

An Evaluation of the FERPA (1974) on Student Records Management and Access

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Abstract

Student records and privacy issues have received significant national attention following two pivotal events in 2008. Writing in *The Chronicle of Higher Education*, McDonald addressed both the real and the perceived scope and limitations of student records legislation in light of administrators' expressed concerns regarding appropriate access to student information during campus safety emergencies and criminal investigations. Additionally, December 2008 saw passage of the first amendments to the Federal 1974 Family Educational Rights and Privacy Act (FERPA) since 2000, and the first significant mention of digital information with student data. This paper analyses the impact of the recent amendments in the context of student privacy rights, and how traditional forms of access have significantly shifted since 1974 with institutions' modern usage of many forms of digital information-gathering. These measures, as revealed in the university illustration, are often specifically designed for institutional-level use, and as such are not Federally regulated or widely known to the affected, enrolled students. The paper suggests that digital records have still not been appropriately accounted for under the privacy mandate of FERPA. While FERPA is legislated at the Federal level and is connected to university funding, actual enforcement of its provisions is unspecified and compliance is the responsibility of diverse university administrations (private and public, large and small). Student document attributes and retention guidelines should be elucidated at the Federal, not institutional, level - and should include preservation guidelines for content in both native and digital forms implementable by records managers and archivists.

I. Introduction and Research Question

The Family Educational Rights and Privacy Act (FERPA) is a United States law that was enacted in 1974 following its introduction by Carl Dewey Perkins (1912-1984), a member of the U.S. House of Representatives from the state of Kentucky. Additionally, the work of James Lane Buckley (1923-), U.S. Senator from New York, helped shepherd FERPA into being as he was responsible for bringing attention to prior systemic abuses of student information in the form of widespread surveys issued to students, some conducted with Federal funds¹. This legislation - 20 U.S Code § 1232g; with implementing regulations in 34 CFR Part 99 - was enacted to "protect the privacy of student education records."² It was atypical of its time in the sense that it sought to *reverse* state interference into individual lives. Additionally, Senator Buckley provided key advocacy on the issue of curtailing Federal funding for the purpose of surveying children in the classroom (a public learning environment) on issues the Senator considered personal (O'Donnell 683). The Act states clearly that institutions must abide by the conditions specified in order to remain eligible to receive Federal funds. As Federal law, the legislation applies to both public and private institutions of higher education. Despite its broad impact and reach, FERPA does not contain specific institutional directions for enforcement of its provisions - for either private, public, large

¹ See O'Donnell (682) for discussion on the types of questions asked of students in these surveys, including some that asked children to "rate" their parents, consider if they would ever run away from home, and answer yes or no as to whether they had ever stolen automobile parts. O'Donnell also provides an excerpt from Senator Buckley's speech on the Senate floor regarding his support of the FERPA passage, including his awareness that "the growth of the use of computer data banks on students and individuals in general has threatened to tear away most of the few remaining veils guarding personal privacy, and to place enormous, dangerous power in the hands of the government, as well as private organizations" (681).

² U.S. Department of Education, Legislation Policy, FERPA.
<http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>.

or small institutions. The manner in which an institution must apply the guidelines mandated by FERPA is left to its own discretion and administration. Because the appropriate management of records has significant bearing on an institution's ability to receive Federal funds, this thesis argues that added specificity regarding long-term retention and document attributes should be clearly elucidated at the outset (by or in consultation with records staff), for records in both analog and digital form. For example, the legislative history of FERPA indicates that it arose during an era of civil rights reform which saw a great deal of attention paid to the concepts of privacy, government oversight, and Federal tightening of funding mechanisms to higher educational institutions. The past 30 years have demonstrated that while the Federal guidelines have standardized the privacy concepts and increased awareness of grading mechanisms and identifier information among teachers and university records managers, the FPCO has thus far failed to implement structured definitions with regards to records retention schedules and disposition of information on multiple paper records and electronic database activity. (I illustrate that institutions have formulated such schedules, but that work remains to be achieved in the areas of departmental coordination of centralized access, and management of student materials containing sensitive information but unrelated to specific grading activity). The thesis also discusses which elements should constitute the "student record," bearing in mind both theoretical and practical considerations as well as insightful inquiries posed by McDonald (2008) in *The Chronicle of Higher Education* and the recent amendments to the law by the Department of Education's Family Policy Compliance Office (FPCO). The thesis contemplates the complexities of defining the

record in light of the interests and needs of different constituent groups such as records administrators, students, and policymakers. It concludes with a discussion of the level of connectedness between the student and their record, including the reasons why students might request to view their materials, as well as possible reasons why a majority of students never exercise this right.

