funding are obligated to comply with FERPA. Their failure to do so may result in loss of that funding.

In a letter recently made available, the Family Policy Compliance Office (FPCO) of the U.S. Department of Education provided useful guidance concerning its interpretation of the application of these basic principles. First, the FPCO concluded that the term “education records” for FERPA purposes would include records pertaining to teaching assistants when one cannot be a teaching assistant unless one is a student. Records of readers or tutors would also be education records subject to FERPA if the university’s employment of a reader or tutor is contingent upon their being students in attendance at the university. Second, the FPCO stated that a subpoena is “lawfully issued” for FERPA purposes when it is issued in compliance with State law. In addition, unless a subpoena concerning student education records protected under FERPA is a Federal grand jury subpoena or other subpoena issued for a law enforcement purpose and the subpoena contains a provision that the student must not be informed of its existence, the university must make a reasonable effort to notify the student in advance of its compliance with the subpoena. This notification is to permit the student to seek protective action from the court.

Additionally, the FPCO pointed out that in some cases even the disclosure of directory information concerning students without their prior permission could be a violation of FERPA. That potential existed here where the names and addresses of all student teaching assistants were sought. While the names and addresses were directory information, providing that information for a such a discrete group would reveal the fact that the students were teaching assistants, a status not within the definition of “directory information.”