

October 28, 2013

To: Patty Finkenstadt, FA President

From: Lindsay Leavitt, legal counsel

Re: FERPA

FERPA: an overview

- When a student reaches 18 years of age or attends a postsecondary institution, he or she becomes an “eligible student,” and all rights under FERPA transfer from the parent to the student
- FERPA gives students access to their education records, an opportunity to have the records amended, and some control over the disclosure of information from the records

What is an “educational record?”

- "Education records" are defined as records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. See 34 CFR § 99.3
- Can be paper or electronic data
- Typically includes grades, attendance information, test scores, comments, evaluations and similar assessments about a student, maintained by an instructor, counselor or any other school official

Can I disclose/share a student’s education records with his/her parents?

- Depends
 - A school may disclose information from education records, without the student’s express permission, to parents of a “dependent student”

What is a “dependent student?”

- A student that has been claimed as a dependent on his/her parent’s most recent income tax statement

What other circumstances exist that would permit the disclosure of FERPA protected educational records?

- If the school has permission from the student to share that specific type of information
- Records may be disclosed to other school officials – including teachers, within the institution- whom the institution has determined to have legitimate educational interests
- In response to a judicial order or lawfully issued subpoena

- An emergency, but only if the information is necessary to protect the health or safety of the student or other individuals

Are records regarding a student's disability considered "educational records" under FERPA?

- Yes, if the records are maintained by the DRS Office
- A student's medical or clinical records maintained by the DRS Office qualify as "education records" because they contain information that is directly related to a student and are maintained by the College.
- There is no exclusion from the definition of "education records" under FERPA for "health" or "medical" records relating to a student's disability