In December 2008, the FPCO asserted that there exist more than 103,845 K-12 schools and postsecondary institutions that are subject to FERPA, with a total enrollment of 68.1 million students³. Most of these institutions already adhere to FERPA and its revised interpretation as seen by the small proportion of valid privacy violation claims submitted to the FPCO. As reiterated by the guidelines prepared by the American Association of Collegiate Registrars and Admission Officers (AACRAO)⁴, institutions have considerable flexibility for how specific policies and procedures should be implemented with regard to student requests for access to their own educational records. Recognizing the flexibility allowed in implementing Federal law, the thesis advocates that the legislation should include specific implementation guidelines for the purposes of ensuring standard and predictable institutional management of student educational records, regardless of format. The principal reasons why FERPA implementation ought to be regulated at the Federal level are, 1) to address allegations of privacy violation uniformly and consistently, and 2) to minimize variations in practices for safeguarding student privacy among schools. This thesis is illustrated by an outline of the current

³ *Federal Register*, Family Educational Rights and Privacy; Final Rule. December 9, 2008 (p. 41).

⁴ AACRAO: "Compliance: FERPA: A FERPA Final Exam" at <http://www.aacrao.org/compliance/ferpa/exam.cfm>.

application of the legislation at one large public university, although it should be emphasized that these practices represent but one response to the legislation and are not necessarily followed by other institutions nationwide. Even though the university discussed does follow efficient practices that meet the immediate and long-term needs of its student body and administration, the practices followed have developed solely from internal consultation with relevant departments and not in response to specific detailed instruction from the Federal authorities.

II. FERPA in Legislative Context

The text of Section 1232g outlines the rights and privileges of individuals in regards to student academic records, and repeatedly frames the legislation in terms of the eligibility of institutions to receive Federal funds. This framing effectively maintains the relevance of the legislation as pertaining not only to the students who attend an institution voluntarily, but also to the institutional administrators who must abide by the legislation in order to apply for and receive Federal funds. This reflects the historical context under which FERPA was proposed by Representative Perkins, wherein there previously existed little to no regulation of student records and the policies that governed appropriate access to these confidential and personal documents. This legislation represented a concerted effort by the Federal government to regulate record-keeping practice at educational institutions through a law that defines an audience of students, institutions, educational records, and rights of access. These definitions serve the valuable purpose of specifying the intended and applicable groups, as previously these terms were misunderstood and

privacy rights were misappropriated. As an increasing number of students, male and female, sought postsecondary education in the 1970s and 1980s, this law served as a significant barometer of the need to regulate appropriation of Federal funds to education. Representative Perkins, in his legislative career (1949-1984), including his chairmanship of the Committee on Education and Labor (1967-1984), was instrumental in advocating for and implementing additional legislative advances related to education in American schools, including the Economic Opportunity Act (1964), Head Start (1964 and 1981), the Higher Education Act of 1965 whose Title IV includes provisions for what was later named the Federal Perkins Loan in his honor, and introduction of FERPA (1974). FERPA, as it is known, is often studied alongside the Health Insurance Portability and Accountability Act (HIPAA) of 1996 for purposes of analyzing issues associated with student health records. However for the purposes of this study, FERPA alone will be considered.

Under the original legislation of Section 1232g, subsec. (a)(1)(A)⁵, conditions are specified that would lead to denial of Federal funding to any educational agencies or institutions that fail to grant parents of minors the right to inspect and review their children's educational records. Subsec. (a)(1)(D) then states that a student or prospective student may voluntarily waive his or her right to access confidential student records that are known to them to exist at the institution. Such known and confidential records include letters of recommendation, financial statements submitted by his or her parents, and documents submitted for the original application purposes. Subsec. (a)(3) defines

⁵ US CODE: Title 20,1232g. Family educational and privacy rights at <http://www4.law.cornell.edu/uscode/20/1232g.html>.

"educational agency or institution" as any institutional recipient of federal funds. Subsec. (a)(4)(A) defines education records as only those records which contain information directly related to the student or which are created by the institution about the student. Subsec. (b) states that only parents of minor students can provide written consent of release of said education records to outside agencies, excepting certain federal authorities. Subsec. (d) states that upon a student's attendance at an institution of postsecondary education (college or university) or attainment of the age of 18, the rights previously defined as belonging to the student's parents are transferred to the student him or herself. Subsec. (g) establishes that an office and review board be designated to investigate claims of violation of Section 1232g, and that this must be a federal, rather than regional department. This subsection reinforces that the scope of this legislation is federal, and that any interpretations of the law must be implemented and applicable nationwide, rather than regionally or by individual states. The Family Policy Compliance Office (FPCO) is this specified office, whose mission, "to meet the needs of the Department's primary customers--learners of all ages" is realized through implementing two laws, FERPA and the Protection of Pupil Rights Amendment (PPRA)⁶. Section (c) states regulations regarding surveys or data-gathering activities, sections (e) states that educational institutions must inform students and parents of the rights accorded them under FERPA, and section (f) states that the responsibilities of enforcement and termination lie with the Secretary (of Education). The final sections specify disciplinary

⁶ U.S. Department of Education. Family Policy Compliance Office (FPCO). <http://www.ed.gov/policy/gen/guid/fpc/index.html>

(h), substance violation (i), and terrorism investigation (j) procedures applicable to student records access.

