

Advior Workshop Series

FERPA

7/25/04

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University Council

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Q: Where can we locate Utah State Universities specific interpretation or guidelines for the Ferpa regulations?

A: Not aware of any. Bob started looking on the website under Ferpa but found that is was not updated. Catalog is insufficient. He has talked to the registrar's office about regulations and input given. Ferpa is the United States Code which was delegated to the Department of Education and given the authority to draft regulations. You can go to CFR 34 part 99 and that's really the meat of Ferpa. There is a point 6 that no longer exist, which stated that the information needed to be in every University each year.

National Association of Collegiate Registrars and Admissions Officers (AACRAO).

There is a Utah Association that our Registrar belongs to. Chuck Olson gave him a newer version \$50-\$60 book

Resources:

www.AACRAO.org

www.ed.gov/officesOII/fpc

www.ed.gov/policy/gen/guide/fpc/library/index.html?exp=0

Q: Not all faculty have all SIS access. Yet students may sometimes list instructor or department head for employment recommendations. How would faculty handle conversation? What info can be discussed over the phone by third party?

A: There is only one kind of record.

“Personally identifying information”. All directory information is really personally identifying. Regulations allow a student to have

certain information not released from their directory of info (privacy hold).

If faculty is aware of hold he simply must say “I cannot give any information”. It is that simple. If no hold, the answer can only be in those areas of directory information.

Scenario: Someone calling for a job reference. If asked if you know this person and would you hire him is not a Ferpa question. But asked how good of a student he is could be violating Ferpa.

If at all unsure of what your answer should be you can call Bob and run it past him.

Q: Is Dean’s list or honor roll public information?

A: No, you cannot give a list of honor roll students. This is also protected information.

Q: Is there a penalty for violating Ferpa?

A: Termination to all Federal funding to the institution. Closing the door of institution.

Ferpa started in 1974. No sanctions have been made since then, most institutions follow Ferpa.

Good idea to have students sign waivers in departments if there is a need for information to be given.

Q: Couldn’t hear question.

A: If enrolled under concurrent enrollment, still considered K-12, parents have control over records even in the higher education institution.

Ferpa says there is “a student” and an “eligible student”. The distinction is that the eligible student has reached the age of 18 years of age or is attending post secondary education.

Q: If student has taken information that is normally protected and published it, including everything such as grades, etc. all over the website for the world to see, does it then become public record?

A: No. Exclusion of public records, there is no blanket record. Ferpa still applies to the institution. The student would still have to have written consent and purpose of disclosure and must identify who information is given to.

Q: Concurrent enrollment. High school instructors, can we talk with them on student info?

A: Section 31. An educational institution may disclose personal identifiable information of a student without the consent under the following condition: “the disclosure is to other school officials including teachers within the agency or institution whom the agency or institutions have determined that have a legitimate educational interest”.

In the concurrent enrollment Bob feels they clearly have a legitimate interest, the catch is “within the institution”.

Heidi Beck says concurrent classes are taught by adjunct professors so there is no problem according to the agreement that is set up between USU and them.

Ferpa law states:

“The school officials employed by the school such as an administrator, supervisor, instructor or support staff including health or medical staff, a person serving on the school board or the governing board K-12. A person accompanied with whom the school has contracted to perform a special task such as attorney, auditor, or medical consultant or therapist.”

Q: Can an in house departmental consent form be generated for just an advisor to allow them to discuss information. Can you generate your own form or does it have to go thru the Registrars office to release information over and above what is on SIS?

A: FERPA does not require a specific form. Ferpa just requires it be in writing, dated, and specific enough that you know what consent is given. If your department wants to make up a consent form for the student to sign he doesn't see a problem with that. As long as it meets the requirements under section 30 “be specific as what record it is, as to who it is, and to what purpose”. You have a requirement to notify the third party that they cannot re-disclose. Also keep a record as to who you gave the information to.

Q: Can we have a written release in our office that we can talk to their spouse, is that legal?

A: The whole premise of Ferpa is to have it in writing. The stepping off point is that the student record belongs to the student unless they give

consent. Something in writing even though not perfect and in good faith will not get you in trouble.

