

“What is FERPA, Alex?”

The Family Educational Rights and Privacy Act (FERPA), a federal law enacted in 1974 prohibits school districts and school district employees from disclosing to unauthorized individuals “student records”. Just what is an unauthorized disclosure has been the subject of debate, but school administrators, preferring to error on the safe side have generally directed district employees not to disclose any information about a student to anyone but the student and the student’s parent or legal guardian. Unfortunately, this approach has prevented educators from sharing important information about a student’s proclivities toward violence and other emotional problems which more likely exacerbate problems than solve them. I believe school officials read FERPA too strictly in terms of disclosing information about students to other employees in the school.

Another point of disagreement created by FERPA is what constitutes a “student record”. Again, I believe school districts have expanded the concept of “student record” too broadly. Many things teachers know about a student, and may even have written a note to themselves about, do not constitute a “student record”.

However, On July 31, 2000, the United States Court of Appeals held in *Falvo v. Owasso Indep. Sch. Dist.*, (10th Cir, 2000), surprised many by holding that a paper prepared by a student pursuant to a school assignment is a “student record”. Accordingly, the court held that a teacher’s practice of allowing a student to grade another student’s papers (or tests) where the teacher then records those grades violates FERPA! The court also held that parents may sue for damages and attorney’s fees for violating FERPA.

Most school districts are expected to direct teachers to stop the practice of permitting students to grade other student’s tests and papers unless (1) the district has the permission of the student’s parent or legal guardian to disclose the “record” to another student, or (2) the student’s test or paper is coded in such a way that the person correcting the test or paper does not know whose test or paper he/she is correcting. One-way to comply with the court’s order is to assign students a “student number” known only to the student and the teacher.

We suggest that teachers that have students correct other student’s papers and tests IMMEDIATELY implement a coded system for identifying student papers and tests.