



September 5, 2007

J.B. Van Hollen, Attorney General  
Wisconsin Department of Justice  
PO Box 7857  
Madison, WI 53707

Dear Attorney General Van Hollen:

In recent days there have been media accounts regarding the students on a waiting list for the Wisconsin Higher Education Grants (WHEG) program. WHEG is a needs-based state financial aid program for students in the UW System. While WHEG grants are directly administered by the financial aid office on each UW Campus, the overall responsibility for state financial aid programs rests with the Wisconsin Higher Educational Aids Board (HEAB).

Students interested in applying for both federal and state financial aid are required to complete a detailed application requesting personal family financial data. The individuals applying and the information collected by the UW System financial aid offices are granted privacy protections under both federal and state law. In particular, the federal Family Educational Rights and Privacy Act (FERPA) has very specific privacy regulations limiting the release of names or information gathered by the institutions.

There are concerns that the UW System may be utilizing access to this list of students to advance their political agenda in terms of influencing the current state budget process. The issue appears to be whether the UW System appropriately followed both federal and state student privacy laws in making the identification of these students public.

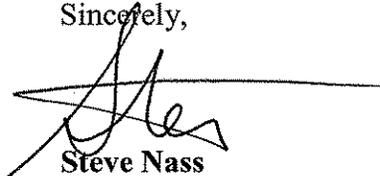
I have enclosed media accounts identifying students from UW-Whitewater, UW-Oshkosh and UW Stout. Additionally, I have enclosed a press release issued by UW-Whitewater identifying students that have applied for WHEG.

Initially, my office contacted the Executive Director of HEAB, Connie Hutchison, asking if that agency would conduct a review of this matter. The response of the Executive Director was that she would have to consult with the Governor's Office before

determining what action the agency might consider. Of course, this raises numerous concerns regardless of any subsequent actions HEAB may take on my request.

In order to determine that UW System financial aid administrators are appropriately complying with student privacy protections, I am requesting that you conduct an inquiry into the release of names that have already occurred. There needs to be an official determination if those releases of protected information were conducted in compliance with applicable federal and state laws.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Nass", is written over a horizontal line. The signature is stylized and cursive.

**Steve Nass**  
State Representative  
31<sup>st</sup> Assembly District

Enclosures

Cc:

Speaker Mike Huebsch  
Connie Hutchison, HEAB  
Kevin Reilly, UW System

## Wisconsin Higher Education Grant makes college affordable for students

Released: August 3, 2007

With college tuition on the rise at institutions nationwide, many students have one big question on their minds. Will I be able to afford a college education?

Thanks to the many federal financial aid options, students across the nation are able to make their dream of attending college and earning a degree a reality. At the University of Wisconsin-Whitewater, students are able to pursue a college education because of state aid programs like the Wisconsin Higher Education Grant (WHEG).

WHEG is a state-funded grant available to eligible undergraduate Wisconsin residents who have demonstrated financial need. According to Director of Financial Aid Carol Miller, during the 2006-07 academic year, nearly 1,700 UW-Whitewater students benefited from WHEG. As of August 1, 2007, nearly 1,300 UW-Whitewater students are scheduled to receive WHEG funds for the 2007-08 academic year.

Take senior Tara Benz of Green Bay. She has been receiving financial aid since transferring to UW-Whitewater three years ago. In addition to subsidized and unsubsidized direct loans and the Wisconsin Higher Education Grant (WHEG), Benz works three jobs to make ends meet.

"College wouldn't be an option for me at all if it wasn't for financial aid," she said.

A scary thought that is threatening to become reality in light of the State Assembly's proposed 2007-09 budget, which calls for a large decrease in financial aid for UW-Whitewater students, essentially pricing some students out of higher education. The uncertainty of the state budget has forced the Wisconsin Higher Educational Aids Board (HEAB) to stop awarding WHEG grants and place students on a wait list for the fall 2007 semester - a first in the history of the WHEG program.

"Those students who did not have their Free Application for Federal Student Aid in to the university and HEAB by June 27, 2007, many not receive the WHEG for which they are eligible," Miller said.

