

600 601 600

PUBLIC INFORMATION

SCHOOL DISTRICT RECORDS — LOCAL BOARDS OF EDUCATION
MUST SUPPLY NAMES AND ADDRESSES OF STUDENTS
UPON REQUEST NOTWITHSTANDING PUBLIC LAW 93-380
— LOCAL BOARDS OF EDUCATION MAY NOT PUBLICLY
DISCLOSE DEGREE AND CREDIT INFORMATION IN PER-
SONNEL FILES OF INDIVIDUAL TEACHERS.

January 17, 1975.

Dr. James A. Sensenbough,
State Superintendent of Schools,
Maryland State Department of Education.

You have requested an opinion of this office dealing with two matters concerning confidentiality.

"1. Would giving names and, particularly, addresses of students to others, without either the students' or parents' permission, be in violation of the federal statute under Public Law 93-380 regarding confidentiality?"

"2. Does giving the degree(s) plus credits earned beyond that of a bachelor's degree, along with names and addresses of teachers, to anyone who requests such a list, violate the confidentiality of teachers, particularly inasmuch as each teacher must have a bachelor's degree?"

Public Law 93-380, particularly Section 438 (b) (1), requires educational institutions which receive federal funding to forbid the release of

"... personally identifiable records or files (or personal information contained therein) of students without the written consent of their parents to any individual, agency, or organization, other than to the (officials and others described in the subsection)...."

Also pertinent is Article 76A Section 3(a) of the Annotated Code of Maryland, requiring full disclosure of all public records unless such disclosure would be contrary to a

state statute or a federal statute or regulation. Disclosure can also be denied if the records in question fall under exceptions specified in Section 3 (b) or (c) of Article 76A.

Section 3 (c) (viii) prohibits disclosure of

"School district records containing information relating to the biography, family, physiology, religion, academic achievement and physical or mental ability of any student except to the person in interest or to the officials duly elected and appointed to supervise him."

It should also be noted that Bylaws 751:2 and 751:3 of the State Board of Education state that individual pupil records are confidential in nature and are to be made available only to parents of students in conference with appropriate school personnel.

In 59 Opinions of the Attorney General 586, (1974), lists of students' names and addresses were considered "public records" as defined in Article 76A, Annotated Code of Maryland, Section 1 (a), and thus required by Section 2 (a) to be open for public inspection unless otherwise provided by law.

However, this opinion also determined that neither Bylaws 751:2 and 751:3 nor Article 76A Section 3 (c) (viii) applies to lists of student names and addresses since such lists do not constitute "pupil records" for purposes of the Bylaws nor "school district records" as defined by Article 76A Section 3 (c) (viii).

United States Public Law 93-380, Section 438 (b) (1) (supra) does not in terms prohibit the disclosure of pupil names and addresses. The language "personally identifiable records or files . . ." in the section does not appear any broader in scope than the "school district records . . ." referred to in Article 76A, Annotated Code of Maryland, Section 3 (c) (viii), which were held in 59 Opinions of the Attorney General 586 (1974) not to include lists of names.

This construction is supported by Section 438 (a) (1) of P.L. 93-380, which speaks of students' records as

"... including all material that is incorporated into each student's cumulative record folder, and intended for school use or to be available to parties outside the school or school system, and specifically including, but not necessarily limited to, identifying data, academic work completed, level of achievement (grades, standardized achievement test scores), attendance data, scores on standardized intelligence, aptitude, and psychological tests, interest inventory results, health data, family background information, teacher or counselor ratings and observations, and verified reports of serious or recurrent behavior patterns."

This information appears analogous to that referred to in Section 3(c) (viii) of Article 76A as "school district records."

Thus, disclosure of students' names and addresses to third parties by school officials, even without parents' consent is not prohibited. Nothing in Article 76A nor United States Public Law 93-380 exempts such lists from the requirements of disclosure of public records as provided in Article 76A, the Maryland Public Information Act.

As to your inquiry concerning the giving of degree information including credits earned by teachers in specific school systems to anyone who requests such a list, we look to the exception provided under Article 76A Section 3(c) (iii) where the law denies the right of inspection to:

"Personnel files except that such files shall be available to the duly elected and appointed officials who supervise the work of the person in interest. Applications, performance ratings and scholastic achievement data shall be available only to the person in interest and to the duly elected and appointed officials who supervise his work..."

This provision of the Public Information Law would appear to except from the requirement of public disclosure personnel files which contain degree and credit information on

individual teachers. For this reason, dissemination of such degree information is not authorized by the Maryland Public Information Act.

FRANCIS B. BURCH, *Attorney General.*

MALCOLM R. KIRT, *Special Assistant
Attorney General.*