

FERPA and Meetings with Parents of Students

The Family Educational Rights and Privacy Act (FERPA) protects the confidentiality of student education records. The term "education records" is defined in FERPA as those records that are directly related to a student and are maintained by an educational agency or institution. 34 CFR § 99.3. "Record," in turn, means "any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche." 34 CFR § 99.3.

Under § 99.30 of the regulations implementing FERPA, the general rule is that a student at a post-secondary institution must provide a signed and dated written consent before education records of that student are disclosed. "Disclosure" is defined to mean "to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records to any party, by any means, including oral, written, or electronic means." 34 CFR § 99.3. Meaningful discussions of a student's academic progress with his/her parents would certainly seem to involve such a disclosure of information from the student's education record.

Consequently, as a general rule, FERPA requires the prior written and dated permission of a student at a post-secondary institution in order for his/her education records to be discussed with the student's parents. However, there is an exception to this general rule if the student is a dependent of the parent(s) for tax purposes. Neither the age of the student nor the parent's status as a custodial parent is relevant. If a student is claimed as a dependent by either parent for tax purposes, then either parent may have access under this provision. (34 CFR § 99.31(a)(8)).

In view of these FERPA constraints, if the parents of a student ask to meet with a UAH instructor to discuss the academic progress of their child, the instructor should inform them that it will be necessary to obtain the student's prior written permission for the discussion, unless the parents can provide a copy of their latest federal income tax return showing that the student is their dependent. A copy of a form that may be used in obtaining a student's permission to discuss his/her academic records with his/her parents is available on the web site of the Office of Counsel at <http://www.uah.edu/legal/forms.php>.