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STATE OF IOWA • DEPARTMENT OF PUBLIC INSTRUCTION

GRIMES STATE OFFICE BUILDING • DES MOINES, IOWA 50319

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Declaratory Ruling #16
(Cite as 1 D.P.I. Declaratory Ruling 33)

October 3, 1977

Mr. Patrick Nugent
Legal Consultant
Area Education Agency 7
9 Westwood Drive
Marshalltown, Iowa 50158

Dear Mr. Nugent:

Your Petition for Declaratory Ruling was filed in this office on August 29, 1977. In it, you ask several questions regarding student records. Please keep in mind that much of what you ask may be covered more by accepted and traditional practices rather than by law. Your specific questions with my responses follow.

1. Can a local school district or Area Education Agency destroy original student records once they have been microfilmed?

This Department has long recognized the desirability of microfilming school records, including student records. I know of no reason why original student records may not be destroyed once other arrangements, such as microfilming, have been made which will adequately preserve the information contained in the record. Sections 274.1 and 279.8 provide ample authority for a board of directors to determine the most appropriate method of maintaining student records.

2. If microfilming is proper, who are the proper persons to do the microfilming, and how many copies of a record should be kept?

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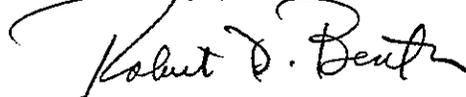
Obviously, if a school's own staff does the microfilming, there should not be any legal problems relating to privacy. Under current state law there would not likely be any legal privacy problems with hiring a reputable firm to do the microfilming. Whatever method of microfilming is utilized, reasonable precautions should be taken to see that improper use of such records is not made by anyone participating in the microfilming. I make no judgments here as to federal legislation dealing with student records as I have no jurisdiction over that legislation.

As a practical matter, a school district may desire to keep more than one copy of a student's permanent record. However, this Department's Rule 670--3.3(10), Iowa Administrative Code, implies that only one copy is required to be kept into perpetuity, and it must be stored in a fire-resistant safe or vault.

3. If original records are not destroyed, but rather are given to museums or historical societies after microfilming, is there a breach of confidentiality and an invasion of the student's right to privacy?

I would personally think that giving student records, especially cumulative records, to museums or historical societies without student or parental written consent would be a breach of confidentiality and an invasion of the student's privacy. My opinion, however, may not be based firmly in Iowa law because Iowa law is not sufficiently clear on the point. For an interpretation of federal law on the point, I suggest you contact the proper federal authorities.

Sincerely yours,



Robert D. Benton, Ed.D.
State Superintendent of Public Instruction

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