She added that currently there are more than 100 UW-Whitewater students on the WHEG waiting list because of the uncertainty of the funding for this program. She also anticipates that this number will continue to rise.

Senior Shannon George acknowledges that her college career at UW-Whitewater is completely dependent on financial aid. The Fort Atkinson accounting major said that without federal grants, direct loans, scholarships and WHEG, going on to earn her master's in public accountancy wouldn't even be an option.

"Not having WHEG funds available will make it a lot harder for students like me to go to college," George said. "It could break a college career."

Junior Jon Hetzel of Janesville can relate to George's concern. Despite being on the receiving end of several loans and grants, including WHEG, Hetzel is planning to write a \$2,000 check out of his personal savings account to cover the cost of tuition for this fall.

"If WHEG disappears, I'll have to come up with another \$2,000 and I don't have that," he said. "So many of us students already live paycheck to paycheck. Without this financial aid, there's no way I can afford college."

Student veterans could also feel financial pressure if the State Assembly's proposed budget goes through. In the budget's current state, a \$11.6 million subsidy to help pay for a program giving veterans free tuition would be eliminated.

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Whitewater.

"Both my sister and I go to UW-Whitewater and my parents wouldn't be able to afford college for two students. The Wisconsin G.I. Bill has made attending college much less of a burden for my family."

- *Melissa DiMotto, dimottom@uww.edu*

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Story originally printed in the La Crosse Tribune or online at [www.lacrossetribune.com](http://www.lacrossetribune.com)

Published - Wednesday, September 05, 2007

## Lawmakers bicker; students wait

By RYAN J. FOLEY | The Associated Press

MADISON — Mario Selph said he probably has to drop out of school this semester.

Erin Campbell might not be able to buy her books for weeks, and Rose Reisinger may have to take out more loans.

The three are among 4,300 low-income college students on a waiting list for the state's premier financial aid program, which has run out of money because of a budget stalemate at the Capitol.

Most of the students started classes Tuesday without knowing when, or even if, they will receive aid. And they are getting angry at lawmakers.

"It's like, come on. We all have deadlines. Meet them!" said Reisinger, 22, a fifth-year senior at University of Wisconsin-Stout. "Forty-three hundred people are waiting to hear what's going on."

Lawmakers are more than two months late passing a budget because of disagreements between the Democratic-controlled Senate and Republican-led Assembly. The delay has made Wisconsin the only state with a July 1 deadline without a budget.

A committee of lawmakers trying to find compromise is scheduled to meet today, its tenth meeting since July. Little progress has been made in closing a \$10 billion budget gap between the two houses.

Many programs have been spared pain so far because spending continues at the same level as in the budget year that ended June 30. The Wisconsin Higher Education Grant program, which awards need-based grants ranging from \$674 to \$2,730 per year, is one exception.

Those who run the program created a waiting list after making commitments totaling \$39 million to 22,400 prospective UW System students. Anyone who applied after June 26 — 4,342 people as of last week — is on the list.

Those students would not see any relief under the Assembly budget, which proposed spending \$39 million on the program, or \$4 million less than last year. The Senate and Gov. Jim Doyle have proposed spending \$50 million, enough to accommodate them.

Connie Hutchison, executive secretary of the Wisconsin Higher Educational Aids Board, said she remains hopeful lawmakers will reach a compromise that frees up money for students on the list. But she said the delay has taken a toll.

"It's most difficult for the poorest students in the state," she said. "It's just an unfortunate situation. They've gotten caught up in the political end of financial aid."

Selph said it's probably already too late. The 21-year-old said Tuesday he skipped the first day of classes at UW-Whitewater and plans to drop out unless he gets money in the next few days.

The Delavan man said he needed the \$2,500 grant to pay tuition because his job at Wal-Mart isn't

<http://www.lacrossetribune.com/articles/2007/09/05/news/03budget.prt>

enough to pay his way.

"I probably can't go," said Selph, who wants to become a parole officer.

Reisinger, who is studying apparel design, said she will have to take out more student loans if she does not receive the \$2,200 state grant. That means she'll likely graduate in May more than \$20,000 in debt.