There are numerous indications gained through an analysis of Section 1232g that the law is intended to provide a broad rather than narrow structure regarding appropriate distribution and disposition of student records on a national level. This observation is realized primarily through noting that the text refrains from specifying individual circumstances that commonly arise during admissions and enrollment procedures at the high school, college, and graduate school level. While the law does not introduce specific scenarios into the text of the legislation, it is understood through implementation and interpretation of the law in court cases that such scenarios are covered under the appropriate subsection or paragraph.

Amendments to this law were enacted by Secretary of Education Margaret Spellings in December 2008 under 34 CFR Part 99⁷, to address new legislation enacted in recent years. This Title 34 consists of five subparts, with 67 total sections that each provide a question-and-answer reading of the implementation procedures regarding student records⁸. In the body of its Final Regulations, the Department of Education's Office of Planning, Evaluation, and Policy Development writes that "Educational agencies and institutions face considerable challenges, especially with regard to maintaining safe campuses, protecting personally identifiable information in students'

⁷ *Federal Register*, Family Educational Rights and Privacy; Final Rule. December 9, 2008. <http://www.ed.gov/legislation/FedRegister/finrule/2008-4/120908a.pdf> (summarized on pages 47-51).

⁸ Available from the Electronic Code of Federal Regulations (e-CFR) at <http://www.ed.gov/policy/gen/reg/ferpa/index.html>.

education records, and responding to requests for data on student progress.⁹" The new regulations specifically address legislation from October 2001 in order "to implement a provision of the USA Patriot Act and the Campus Sex Crimes Prevention Act, which added new exceptions permitting the disclosure of personally identifiable information from education records without consent. The amendments clarify permissible disclosures of student identifiers as directory information, and address outsourcing of institutional services and functions by allowing these contractors and outside parties to gain disclosure. The amendments also implement two U.S. Supreme Court decisions interpreting FERPA, and make necessary changes identified as a result of the Department's experience administering FERPA and the current regulations.¹⁰" Several definitions, a key component of the law's scope and enforcement are also revisited, including "attendance," "disclosure," "education records," and "personally identifiable information."

The amendments have the effect of changing the intentionality of the original FERPA legislation, and altering the circumstances which govern the release of student information. For example, a major change to § 99.31(a)(2) allows educational institutions to release student information to another university or college without soliciting the student's direct consent, as long as the disclosure is related to the student's enrollment or transfer. Amendment of § 99.31(a)(6) now requires a written agreement from the institution receiving student information that specifies "the purposes of the study and the

⁹ FERPA; Final Rule (December 9, 2008). p. 2.

¹⁰ Ibid.

use and destruction of the data.¹¹" Amendment of § 99.36 permits a non-constructionist interpretation of the law and greatly broadens the authority of an institution to release student information: in "an articulable and significant threat to the health or safety of a student or other individual, it may disclose the information to any person, including parents, whose knowledge of the information is necessary to protect the health or safety of the student or other individuals."¹² Additional discussion is given regarding codes that may be assigned by teachers to students for the purposes of posting grades publicly (in light of a 2002 Supreme Court decision), and what constitutes personally-identifiable information more broadly. These amendments give greater permissions to the institution with regards to permitting the release of student records, and should be of concern to students with an interest in limiting outside access to their educational records - even in rare medical or criminal circumstances.

From the discussion related to the term "attendance," we see that initial concern surrounding the term arose from several institutions' expressed inquiry whether FERPA applied to students enrolled in distance-learning classes that had no physical classroom component. The Final Regulations clarify that new specific allowances for such "electronic technologies" have been incorporated into the law, that as educational materials they are applicable under FERPA (even if such instruction does not lead to a certificate or diploma), and that further expansion of the term will be allowed as new technologies supplement traditional classroom methods. The term "directory information" has been redefined to exclude students' social security numbers but to

¹¹ Ibid.

