

## Ask the FERPA Professor: When can I tell a Vocational Rehab rep about an AWOL student?

Posted on May 14 2013



Dear Professor FERPA,

My institution works with Vocational Rehab and they pay for tuition, books and fees for their clients. We have a student who was not attending class and the instructor called the Vocational Rehab representative to see if he could contact the student and get him back in school. The student is now claiming we broke his FERPA rights and is threatening a lawsuit -- but he says if we waive his tuition, he will drop the suit. Since Vocational Rehab has an educational interest, shouldn't we be able to discuss his situation with him? I do not think we have infringed on his FERPA rights -- what are your thoughts?

Sincerely,

An enrollment management FERPA enthusiast

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Dear FERPA enthusiast,

As an initial matter, generally a student has to provide signed consent before education records are disclosed by the institution -- see §99.30 of the FERPA regulations. However, §99.31 contains certain exceptions to the signed consent requirement.

§99.31(a)(1) permits access to a school official who has a legitimate educational interest in accessing a student's education record. However, this exception applies only to school officials at the institution, and such legitimate educational interest cannot be transferred to an outside party. There is another exception in 99.31 which could apply in this particular situation.

§99.31(a)(4)(i)(D) is the financial aid exception which, among other of its conditions, permits disclosure to meet the terms and conditions contained in the application for financial aid which is student signed (probably one of the conditions is that the student attend the class). The institution would need to obtain a copy of the agreement if one is not currently maintained in the financial aid office. This, however, should have been done prior to any disclosure under §99.31(a)(4).

Absent meeting the conditions of the financial aid exception, the student should have provided a signed consent as required under §99.30 prior to any such disclosure of attendance records to the Vocational Rehab representative.

Good luck!

[Professor FERPA](#)

By: AACRAO Connect

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