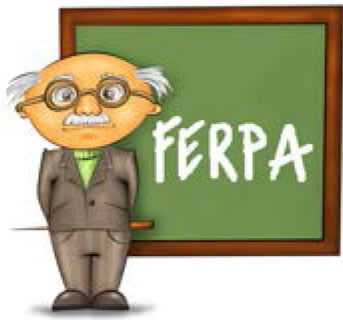


Ask the FERPA Professor

Posted on February 10 2014



Dear [FERPA Professor](#),

We have a Nursing Program at our school that students must apply and be accepted to before getting in. Are the forms they provide to the Nursing Program with their application considered educational information, and so protected by FERPA?

Our policy states that the files of students who are not accepted are shredded if they are not admitted into the program. Problem is, there is a student who is suing us and one of the allegations states we refused to supply her copies of her educational records referring to the letters of reference for the application process, and therefore did not comply with FERPA regulations.

The form the applicants fill out identifying their references states that the responses from the references are confidential and the applicants will not be able to see the responses. It is my understanding that when a student is applying, the records are not considered education records because they are not students and therefore not covered by FERPA. Does this apply to our situation as well?

-Troubled Enrollment Manager

Dear Enrollment Manager,

Don't be troubled! You are correct in your understanding of FERPA as it applies to records of applicants – even applicants who are attending the institution and apply for admission to another component of the institution.

For specific language, please reference §99.5(c) of the FERPA regulations, which can be found on page 155 of the [AACRAO 2012 FERPA Guide](#). Any application materials for an individual applying to another component of an educational institution, whether they are currently enrolled in that institution or not, do not become education records unless that student is accepted and attends.

In addition, if the applicant waived her right to inspect the letters of recommendation, the institution would not be required to give her access to those letters, even if she becomes a student. See §99.12(b) and (c) on pages 157 and 158 of the [guide](#).

Sincerely,

[FERPA Professor](#)

For individualized FERPA sleuthing... join us for "CSI FERPA: Investigations From the Field," a half-day [preconference workshop](#) at AACRAO's 100th [Annual Meeting](#) in Denver, March 30-April 2, 2014. Attendees will look at typical and atypical situations and determine, based on the evidence and FERPA guidelines, the most appropriate action. **Participants are encouraged to bring their own cases to “submit to the microscope.”** Registration fee includes the [AACRAO 2012 FERPA Guide](#).

Admissions professionals may also be interested in the Annual Meeting session "[FERPA for Admissions Professionals: What you need to know.](#)" To register for the Annual Meeting, click [here](#).