¹² Ibid.

include educational identification numbers (e.g. Univ. IDs), because this number (like name, address, date of birth, major, year of graduation, etc.) would require secondary authentication factors for the user to gain access to education records. Social security numbers may never be disclosed as directory information because they are a potential direct identifier of not only a student but also of many other forms of identity. The Department explains that social security numbers must remain among the most tightly guarded identifiers by school administrators because of its traceable circumstances of issuance: "Because SSNs are not randomly generated, it may be possible to identify a student by State of origin based on the first three (area) digits of the number, or by date of issuance based on the two middle digits."¹³ The December 2008 amendment recognizes recent educational improvements that have - according to anecdotal evidence - significantly decreased the educational practice of publicly posting grades by SSN or identification number, which is due in part to increased awareness of privacy training and advocacy efforts. Additionally, the regulations provide a cost-benefit analysis of converting to a number-less communication system, and acknowledge that potentially eliminating the risk of identity theft, while hard to quantify, is a positive improvement: "identity theft costs businesses nearly \$57 billion in 2006, while victims spent an average of 40 hours resolving identity theft issues."¹⁴ The Department of Education does recommend that institutions "follow best practices of the educational community"¹⁵ with regards to release of these numbers. Additionally, the Department clarifies that

¹³ Ibid, p. 41.

¹⁴ Ibid, p. 42.

¹⁵ Ibid, p. 4.

institutions may *not* search and retrieve individual student information utilizing a social security number, because such practices are actually considered a disclosure under FERPA - and could inadvertently confirm or deny the social security number to an unauthorized requestor. The implication here for institutions is that student records must be labeled and retrievable by some other grouping besides social security number (e.g. term of admittance, alphabetical, etc.). Written consent from the student, however, can provide the institution with the allowance to release the requested information to parties that have been specified by the student, such as for banking or housing purposes. The concept of "disclosure" was revisited for purposes of clarifying the return of released information back to the institution or body that created the information (e.g. registrar) for purposes of validating the document's authenticity. In conclusion, the Department did not find that such returns need to be documented in the student's file for reasons similar to why each release to school officials does not need to be documented: such activities are legit and known to the student to have the possibility of occurrence by virtue of submitting these documents to the FERPA-compliant institution in the first place. Interestingly, the Department notes that a student interested in the validity of their documents would likely ascertain this by personal action and communication with the affected parties: "the student will be informed of the results of the authentication process by means other than seeing a record of the disclosure in the student's file."¹⁶ The term "education records" necessitated additional clarification with regards to the concepts of direct and identifiable content, as well as clarification of these terms' relationship to

¹⁶ Ibid, p. 6.

"alumni records." In the Department's view, education records consist of all official information on a student during their time of enrollment, no matter when in time this information is/was received: "created or received by an educational agency or institution on a former student that are *directly related* to the individual's attendance as a student." For example, this statement clarifies that an institution may create and add content to a student's file outside of the time of enrollment, including the pre-freshman registration period and the receipt of graduation period. In both of these circumstances, the student file would contain an incomplete representation of the student's activities at the school were the records administrators *not* allowed to contribute materials to the file outside of the period of enrollment. As explained in the Final Regulations (p. 41), "education records" by definition exclude "alumni records" which contain information about a student from time periods subsequent to the time he or she was an enrolled student. This direct content is very different from another term that is also revisited in the amendments: "personally identifiable information." The personally-identifiable concept applies mostly to individual attributes of a student (numbers and classifications), while the "directly related" concept applies to general actions and documents which have a physical representation in the form of a letter, form, or receipt. FERPA clarifies that records administrators should not consider personally-identifiable documents relating to a student's activities outside of the time of enrollment part of their educational record (e.g. activities as alumni). The amendment restates that FERPA only applies to educational records pertaining to the student's attendance and enrollment *at that institution*. The changes to the "educational records" term also now incorporate the 2002 Supreme Court

decision in *Owasso Independent School Dist. No. I-011 v. Falvo*, 534 U.S. 426, which held that peer grading does not violate FERPA (so long as such activity is carried out as a learning experience rather than submitted for an official grade)¹⁷. Specifically, the amendment differentiates between mere discussion of grades and actual recording of grades for academic purposes. Educational records only involve those documents that have been recorded as such by the instructor of record and incorporated into the final grade received by the student. Discussion surrounding educational records also involved an evaluation of parents' rights under FERPA - in light of the April 2007 shootings at Virginia Polytechnic Institute and State University (Virginia Tech). Additionally, the Department entertained comments about dependent status, concurrent enrollment in high school and college classes, and family dynamics that may place a non-birth parent in the primary caregiver role for the student. The amendment maintains that exclusive access to student document transfers to the student upon attainment of the age of 18, *except* when the student has provided written consent otherwise, or the student is married and/or has no parent in which case "a spouse or other family member may be considered an appropriate party to whom a disclosure may be made, without consent, in connection with a health or safety emergency."¹⁸ In the case of concurrent enrollment, the amendment states that "the two schools may share education records without the consent of either the parents or the student under § 99.34(b)."¹⁹

¹⁷ Ibid, p. 7.

¹⁸ Ibid, p. 9.

¹⁹ Ibid.