Q: Advisor received a voice mail about a student graduating with a disability requesting written notice that she would be graduating spring in case they were audited for rehabilitation. How do I respond?

A: Can forward to Lillian Tripp at 7-1102 any email or phone messages, this is her job. She keeps a log and is well acquainted with the Ferpa law. Then you as an advisor don't need to worry about it.

Q: When hiring new peer advisors, advisors want to access their transcripts, their track record. Is this o.k. to do?

A: Bob wouldn't do it unilaterally on his own. But if the application asks for their transcript and they are submitting it with their application as a peer advisor that is written consent.

Q: You talked about "within the University", what about grants and things that deal with other agencies and other universities. How about transferring information into other establishments?

A: Under section 31, there is a list where it is not required such as a subpoena, or supported by your parents such as shown on taxes, or help in emergencies. If the two universities or institutions have a contract together or outside funding agencies asking to hold a certain GPA or higher, there is no problem to give information. Falls under the contract with the legitimate educational purpose.

Q: What about parents or spouse that wants to register their student and can't get into a course because they need an authorization? Or does the student have to call to make the request?

A: Has the student put a privacy hold on it? If no hold, the general rule is that the student should have to give written consent. If it's a general question there is no problem, as long as it is not directed to the specific student. So if they are giving you all the information and you are just basically listening he doesn't see a problem.

Q: Student is on a mission, parent calls, what classes should I register my son for?

A: If you are volunteering information to a third party then there is a problem. If you are talking in a general sense and just letting the

parent know that this is a list of classes they should take but not go into detail and discuss what that student has already taken then you are o.k.

Q: The parent asks if you can confirm that their student took specific classes.

A: No, you cannot tell them without consent of student.

Q: What can be thrown in the trash can and what needs to be shred?

A: Ferpa doesn't say much but says you cannot destroy a record that you know there is a request to review and inspect. Students have a right to their record; they can inspect and suggest an amendment. If they do not agree to the amendment the student is entitled to a hearing. Student has the right to put in their side of the story.

Although, Utah has a state law (Gramma, Government Records Access Management Act) to openness to records unless you are a legislator. This law requires a schedule of retention; need to hold state records for so long.

Shred is the best way to go.

Q: At the NACADA convention they stated there are official records and non-official records. One is public record. What can be destroyed when student leaves?

A: Ferpa 99.3 Education record term means those records that are directly related to the student and maintained by the institution. The term does not include records that are kept in sole possession of the maker, are used as personal memory aid, not accessible to any other person except a temporary substitute of the maker of the record. Some things do not elevate to the level of a record. A second acceptance would be law enforcement records, a third is employment, or a student has seen a physician, psychologist or psychiatrist, or if a record was generated after a student attended the institution. Everything else is a record.

Q: How do we handle students that want to be advised over the phone? We don't really know it is the student. Such as distance education. Or what about email?

A: Ferpa requires a signed release before releasing private information to a third party, it doesn't preclude you from releasing information to a student whose record is in question. If you can verify some way to know they are the student then the information can be released. As an added

precaution you could return the students phone call with a phone number you have on record.

Q: Can you take registrations over the phone?

A: Yes, because Ferpa does not apply till the student is admitted. Heidi Beck says it is better to refer the students to register on the Quad, then they are putting in their own information.

Q: Person leaves a message with secretary to get a message to a student. It is in a sealed envelope.

A: Not a problem unless there is a privacy hold. Just be careful.

Q: When is the first day the student is considered a student, what part of the process of admittance?

A: Definition in Ferpa is when the student is “attending”. Bob feels the day they are admitted is considered attending. After application is approved they are attending.

Student can only put a hold on when they are currently attending, not after they leave.

Ferpa law exists until the student dies.

Q: Can the hold be removed after they graduate?

A: Yes it can, they encourage it to be removed so employers aren't hindered.

Q: With the distance ed students they are not officially admitted. When does Ferpa start for them?

A: Heidi says that the minute they are entered into SIS they are a student. Whether they are officially matriculated or not. The word admitted is broad.

Q: Student is a public figure and is giving information about his graduation that is not correct. Can I do anything about this?

A: Not a Ferpa matter.