"I'm always financially strapped," said Reisinger, of Sauk City, who called the delay frustrating and annoying. "If the Legislature could hurry up and decide what route they are going to go, that would be a lot easier for our mindsets."

Campbell, a sophomore at UW-Oshkosh, said she might not be able to buy her books for several weeks because of the lack of state aid.

"I'll just have to do catch-up reading if I get them later," said Campbell, 20. The single mother of a 2-year-old boy is working 30 hours a week at two jobs to help pay her way.

Campbell, who was raised by a single mother in Ripon, said she received a state grant last year and is confused by the delay.

"Financial aid is going to people who are going to be helping society. They are going to school so they can get a better job," she said. "I think they should be able to agree on it."

Chris Fowler, a 28-year-old Iraq war veteran and nontraditional student at UW-Oshkosh, took out loans totaling \$4,000 after learning he was on the waiting list.

His one-year tour in Iraq does not qualify him for a state program that gives Wisconsin veterans free tuition since he was a resident of North Carolina at the time. Fowler called the budget impasse "sad" even though he said he could live without the aid.

"I hope that it gets resolved soon, not for myself, but other people who desperately need it," he said. "This is a pretty big thing and it affects a lot of people. It's not something to be toyed with. This is people's careers and futures."

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## UW-W students in limbo

(Published Thursday, August 23, 2007 11:27:30 AM CST)

By Carla McCann  
cmccann@gazetteextra.com

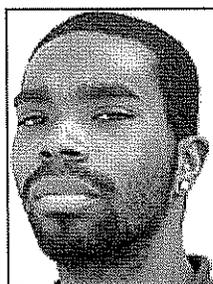
WHITEWATER-While lawmakers quarrel over the state budget, a 21-year-old Delavan man worries if he'll be able to attend UW-Whitewater this fall.

"I worked very hard to get good grades," Mario Selph said. "I need to go to college to better myself."

Selph depends on financial aid through the Wisconsin Higher Education Grant program to pay tuition. But until the state budget is approved, the 2004 Delavan-Darien High School graduate doesn't know if the financial aid will be available.

He is one of 178 UW-Whitewater students eligible for a Wisconsin Higher Education Grant but unsure if they'll get money.

"I need that money to even register for classes," Selph said. "I've been praying about it."



Mario Selph

The state-funded grant program is available to eligible Wisconsin undergraduates who are economically deprived, said UW-Whitewater Interim Chancellor Richard Telfer.

The program is on hold, waiting for Republicans and Democrats to negotiate a state budget compromise, said Carol Miller, director of UW-Whitewater's financial aid office.

Senate Majority Leader Judy Robson, D-Beloit, said the Assembly Republican budget would cut \$31 million in financial aid for incoming college students. Those proposed cuts prompted the Higher Educational Aids Board to place students applying for financial assistance on waiting lists.

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Students who submitted applications for the Wisconsin Higher Education Grant program by June 27 are not included on the waiting list, but all others are, Miller said.

At UW-Whitewater, the Wisconsin Higher Education Grant program would total \$400,000 this year, Miller said.

"And we expect that number to rise because a lot of students don't apply for financial aid until later," Miller said.

The tieup in this aid will be a hardship for students, Miller said.

"I'm sure some students will not be able to attend," Miller said. "I'm sure it's causing students a lot of stress."

Selph, who wants to be a parole officer, said he didn't know that submitting a grant application early would have helped.

"I can't go to school without this grant," Selph said.

Selph moved to Delavan from Chicago in 2002 to live with his aunt in a safer environment.

He has a full-time job at Wal-Mart in Delavan but doesn't earn enough to cover the cost of attending school.

The new semester starts Tuesday, Sept. 4, and time is running short, Telfer said.

Wisconsin students need the Legislature to act quickly and responsibly, Telfer said.

But it doesn't appear that will happen within the next few days. Robson said she hopes to see a finished budget by Labor Day.

The last time Wisconsin's budget was this late was in 1999, when it was passed Oct. 6, Robson said.

"We need parents and students to contact their legislators and encourage the Legislature to act quickly on the budget," Telfer said. "Our neediest students must know whether they will receive WHEG funding. Without this funding, they will not be able to afford to continue."