The amendment addresses information outsourcing activities that may give outside parties the privileges normally accorded only to "school officials" under a strict reading of the original legislation. The amendment clarifies that such activities may be construed broadly at the institutions' discretion but maintains that these outside parties "must perform an institutional service or function" and cannot be expanded further to allow commercial companies the opportunity to target schools, parents, or students with just any product or service. The schools must solicit written consent for any such disclosure that is not part of an official outsourcing procedure. FERPA allows the schools considerable discretion in allowing non-school employees access to education records, as it is at the institutional level that such decisions are made. The amendments incorporate the provisions of the USA Patriot Act of 2001, as the Department writes that contrary to comments received, the Act's FERPA provisions have not been ruled unconstitutional, nor do the provisions sunset in 2009²⁰. Under the USA Patriot Act, "the U.S. Attorney General may apply for an *ex parte* court order to collect, retain, disseminate, and use certain education records in the possession of an educational agency or institution without regard to any other FERPA requirements."²¹ The FERPA amendment of 2008 does not change the existing procedure and does not require schools to notify students or parents that their records have been disclosed under the USA Patriot Act, because the school is merely complying with a (new) federal court order. In fact, the amendment specifies that such disclosure may violate the "good faith" requirement in the USA Patriot Act for avoiding liability for the disclosure. The term "personally identifiable information" was

²⁰ Ibid, p. 15.

²¹ Ibid.

also explained to include any record that contains even initials, nicknames, or personal descriptions that would allow a "reasonable person in the school community"²² without direct involvement in a situation to identify the student with reasonable certainty. The implication here is that the document is still directly linked to an individual student regardless of the descriptive terms used to identify the student. In contrast, in the case of a teacher providing students with a code for the purposes of viewing grades that are posted publicly, the code is not considered personally-identifiable or part of the educational record because the linkage is not "reasonably" apparent to an outside individual. It is noted that the amendment replaces the previous "easily traceable" term with the "reasonableness" standard, which emphasizes that the disclosing party use "legally recognized, objective standards"²³ on documents, and to withhold information that is not necessary for the specific document's purpose. The amendment now includes under personally-identifiable information, §§ 99.3 and 99.31(b), a definition of "biometric record," which was added based on National Security Presidential Directive 59 (June 2008) and Homeland Security Presidential Directive 24 (also June 2008). Previously undefined, "biometric record" is now interpreted by FERPA as "a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual. Examples include fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting."²⁴ The Department discussion shows that such information is to be considered *directly* related

²² Ibid, p. 27.

²³ Ibid, p. 27.

²⁴ Ibid, p. 29.

and personally-identifiable, in contrast to many other "indirect identifiers" (race, ethnicity, date of birth, even name), all of which do not clearly and explicitly link the information to one individual.

Administrative changes enacted by the amendment in § 99.64 include the specification that violation claims filed at the national level merely have to allege that the institution violated one of the requirements of FERPA, and not that the violation is the result of a miscarriage of institutional policy, in order for the FPCO to investigate the claim²⁵. Additionally, single allegations provide enough warrant for the FPCO to investigate the institution (even if such solitary events do not represent the institution's policy or practice). The amendment states that the FPCO can receive notification of privacy misconduct from *any* reporting source - including school officials, officials in other schools, or the media - and that such investigatory latitude does not represent an abuse of power by the FPCO for the simple fact that the FPCO receives a larger volume of complaints than it can investigate. The creation of a central office to deal with claims of privacy violation was specified in the 1974 legislation under subsec. (g): "The Secretary shall establish or designate an office and review board within the Department for the purpose of investigating, processing, reviewing, and adjudicating violations of this section and complaints which may be filed concerning alleged violations of this section."²⁶ However, specific procedural guidelines developed *after* 1974 and exist currently as the work of the FPCO; the 2008 amendments not only regularly refer to the FPCO by name but also outline specific enforcement procedures that the Office must

²⁵ Ibid, p. 37.

²⁶ US CODE: Title 20,1232g, subsec. (g) at <http://www4.law.cornell.edu/uscode/20/1232g.html>.

perform in order to provide appropriate notice of investigation to the educational institutions.

From these amendments we see that student records continue to remain a relevant and important part of legislation enacted for educational and social purposes. In particular, the amendments illustrate the need to recognize and effectively incorporate changing technological processes into the work of records management. Management of paper records must be combined with management of digital resources and systems including directories and gradebooks, as both types of records - physical and electronic - contain comparable amounts of identifiable student information and private content. As seen in the university illustration, there exist both physical warehouses for storage of paper files as well as electronic servers for storage of born-digital and digitized files, and both serve as crucial, active components of the institution's recorded documentation.

