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October 4, 1999

Brian Michael
2620 S.W. Western #209
Corvallis, OR 97333

Re: *Petition for Public Records Disclosure Order: Oregon State University Records*

Dear Mr. Michael:

This letter is the Attorney General's order on your petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on September 29, 1999, asks the Attorney General to direct Oregon State University (OSU) to make available a copy of a gradebook to BA 522 with certain information deleted. This petition seeks the same records as an earlier petition that we received from you except that you are now stating that in addition to deleting the student names and identification numbers, the grade for the optional final examination, which was taken by only seven students, may also be deleted.

We denied your earlier petition by an order dated September 20, 1999, in which we stated:

> You already have knowledge of the names of some, or all of the students in the class, or at least of those students in your section. Because students often discuss particularly unusual grades, such as a very high grade or a very low grade, it is likely that you might know what grade a particular student received on a particular assignment or exam. Consequently, receiving the complete list of grades for all students in a class with 60 students could enable you to determine, for at least some students, what grades they received. Although disclosure by particular students of their individual grades may be voluntary, the school's disclosure of the rest of their grades would be without their consent and, to the extent the identity of any student would be "easily traceable" from that information, its disclosure would be a violation of FERPA.

Having concluded that disclosure of the information would be a violation of FERPA, the Family Educational Rights and Privacy Act, 20, USC § 1232g, we ruled that the records you sought were exempt from disclosure under the Public Records Law, which exempts records the disclosure of which is prohibited under federal law. ORS 192.502(8).

Although we found that because only seven of the students took the final examination, there was a "substantial likelihood" that one or more of those students could be easily identified if the final grades were revealed, we did not deny your petition on that ground alone. Rather, we concluded that because there were only 60 students in the class and because students often discuss particularly unusual grades, disclosure of the complete set of grades for each of the students could enable you to determine, for at least some students, which one of the rows of grades belonged to a particular student. It is the amount of student-specific information that you are seeking about the students in your class that we believe could permit the identity of one or more of them to be "easily traceable."

For the reasons stated in our earlier order and herein, we conclude that disclosure of the gradebook would result in release of "easily traceable" information regarding the educational records of students in your class even if the student names, student ID *and* grade for the optional final were deleted. Disclosure of this information is prohibited under FERPA, 20 USC § 1232g(b). Because disclosure is prohibited by federal law, that information is exempt from disclosure under the Oregon Public Records Law, ORS 192.502(8). Accordingly, we respectfully deny your petition.[1]

Sincerely,



DAVID SCHUMAN
Deputy Attorney General

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[1] We received e-mail correspondence from you in response to our earlier order asking that we order OSU Provost Roy Arnold to perform an analysis of the grades for your class or order Graduate Dean Frances to perform that analysis and to revise her ruling. This office has no authority to order state agency officials to perform such actions.

You also asked for the name and address of a contact person at the United States Department of Education. The Secretary of Education investigates, processes, reviews and adjudicates violations of FERPA. The address to which complaints should be addressed is: Family Policy Compliance Office, U.S. Department of Education, Washington, D.C. 20202-4605.