

FERPA and Grade Dispute Case Study

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Agenda

Overview of Case Study

Relevant Laws

Relevant Case Studies

What We Would Recommend/

Current Event



Overview:



Key Actors:

Juan Martinez: Senior econ Major, Disputes
C- Grade

Professor Kyle Thomas: Instructor;
Accidentally shared confidential records
(grades)

Department Chair: Manages grade appeal +
FERPA fallout

So... What happened?

- Juan challenges his final grade and request an official review
- Chair asks professor for documentation
- Professor ends up sending full class spreadsheet of grades, IDs, notes
- Email gets sent to entire department listserv including students
- Confidential education records are exposed



Why this matters

- FERPA Violations: Unauthorized disclosure of grades, student IDs, and instructor notes
- Breach of student trust: Now, Juan fears harm to academic reputation and future opportunities
- Potential Negligence: Failure to protect student information



Juan's Concern:

- Compromised Privacy
- Damaged relationship with department/faculty
- Impact on letters of recommendation and grad school prospects

Key Student Privacy Cases

1

Owasso Independent School District v. Falvo (2002): Peer graded assignments do not qualify as educational records

2

Gonzaga University v. Doe (2002): FERPA does not contain a private right of action for individuals. FERPA is a spending clause statute, and its primary enforcement is withholding of federal funds

3

New Jersey v. T.L.O. (1985): Established balance between students' fourth amendment rights and the ability for schools to maintain order



FERPA – 99.30-31

(a) The parent or **eligible student** shall provide a signed and dated written consent before an educational agency or institution discloses personally identifiable information from the student's education records, except as provided in [§ 99.31](#).

(b) The written consent must:

- (1) Specify the records that may be disclosed;
- (2) State the purpose of the disclosure; and
- (3) Identify the party or class of parties to whom the disclosure may be made.

(a) An educational agency or institution may disclose personally identifiable information from an education record of a student **without the consent required by [§ 99.30](#) if the disclosure meets one or more of the following conditions:**

(1)

(i)

(A) The disclosure is to other school officials, including teachers, within the agency or institution whom the agency or institution has determined to have legitimate educational interests.

Disclosure of Juan's records vs.
Disclosure of entire class records



Negligence

Defined as a failure to exercise reasonable care, resulting in harm or injury to another person. To establish a negligence claim, the plaintiff must prove the following elements:

The defendant owed a duty of care to the plaintiff

The defendant breached that duty

The breach caused harm or injury to the plaintiff

The harm or injury resulted in damages

So, was Professor Thomas negligent?



Action Plan

- In this case, as a Chair of the Economics Department, I'll email IT to make sure if the recipient has opened the spreadsheet, if not I will ask them recall the email and delete the attachment
- Contact the University Student Privacy Policy Office/ Legal Office
- Talk to Juan that the data breach will be investigated and make sure that his grades are recalculated to ensure fair review- Explain FERPA- if he is not satisfied- he can File Report to U.S department of Education- University Student Privacy Policy Office
- Communicate grade dispute procedure with Juan
- In response to his concerns faculty relationship/ recommendation:
- NO- retaliation/ offer protection for future recommendation letter



Current Event

- [OU Shut Down File Sharing Service After Failing to Protect Thousands of Students's Records](#)
- Disable the file sharing network and secure the data, so they were no longer researchable to staff



Recommendation

- For the institution, FERPA and technology training will be recommended
- To prevent data breach, schools regularly audit their systems of how information, data will be saved and kept confidential- human errors
- Implementing need-based authorization, user privileges. "Limiting who can see what"
- Data protection designated policy
- Creating data breach response plan, IT detect automatically if such cases happened in the future





Reference

<https://www.numberanalytics.com/blog/negligence-in-higher-education-law-guide>

[eCFR :: 34 CFR 99.30 -- Under what conditions is prior consent required to disclose information?](#)

[eCFR :: 34 CFR 99.31 -- Under what conditions is prior consent not required to disclose information?](#)

<https://research-ebSCO-com.www2.lib.ku.edu/c/aq3mjw/viewer/pdf/zb27ole4kn?route=details>