II. a. Student Records Privacy Literature Review

The previous section provides a textual analysis of the relevant sections of 20 U.S Code § 1232g and the 34 CFR Part 99 amendments that pertain to student records access. This section discusses publications that have sought to explain the ramifications of FERPA for various constituent groups, including teachers, professors, records administrators and students. Most notably, Steven McDonald, writing in the *Chronicle of Higher Education* (April 2008), states that public interest in student records access rose in the past year in light of discussions and commentary surrounding the Virginia Tech shootings. His article in *The Chronicle of Higher Education* demonstrates the

contemporary relevance of records management practice through a close analysis of the actual coverage of FERPA, intended to clarify some important principles and specific rights. McDonald offers a detailed analysis of the expansions allowed under the then-proposed legislative amendments, because he believes such explanations will benefit a general audience of teachers, administrators, and public readers of the *Chronicle* - as well as clear up several "misunderstandings" he has witnessed as a legal counsel. One of these is the view that obligation to FERPA trumps all potential discussion about student well-being among community members: this is not the case, as McDonald points out, as FERPA does not cover "personal knowledge." He writes that "When the situation appears to be urgent, it is both appropriate and permissible to disclose the concern as broadly as seems necessary" (A53). Additionally, FERPA only covers educational documents (most related to registration purposes) and does not cover records that law enforcement, mental health offices, student affairs officers, or residential advisers may create for purpose of tracking students for which they are responsible. All of these types of documents are not subject to the privacy regulations under FERPA as they do not pertain to a student's academic file - and are therefore available for open discussion and review in the event of an extreme situation (i.e. as warning signs or suspicious activity).

It is important to note the significance of McDonald's statement that "Ferpa does not make that [privacy] interest an absolute, unassailable priority" (myth 4). McDonald relates that confusion arose in the Virginia Tech community regarding definitions of "appropriate disclosure" to relevant authorities, which was partially motivated by institutional fear of FERPA restrictions on performing such actions. McDonald again

emphasizes that FERPA is simply not that specific in legislating disclosure, and the FPCO does not outline the institutional specifics of handling claims of violation. While FERPA does state that serious and imminent cause must be cited in any official student investigation, the FPCO has elsewhere stated that it will not fault good-faith decisions made with the information available to concerned administrators. It is simply not true that administrators will be routinely prosecuted or investigated themselves for pursuing student information through accessing recorded data: "This office will not substitute its judgment for what constitutes a true threat or emergency unless the determination appears manifestly unreasonable or irrational" (FPCO in McDonald myth 4). Additionally, the 2008 amendments aim to clarify the prior "serious and imminent" determination by eliminating the "strictly construed" determination-of-threat provision and replacing it with language more aligned with the professional judgment allowances that are specified elsewhere. With this explanation, McDonald aims to demonstrate to administrators that they cannot justify their inaction in matters of information disclosure simply by pointing to FERPA. McDonald thoughtfully explains that both the lack of specifications in FERPA for institutional protocol and the expansions guaranteed to administrators' disclosure practices serve to orient student privacy as but one component of maintaining a safe learning environment, and that informed knowledge of its coverage will serve the best interests of students and concerned administrators alike.

From his discussion of disclosure and the initial decision to involve professional judgment regarding students' behaviors, McDonald then addresses risk and the ramifications for such involvement as specified in FERPA and the amendments.

McDonald acknowledges that administrators have in the past erred on the side of "not disclosing," as this practice cannot result in any legal consequence that would be harmful to the professional. Not only does this decision "not to act" not protect the students' well-being in the case of a real safety concern, but it promotes an institutional mindset of ignorance regarding students' mental health needs (which may be very real, as with the Virginia Tech events). McDonald adroitly states that while the FPCO has received thousands of privacy complaints from students and has responded in kind with acknowledgement that the violations are valid, the FPCO has never once in the 34 years of FERPA's existence ever withheld Federal funds because of institutional violations (McDonald myth 6). Such a statistic should demonstrate to administrators that it is "okay" to pursue valid investigations into student behaviors that may affect the educational environment as a whole, and that there are expanded provisions for doing so as of the 2008 amendments' passage. As evident from McDonald's assessment, the primary issue affecting appropriate records management is awareness of the limits and allowances of FERPA, including the 2008 amendments. Even though the amendments may at first seem to cloud one's understanding of Federal student privacy regulations by adding new exceptions and clarifications, it is important that we gain an informed understanding of the allowable behaviors at educational institutions by reading the text as it stands - rather than relying on poorly-researched media reports, myths, or inaccurate characterizations of FERPA. Shoop (2008) concurs with McDonald's assessment that administrators need not shy away from the issue of student privacy, but instead learn about the legislation and understand its supporting structures: understanding FERPA is

"easier than you think" (65) and requires active and open lines of communication between teachers, parents, and the students themselves.

