

## Department of Education clarifies access to theses

Earlier this year, the Department of Education was asked by one institution for a written opinion as to whether the Family Educational Rights and Privacy Act (FERPA, also known as the Buckley Amendment) applied to undergraduate and graduate theses, and whether theses could be made publicly available in academic libraries for research purposes. The written response indicated that student theses would ordinarily be considered education records under FERPA and generally could not be released without prior written consent by the student. This response was apparently distributed through electronic mail to institutions around the country and was picked up by the media.

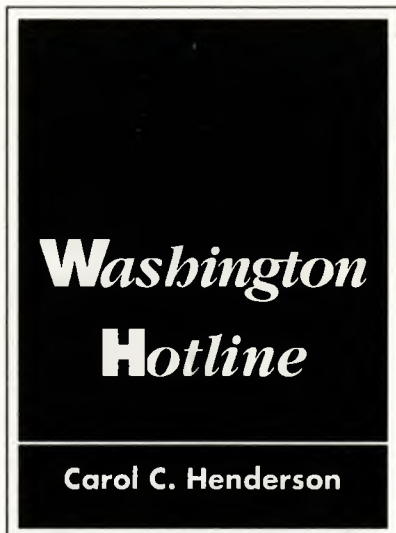
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*The regulations implementing FERPA require . . . written consent before releasing a student's education records or disclosing personally identifiable information from such records.*

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The regulations implementing FERPA require an educational institution to obtain written consent before releasing a student's education records or disclosing personally identifiable information from such records. In general, education records are defined as those directly related to a student and maintained by an educational agency or institution.

Since press reports on this issue surfaced this summer, the ALA Washington Office has been in touch with the Department's Family Policy Compliance Office, which administers FERPA, to seek clarification. ALA learned that no complaints have been made against any postsecondary institution by any student alleging that a thesis was improperly disclosed. Department officials said they did not before and do not now see a problem with the way schools normally treat theses that are written for publi-



cation, and generally do not see the need for schools to change the way they are doing business.

A letter intended to clarify the Department of Education's position was sent on September 1 by LeRoy S. Rooker, Director of the Family Policy Compliance Office, to ALA Washington Office Director Eileen Cooke. Rooker noted that "in ordinary circumstances FERPA prevents an

institution from disclosing or publishing a student's written examination or paper without prior written consent," except for certain specified exceptions. Nevertheless, Rooker saw the special nature of student theses, and stated:

However, while these documents are clearly "education records," as noted in our May 11, 1993, letter on this subject, we recognize that undergraduate and graduate "theses" often differ in nature from typical student research papers and other education records, such as written examinations, in that they are published or otherwise made available as research sources for the academic community through the institution's library. It remains our understanding that in these circumstances an educational institution would ordinarily have obtained the student's permission to make his or her work available publicly before doing so, perhaps in connection with notifying the student of specific course or program requirements.

Consequently, an institution need not obtain a student's signed and dated specific written consent to disclose or publish a thesis in the library or elsewhere at the institution. Neither the statute, the legislative history, nor the FERPA regulations require institutions to depart from established practices regarding the placement or disclosure of student theses so long as students have been advised in advance that a particular undergraduate or graduate thesis will be made publicly available as part of the curriculum requirements. ■

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*Carol C. Henderson is deputy executive director of ALA's Washington Office; bitnet: ccb@alawash.org*