In Selph's case, he may not be able to start.

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## Lack Of State Budget Affects All Levels Of Students

### *Students Wait For Financial Aid As Lawmakers Bicker*

UPDATED: 7:43 pm CDT September 4, 2007

**MADISON, Wis.** -- Classes began on Tuesday and students at all levels of education could feel the effects of budget impasse at the state Capitol.

Primary and secondary education could see a difference in the number of students per class, and low-income students at University of Wisconsin campuses are already feeling an impact.

The Madison Metropolitan School District said that not having a state budget isn't a problem for now.

"This school year, we've already got a contract set, classroom size set," said Joe Quick, a communications specialist for the Madison Metropolitan School District.

But the budget could bring bigger cuts next year.

"There will still be cuts next school year just because of the revenue limit law, but depending on how this state budget works, it could be even deeper cuts than what we anticipate," Quick said.

Quick said 85 percent of a school district's budget comes from personnel, meaning that teachers would likely get cut first.

"You'd have to be looking at large class size," Quick said.

Some area parents said they were frustrated about the budget stalemate.

"I want (lawmakers) to stand up, start working together, forget the pointing across party lines and make some changes, because it's affecting all of our kids," said Lisa Smith, mother of a Madison third-grader.

The K-12 system isn't alone in the educational limbo.

The University of Wisconsin's ability to award the Wisconsin Higher Education Grant, or WHEG, is at a stand still because the budget is not finalized.

"When the state budget passes, if the funds are sufficient for higher education to open the door, we will begin awarding again," said Susan Fischer, UW financial services director.

At UW-Madison, 150 students received aid -- but they might have to pay it back.

"It's frustrating. We'd like to see our students, especially our low-income students, not be nervous about going for a higher education," Fischer said.

Mario Selph, of Delavan, said he'll probably have to drop out of the University of Wisconsin-Whitewater this semester. He said he can't afford tuition without state help.

UW-Stout senior Rose Reisinger said she'll have to take out more student loans if her aid doesn't come through. She said she's frustrated lawmakers can't agree on a budget.

The majority of UW students receiving the Wisconsin Higher Education Grant are not affected, WISC-TV reported. The 150 students who might have to pay back their grants are those who applied and were accepted after June 26.

Lawmakers are more than two months late in passing a budget because of disagreements between the Democratic-controlled Senate and Republican-led Assembly.

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- [August 31, 2007: Doyle Says Property Taxes Will Go Up Without State Budget](#)
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## UW students wait for state aid as classes begin

Budget stalemate puts financial help on hold for 4,300

Staff and wire reports September 5, 2007

Mario Selph said he probably has to drop out of school this semester at the University of Wisconsin-Whitewater.

Erin Campbell might not be able to buy her books for weeks, and Rose Reisinger may have to take out more loans.

The three are among 4,300 low-income college students on a waiting list for the state's premier financial aid program, which has run out of money because of a budget stalemate at the Capitol.

Campbell, 20, a sophomore at UW-Oshkosh and the single mother of a 2-year-old boy, is working 30 hours a week at two jobs to help pay for her education, including textbooks.

"I'll just have to do catch-up reading if I get them later," Campbell said.

PaLee Moua, student services adviser at the University of Wisconsin-Fox Valley, Menasha, said Tuesday that about 33 UWFV students are on the waiting list for a need-based grant.

Most students started classes Tuesday without knowing when, or even if, they will receive aid, and they are getting angry at lawmakers.

"It's like, come on. We all have deadlines. Meet them!" said Reisinger, 22, a fifth-year senior at UW-Stout, Menomonie.

Lawmakers are more than two months late passing a budget because of disagreements between the Democratic-controlled Senate and Republican-led Assembly.

A committee of lawmakers trying to find compromise is scheduled to meet today, its 10th meeting since July. Little progress has been made in closing a \$10 billion budget gap between the two houses.

Many programs have been spared pain so far because spending continues at the same level as in the budget year that ended June 30.

The Wisconsin Higher Education Grant program, which awards need-based grants ranging from \$674 to \$2,730 per year, is one exception.