O'Donnell states that the level of protection given to the privacy of student records is informed in particular by a "code of cyberspace," a concept borrowed from Lawrence Lessig's book Code and Other Laws of Cyberspace (1999). Lessig argues that just as the legal code operates by creating constraints in the physical world, so too do software and hardware standards effectively constrain online behaviors. Additionally, social norms in place at an institution are important to consider, because they inform policy decisions that are implemented and which affect records management and the level of privacy afforded to educational records maintained. In her survey of the legislative history of the FERPA and Senator Buckley's key goals in advocating, O'Donnell very succinctly documents how the law developed from introduction to passage, including one section that was narrowly defeated in the Senate that would have given parents the power of consent over their child's participation in testing and "value-changing courses or activities" (683). In a 1975 address to the Legislative Conference of the National Congress of Parents and Teachers, she points out that Buckley noted the prevalence of federally-supported invasions of child privacy: "A year ago this March, a Federal office demanded information on pupil and family ethnic attitudes from over 100,000 [sic] New York City's elementary school pupils. Fortunately, the city board of education adamantly refused, even in the face of a reported threat to cut off all Federal education funds - over \$200 million a year - to the city" (Buckley in O'Donnell 684). Additionally, she reveals that college and university student records were not originally part of Senator Buckley's

master plan for federal regulation - and as such, all resulting FERPA interpretations and statutes have stemmed from a stunning drafting error! In O'Donnell's 2002 interview with Mr. Sheldon Steinbach, General Counsel for the American Council on Education, he stated that the error was discovered by the higher education community while the legislation was in conference. Mr. Steinbach stated that the legislator in charge of the Education Amendments of 1974 refused to reopen the legislation due to the debates that would have ensued over the anti-busing riders attached to education bills in that era (683 note 22). After passage of FERPA took effect in K-12 secondary schools, problems were discovered with regards to higher educational institutions that were addressed in part in the amendments made by section 2 of Senate Joint Resolution 40 in 1974, which retroactively added the definition of "education record" which stood until 2008 (683). I also note that FERPA was amended as rapidly as December 1974 due to an outcry from the higher education community over student access to letters of recommendation, among other issues. The amendment held that FERPA could not be applied retroactively, so that letters written under the recommenders' impression that students would *not* be able to see the content were still restricted from student access. (Archivists at the time responded to student requests unpredictably, as the legislation was still active). A potential area for future study would be an analysis of the default response for how to manage records for which the student neither waived nor retain their right to inspect the records (i.e. would non-response constitute agreement or otherwise). These letters are significant because they may come to represent a student's first interaction with FERPA, and indeed the first decision teenage students make regarding management of their own file and information

(Chute 213 and see Section IV here). O'Donnell then documents the relevant Supreme Court cases and interpretations that have significantly shaped student records and privacy, up to and including the notion of peer grading (Owasso Public Schools, 2001), universities' open records requests (University of Wisconsin, 2001), student disciplinary records (Ohio Supreme Court, 1997), and applicant data at multiple prospective universities (Princeton and Yale, 2002). O'Donnell states that personal data regulation has already been established under FERPA as a core value in our society, but that questions remain regarding the underlying principles of FERPA in light of online student records systems. She calls on fellow attorneys to more clearly illustrate to policymakers the implicit choices that are already being made at the institutional level by either action or inaction regarding postsecondary records. Universities are now implementing local solutions to meet needs as they become manifest, but more collaborative inroads need to be made on the level of federal guidelines to regulate online activity.

Toglia (2007) emphasizes in his comments for administrators that student information they may retain as part of a teaching file does constitute an 'educational record' and is subject to the compliance guidelines he outlines: "Students often ask educators to write letters of reference for employment, scholarships, and enrollment in other institutions. Under FERPA, facts often addressed in letters of recommendations (e.g., GPA, course grades, performance, and other non-directory information) are considered educational' records. Consequently, teachers must obtain a signed release from parent or student specifying the records to be disclosed, the purpose, and to whom disclosure will be made." (2001, 65). He also notes an important exception regarding

letters of recommendation, specifically that students do not need to decide on waiving or retaining their rights to inspection under FERPA in cases where the letter does not utilize actual educational records, and is written based solely on observed behaviors. "An exception to obtaining a release when writing a letter of reference occurs when the recommendation is based solely on personal association/observation with the student and the letter does not contain any information acquired from educational records." (2001, 65). Toglia also addresses student aides and parent volunteers, who in the course of performing their duties may discover student grades and informational records. Toglia recommends that schools provide confidentiality agreements for these individuals to complete, which would affirm that the temporary workers would protect the privacy of the affected students. Toglia extends this obligation to administrators themselves, who too must ensure that sensitive information does not reach unauthorized parties. Specifically, he writes that administrators' communications with prospective employers of the student must not reference information that can be gained from the student's educational record (which is specific to academic courses, and inaccessible through more public means).

