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OFFICE OF THE ATTORNEY GENERAL  
State of California

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OPINION	:	No. 79-717
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of	:	December 7, 1979
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SUBJECT: RELEASE OF INFORMATION—Private colleges and universities in California may provide the California Postsecondary Education Commission with descriptive information on their students where the information does not personally identify students and if it is determined that such release of information is in the best educational interests of the students.

The Honorable Patrick M. Callan, Director of the California Postsecondary Education Commission, has requested an opinion on the following question:

May private colleges and universities in California provide the California Postsecondary Education Commission with descriptive information on their students, where the information does not personally identify students, for use in reports on demographic and enrollment trends of students and studies of selected subsets of student characteristics?

## CONCLUSION

Private colleges and universities in California may provide the California Postsecondary Education Commission with descriptive information on their students where the information does not personally identify students, for use in reports on the demographic and enrollment trends of students and studies of selected subsets of student characteristics if they determine that such release of information is in the best educational interests of the students.

## ANALYSIS

The California Postsecondary Education Commission (hereinafter “the Commission”) proposes to develop a statewide student enrollment reporting system with private colleges and universities. Under the proposed system, each campus would, each January, send a computer tape to the Commission which would provide a record of each student enrolled in the fall term, describing each student’s sex, ethnic background, age, major area of study, full or part time status, and other descriptive characteristics. No unique student identifiers such as name, address, social security number or student identification number would be provided. The data collected would be used to prepare state level reports describing student demographic and enrollment trends and for studies of selected subsets of student characteristics.

The present inquiry concerns whether private colleges and universities in California may provide descriptive information on students, which does not personally identify them, without violating state statutes regarding the privacy of student records.

Chapter 13 of the Donohoe Higher Education Act (Educ. Code, § 67100 *et seq.*)<sup>1</sup> sets forth provisions concerning the release of information on students by colleges and universities in California. The purpose of the chapter is to resolve potential conflicts between state and federal law<sup>2</sup> regarding the confidentiality of student records in order to

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<sup>1</sup> Unless otherwise indicated, all section references are to the Education Code.

<sup>2</sup> The relevant provisions of Public Law 93–380 are contained in 20 U.S.C. § 1232g. That section generally provides that no federal funds shall be made available to educational institutions which: (1) have a policy of denying parents the right to inspect and review education records of their children; (2) do not provide parents an opportunity to challenge the content of education records; (3) permit the release of education records or personally identifiable information therein, other than directory information, without parental consent except to specified individuals, agencies and organizations; (4) permit the release of, or access to, personally identifiable information other than directory information in education records, except as provided, without consent or judicial order or subpoena; or (5) fail to inform parents of their rights under the section. Use of the word

insure the continuance of federal education funds to state colleges and universities, and to revise and update the law relating to student records. (§ 67100.)

Provisions of the chapter applicable to private colleges and universities restrict the release of student record information, without student consent or court order, except to specified persons, agencies and organizations. (§§ 67110, 67143.)

With regard to the release of statistical data on students, section 67141 provides:

“Nothing in this chapter shall preclude a college or university from providing, in its discretion, statistical data from which no student may be identified to any public agency or entity or private nonprofit college, university or educational research and development organization when such actions would be in the best educational interests of students.”

Section 67100 provides that except for Sections 67110, 67121, 67122, 67123, 67124, 67130, 67140, and 67143, the chapter shall not apply to private colleges and universities. While Section 67141 is not made applicable to private colleges and universities by Section 67100, the first six words of Section 67141 make its provisions applicable to all colleges and universities, private as well as public. To the extent that Section 67141 may conflict with Section 67100 in this regard, its specific introduction controls the more general provisions of Section 67100.

This construction is consistent with the federal provisions to which the Legislature sought to conform the state provision. 20 U.S.C. § 1232g, subdivision (b), provides in part:

“(b) (1) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) of this section) of students without the written consent of their parents to any individual, agency, or organization, other than to the following—

“ . . . ”

“(F) organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and

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“parent” refers to students when the section is applied to postsecondary institutions.

improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted;

“ . . . ”

Section 67141 permits colleges and universities to provide statistical data on students, from which no student may be identified, to public agencies and entities. The information the Commission seeks is statistical data. Since all student identifiers will be removed from the information, it may be released to the Commission pursuant to section 67141.

We note, however, that the decision to release the data lies with the particular school, not the Commission. Section 67141 provides that nonidentifiable data may be released by a college or university “in its discretion . . . when such action would be in the best educational interests of the students.”

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