Those who run the program created a waiting list after making commitments totaling \$39 million to 22,400 prospective UW System students. Anyone who applied after June 26 — 4,342 people as of last week — is on the list.

Those students would not see any relief under the Assembly budget, which proposed spending \$39 million on the program, or \$4 million less than last year. The Senate and Gov. Jim Doyle have proposed spending \$50 million, enough to accommodate them.

Those options include federal loans that typically are contingent upon academic progress, Moua said.

"We do have a lot of students that are worrying about it," Moua said.

"It does affect students because they are counting on this money for education, living expenses, miscellaneous. It really is a burden on their education. But we're trying our best to give them options they could try out just in case the state doesn't come through with this budget."



September 7, 2007

J.B. Van Hollen, Attorney General  
Wisconsin Department of Justice  
PO Box 7857  
Madison, WI 53707

Dear Attorney General Van Hollen:

I am writing to provide supplemental information in regards to my letter of September 5, 2007. That letter related to whether the UW System appropriately followed both federal and state student privacy laws in making the identification of students on the WHEG waiting list public.

The supplemental documents relate to specific sections of the Family Educational Rights and Privacy Act (FERPA). I draw your attention to FERPA section 99.30, which details under what conditions prior consent is required to disclose information (Attachment #1). This section requires that consent must be obtained from the parent or student before an educational institution can disclose personally identifiable information from records relating to the student.

Section 99.30 states clearly that the consent must be in written form and contain a signature and date signed. This federal provision requires that the written consent specify:

- 1.) The information that will be disclosed.
- 2.) The purpose of the disclosure.
- 3.) Identity of the party or class of parties to whom the disclosure may be made.

Further, section 99.30 provides that the "signed and dated written request" under this part may include a record and signature in electronic format and establishes the criteria that must be used to verify identity of those that submit consent in an electronic format. However, this section doesn't provide an option for a verbal consent.

I have also attached section 99.31 of FERPA covering under what conditions prior consent is not required to disclose information (Attachment #2). This is a lengthy section specifying the exceptions to the written consent mandate for release of protected information. This section also addresses information that is collected as a part of the

financial aid process. There is no exception that applies to an educational institution wanting to utilize this information for public relations or lobbying purposes.

In section 99.32 of FERPA, the requirements for an educational institution to maintain records of requests and disclosures are addressed in tremendous detail (Attachment #3). The record keeping process required in this section should make it a simple to determine if UW-Whitewater, UW-Oshkosh and UW-Stout have complied with FERPA.

I feel compelled to identify these requirements to you because Connie Hutchison, Executive Secretary of the Wisconsin Higher Educational Aids Board feels that these institutions have "done no wrong doing." Her initial position is based on the discussions she had with financial aid administrators at those campuses. Ms. Hutchison has shared with my office that in those conversations she learned that verbal consent was obtained from the students.

Assuming that these facts are accurate, Ms. Hutchison's initial inquiry with the three schools would indicate a failure on the part of those campuses to comply with FERPA and the written consent mandate. In order for a student to have been placed on the WHEG waiting list, the student and his or her parents would have been required to complete the financial aid application process.

Neither the UW System nor HEAB has contested the fact that FERPA applies to this situation. Based on FERPA, the three UW campuses should already have on file a written record on who requested the students' identity and a signed/dated written consent from the students authorizing the release of that information. The burden is on the three campuses to prove that they complied in full with the provisions of FERPA.

I hope that you will consider this supplemental information in your review of this serious matter.

Sincerely,



**Steve Nass**  
State Representative  
31<sup>st</sup> Assembly District

Enclosures

Cc:

Speaker Mike Huebsch  
Connie Hutchison, HEAB  
Kevin Reilly, UW System



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Attachment # 1

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**GENERAL**

**Family Educational Rights and Privacy Act Regulations (FERPA)**

34 CFR Part 99

PDF (87 KB)

**§ 99.30 Under what conditions is prior consent required to disclose information?**

(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.

