

Students' Rights to Access to University Records under the Family Educational Rights and Privacy Act of 1974

The 1974 federal statute seeks to protect certain rights of current and former students by encouraging colleges to allow them, within 45 days of a request, to inspect and review all official "college records," files and data directly related to them individually, including all material that is incorporated into each student's cumulative record folder and intended for college use or to be available to parties outside the college. "Education records" are defined broadly to include "records, files, documents and other materials which contain information directly related to a student and are maintained by the University or by a person acting for the University."

The statutes define certain material as outside the definition of "education records" and thus not open for inspection by current or former students. Such materials are:

- (a) The records about students made by teachers and administrators for their own use and not shown to others;
- (b) Campus police records, under certain circumstances;
- (c) Employment records for college employees who are not also current students;
- (d) Records "created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional" acting or assisting in such capacity, for treatment purposes, and which are available only to persons providing such treatment.

Students are not allowed to look at financial information furnished in the past or future by their parents nor at confidential letters of evaluation which have found their way into the records before January 1, 1975. As to such letters received after 1974, the law allows the student to waive his/her right of access, if the letters have to do with admission, employment or honors, if the letters are used only for those purposes, and if the student is told, on his/ her request, the names of all letter writers. No student or applicant may be required to execute a waiver; but an unsuccessful applicant has no right to inspect all or any of the file accumulated in his/her case, irrespective of this waiver provision.

A student has the opportunity to challenge the content of his/her education record and to secure the correction of inaccurate or misleading entries, or to be allowed to insert into his/her records a written explanation respecting the content of such records. Any dispute or request about the release of data will be referred to the Vice President for Enrollment Management and Student Affairs (EMSA). Disputes not resolved at this level will be referred to the student grievance procedure. A student grievance may be directly filed with the appropriate vice president (bypassing the professor, chairperson and dean) if the student's grievance does not deal with a classroom or academic departmental matter. NOTE: An appeal is possible by a student to challenge an improperly recorded grade, but cannot be filed to contest whether the teacher should have assigned a higher grade. (This is taken from *the Faculty Handbook*.) A student may receive information and assistance about the hearing procedures from the Office of the Vice President for Enrollment Management and Student Affairs, EMSA.

The legislative history clearly indicates that the statute may be used by a student to challenge a grade only on the grounds that it was inaccurately recorded, not that it was lower than the instructor ought to have awarded.

The statute limits the type of information that the University can release about a student without the student's consent. However, "directory information" may be unconditionally released to the whole world, without the consent of the student, unless he/she has specifically asked that his/her prior consent be obtained. Directory information includes a student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational institution attended by the student. Any student may ask that any or all such directory information not be released in his/her case without prior consent.

The statute indicates who may have access to a student's actual records or information therein without the student's consent. If the University is responding to a court order or subpoena, it must notify the student of all such orders or subpoenas in advance of compliance therewith. It is to be presumed that only reasonable notification efforts by the University before the due date of a subpoena will be required. Other than courts, "outsiders" who request or obtain file access must explain their reasons; and the University prepares and maintains records of reasons and a list of outsiders who obtained access. Also, the University is to release information to the appropriate third party, only on the condition that the third party, not pass on the information to an unauthorized fourth party.

The statute does not alter the confidentiality of communications otherwise protected by law as confidential.

The University maintains a Student Record Listing of the files maintained by the University and individuals who have access to those files.

Students with questions about their rights or who wish to review the Student Record Listing should contact Vice President for EMSA or the campus judicial coordinator.