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February 21, 2012

The Honorable Bert Stedman
The Honorable Lyman Hoffman
Co-Chairs, Senate Finance Committee
Alaska State Senate
Alaska Capitol, Room 532
Juneau, AK 99801

Dear Senators Stedman and Hoffman:

Following is the information you requested regarding the application of Family Education Rights and Privacy Act (FERPA) protocols during the February 15, 2012 Senate Finance Committee hearing on CSHB104(RLS), during which the 2012 Alaska Performance Scholarship Outcomes Report was discussed.

1) What are the suppression requirements?

The reason that there are redactions in the report is to comply with FERPA prohibitions against the release of personally identifiable student information. Under federal law a student's educational record is comprised of directory and non-directory information. Directory information would include student names, addresses, enrollment status and the like. Directory information may be disclosed without the written consent of the student. However, the student can exercise the option to restrict the release of directory information by submitting a formal request to the school to limit disclosure. Non-directory information is any educational record not considered directory information. Non-directory information must not be released to anyone, including parents of the student, without the prior written consent of the student. Further, faculty and staff can access non-directory information only if they have a legitimate academic need to do so. Non-directory information may include:

- Social security numbers;
- Student identification number;
- Race, ethnicity, and/or nationality;
- Gender
- Transcripts; grade reports.

Redaction of APS award statistics when very small numbers exist is necessary under FERPA because APS eligibility is linked directly to grade reports and transcript contents, which are non-directory personally identifiable information and, therefore, are protected educational records under FERPA. Students have a right to privacy regarding transcripts and their contents. For example, if the number of students eligible to receive an APS award in a district is zero, and that information is published, EED and ACPE would indirectly be publicizing the fact that each individual student in that district did not meet at least one of the requirements of APS. In our estimation that is a violation of students' right to the privacy of their educational records under FERPA.

- 2) Can SFIN hold an executive session during which EED and ACPE would divulge the information?

Not without express permission from students. Non-directory information (like grades or the contents of transcripts) cannot be released to third parties unaffiliated with an education institution without the prior written consent of each student who would be affected.

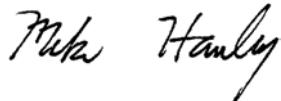
- 3) Can we combine small school districts so the data is available?

Yes. If the statistics for small districts were combined, for example into four or five regional groups or grouped by enrollment levels, the release of the statistics would probably not violate FERPA. The key would be to assemble the numbers in large enough groups that there is no reasonable likelihood that the statistic as a whole would reflect on any individual student.

In light of the public policy importance of this information EED and ACPE have examined previously published APS statistics to determine if a basis for additional disclosure is available. As a result of that re-examination, we have concluded we can populate number of graduates and, in some cases, number of APS recipients. We are relying on the bases that 1) the number of graduates is already public information, and, 2) recipients are those eligible individuals who have elected to use the APS, and that decision does not reveal non-directory information. An updated table will be included in ACPE's response to the committee's information request.

Thank you for the opportunity to provide answers to the committee relative to CSHB104 (RLS), the Alaska Performance Scholarship. Please let me know if you or the committee has related questions.

Sincerely,



Mike Hanley
Commissioner