(c) When a disclosure is made under paragraph (a) of this section:

(1) If a parent or eligible student so requests, the educational agency or institution shall provide him or her with a copy of the records disclosed; and

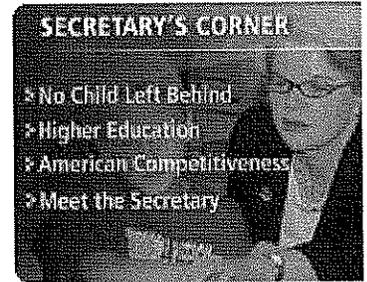
(2) If the parent of a student who is not an eligible student so requests, the agency or institution shall provide the student with a copy of the records disclosed.

(d) "Signed and dated written consent" under this part may include a record and signature in electronic form that-

(1) Identifies and authenticates a particular person as the source of the electronic consent; and

(2) Indicates such person's approval of the information contained in the electronic consent.

(Authority: 20 U.S.C. 1232g (b)(1) and (b)(2)(A))



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### GENERAL

## Family Educational Rights and Privacy Act Regulations (FERPA)

34 CFR Part 99

PDF (87 KB)

### § 99.31 Under what conditions is prior consent not required to disclose information?

(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) 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.

(2) The disclosure is, subject to the requirements of § 99.34, to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll.

(3) The disclosure is, subject to the requirements of § 99.35, to authorized representatives of-

(i) The Comptroller General of the United States;

(ii) The Attorney General of the United States;

(iii) The Secretary; or

(iv) State and local educational authorities.

(4)(i) The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to:

(A) Determine eligibility for the aid;

(B) Determine the amount of the aid;

(C) Determine the conditions for the aid; or

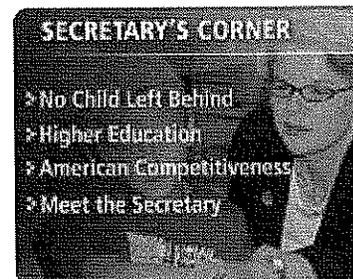
(D) Enforce the terms and conditions of the aid.

(ii) As used in paragraph (a)(4)(i) of this section, "financial aid" means a payment of funds provided to an individual (or a payment in kind of tangible or intangible property to the individual) that is conditioned on the individual's attendance at an educational agency or institution.

(Authority: 20 U.S.C. 1232g(b)(1)(D))

(5)(i) The disclosure is to State and local officials or authorities to whom this information is specifically-

(A) Allowed to be reported or disclosed pursuant to a State statute adopted before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and the system's ability to



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effectively serve the student whose records are released; or

(B) Allowed to be reported or disclosed pursuant to a State statute adopted after November 19, 1974, subject to the requirements of § 99.38.

(ii) Paragraph (a)(5)(1) of this section does not prevent a State from further limiting the number or type of State or local officials to whom disclosures may be made under that paragraph.

(6)(i) The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions to:

(A) Develop, validate, or administer predictive tests;

(B) Administer student aid programs; or

(C) Improve instruction.

(ii) The agency or institution may disclose information under paragraph (a)(6)(i) of this section only if:

(A) The study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization; and

(B) The information is destroyed when no longer needed for the purposes for which the study was conducted.

(iii) If this Office determines that a third party outside the educational agency or institution to whom information is disclosed under this paragraph (a)(6) violates paragraph (a)(6)(ii)(B) of this section, the educational agency or institution may not allow that third party access to personally identifiable information from education records for at least five years.

(iv) For the purposes of paragraph (a)(6) of this section, the term "organization" includes, but is not limited to, Federal, State, and local agencies, and independent organizations.

(7) The disclosure is to accrediting organizations to carry out their accrediting functions.

(8) The disclosure is to parents, as defined in § 99.3, of a dependent student, as defined in section 152 of the Internal Revenue Code of 1986.

(9)(i) The disclosure is to comply with a judicial order or lawfully issued subpoena.

(ii) The educational agency or institution may disclose information under paragraph (a)(9)(i) of this section only if the agency or institution makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance, so that the parent or eligible student may seek protective action, unless the disclosure is in compliance with-

(A) A Federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or

(B) Any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

(iii) (A) If an educational agency or institution initiates legal action against a parent or student, the educational agency or institution may

disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the educational agency or institution to proceed with the legal action as plaintiff.

(B) If a parent or eligible student initiates legal action against an educational agency or institution, the educational agency or institution may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the educational agency or institution to defend itself.

(10) The disclosure is in connection with a health or safety emergency, under the conditions described in § 99.36.

(11) The disclosure is information the educational agency or institution has designated as "directory information," under the conditions described in § 99.37.

(12) The disclosure is to the parent of a student who is not an eligible student or to the student.

(13) The disclosure, subject to the requirements in § 99.39, is to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense. The disclosure may only include the final results of the disciplinary proceeding conducted by the institution of postsecondary education with respect to that alleged crime or offense. The institution may disclose the final results of the disciplinary proceeding, regardless of whether the institution concluded a violation was committed.

(14)(i) The disclosure, subject to the requirements in § 99.39, is in connection with a disciplinary proceeding at an institution of postsecondary education. The institution must not disclose the final results of the disciplinary proceeding unless it determines that

(A) The student is an alleged perpetrator of a crime of violence or non-forcible sex offense; and

(B) With respect to the allegation made against him or her, the student has committed a violation of the institution's rules or policies.

(ii) The institution may not disclose the name of any other student, including a victim or witness, without the prior written consent of the other student.

(iii) This section applies only to disciplinary proceedings in which the final results were reached on or after October 7, 1998.

(15)(i) The disclosure is to a parent of a student at an institution of postsecondary education regarding the student's violation of any Federal, State, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance if-

(A) The institution determines that the student has committed a disciplinary violation with respect to that use or possession; and

(B) The student is under the age of 21 at the time of the disclosure to the parent.

(ii) Paragraph (a)(15) of this section does not supersede any provision of State law that prohibits an institution of postsecondary education from disclosing information.

(b) Paragraph (a) of this section does not forbid an educational agency or institution from disclosing, nor does it require an educational agency or institution to disclose, personally identifiable information from the education records of a student to any parties under paragraphs (a)(1) through (11), (13), (14), and (15) of this section.

*(Authority: 20 U.S.C. 1232g(a)(5)(A), (b)(1), (b)(2)(B), (b)(6), (h) and (i))*

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Attachment #3



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GENERAL

**Family Educational Rights and Privacy Act Regulations (FERPA)**

34 CFR Part 99  
 PDF (87 KB)

**§ 99.32 What recordkeeping requirements exist concerning requests and disclosures?**

(a)(i) An educational agency or institution shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student.

(2) The agency or institution shall maintain the record with the education records of the student as long as the records are maintained.

(3) For each request or disclosure the record must include:

(i) The parties who have requested or received personally identifiable information from the education records; and

(ii) The legitimate interests the parties had in requesting or obtaining the information.

(b) If an educational agency or institution discloses personally identifiable information from an education record with the understanding authorized under § 99.33(b), the record of the disclosure required under this section must include;

(1) The names of the additional parties to which the receiving party may disclose the information on behalf of the educational agency or institution; and

(2) The legitimate interests under § 99.31 which each of the additional parties has in requesting or obtaining the information.

(c) The following parties may inspect the record relating to each student:

(1) The parent or eligible student.

(2) The school official or his or her assistants who are responsible for the custody of the records.

(3) Those parties authorized in § 99.31(a)(i) and (3) for the purposes of auditing the recordkeeping procedures of the educational agency or institution.

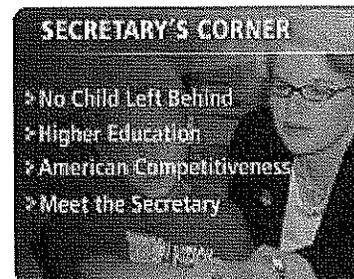
(d) Paragraph (a) of this section does not apply if the request was from, or the disclosure was to:

(1) The parent or eligible student;

(2) A school official under § 99.31 (a)(1);

(3) A party with written consent from the parent or eligible student;

(4) A party seeking directory information; or



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(5) A party seeking or receiving the records as directed by a Federal grand jury or other law enforcement subpoena and the issuing court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

(Approved by the Office of Management and Budget under control number 1880-0508)

*(Authority: 20 U.S.C. 1232g(b)(1) and (b)(4)(A))*

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