Gilley (2006) outlines the four definable rights that are granted to students upon attainment of the age of eighteen or who attend a postsecondary institution: "1) to view the information that the institution is keeping on the student, 2) to seek amendment of those records and, in certain cases, append a statement to the record, 3) to consent to disclosure of his/her record, and 4) to file a complaint with the FERPA office in Washington, D.C. (17). From Gilley's assessment, it is important to note that

"information" itself is not defined in this context, and would lead the reader to believe that "information" consists of a single set of documents that is assembled, collocated, labeled, stored, and retrieved together. As we will see in the university illustration, this is not the case at postsecondary institutions that have many departments to which students go for services both academic and behavioral in nature. These departments maintain some sort of record-keeping mechanism for tracking the student traffic that utilizes their services, for purposes of reporting such activity to supervisory offices and for documenting office activity on a short-term and long-term basis. Often the information collected by these departments is entered into a centralized database repository, but in many cases, paper files are only retained by the department and are poorly managed beyond the period of activity. This "information" does contain sensitive identifier information either provided by the student directly, or accessible to the staff indirectly through online student records directories and then added to the student's file. In light of Gilley's outline, the student *should* be able to view all information maintained on them - by all departments and offices, even those they are not aware of but which receive student data through group activities the student participates in, or sign-in sheets the student may fill out during standard or special campus procedures. However, the decentralized nature of "unofficial" student records management (that is, anything not retained by the Registrar which would manifest on an academic transcript) results in pieces of student data in existence at these departments which the student is not aware of, and can therefore neither view nor make changes to its presentation in various unapproved forms. Gilley states that note 3, regarding consent to disclosure, is the right most commonly violated by

administrators and faculty. Forms of violation she cites include "posting of grades by ID number, leaving graded student work in a public place, passing stacks of papers around a room for individuals to sort through (a violation of confidentiality), using listserves to provide students with feedback, and discussing student grades or performance with colleagues possessing 'no legitimate need to know' (Rainsberger 1998)" (17). All of these valid instances illuminate the significance, and indeed, the continued prevalence, of student privacy concerns in the modern digital learning environment. Further research should be conducted (by faculty or otherwise) on faculty knowledge of FERPA best practices. Currently, faculty are not routinely tested or trained regarding proper records management - despite the fact that all faculty are subject to FERPA compliance by virtue of their interactions with students and student information of value (data assets). We see that students and records administrators are required to at least take personal note of FERPA in the course of carrying out their respective actions in the university context. Yet even if all students were fully aware of FERPA, their awareness carries no long-term possibility of bringing about institutional change, because of the time-driven nature of students' educational progress. The real opportunity for more effective student records management lies in educating faculty about how to minimize the risk of information breaches, and how best to maintain the privacy that students are assured at the time of enrollment. Gilley's study demonstrates a methodological assessment of faculty awareness of FERPA, the means by which faculty come to receive student information, and her recommended training procedures for staff regarding FERPA. Notably, the study showed that "41.8% of total responding faculty indicated a lack of familiarity with

FERPA, 29.4% indicated slight familiarity, 26.5% indicated moderate familiarity, and 2.3% indicated extensive familiarity with FERPA" (20). Because a vast majority of faculty are unfamiliar with FERPA - and almost none claim informed knowledge of its details and ramifications - there is a potential for danger at the university in the likely event of a violation of academic privacy rights. These results give lucid indication that FERPA should be taught in a more comprehensive, multi-faceted manner at the point of entry into the university system - with clear portrayal of the repercussions for not integrating FERPA awareness into daily conduct - as early awareness will enable faculty to practice the recommended best practices as soon as possible and with greater effectiveness. Further studies should also be conducted at the various types of postsecondary institutions including community colleges, public and private universities, and small colleges, as informed comparisons of current practices (characterized by local student characteristics, information needs, and unauthorized leaks) may help future policymakers and privacy advocates more clearly describe the problem and propose comprehensive reforms inclusive of the digital learning environment.

Cutler writes that with passage of FERPA and the transference of a multitude of access rights to students of age, parents effectively lost the right to be notified about their students' academic, disciplinary, and health records (175). Cutler adds that since 1974 and the Federal decision on student privacy, a number of other Federal laws have been passed regarding social problems affecting students such as substance abuse, family problems, relationship struggles, eating disorders, and identity development. Alcohol abuse in particular came into the limelight in October 1998, which saw passage of

Section 952 of the Higher Education Reauthorization Act (P.L. 105-244), an amendment to FERPA which awarded counselors expanded communication rights with parents. Cutler writes that while the 1998 law explicitly stated that institutions were only now "allowed to" contact parents (about children under 21 who were violating campus policies regarding alcohol and illicit drugs), institutions were not "required" to do so. Effectively, parents were not given the right to ask the institution about a perceived substance situation involving their own child. Furthermore, in July of 2000 the U.S. Department of Education purported that university officials do not have to wait until formal disciplinary proceedings have occurred before notifying parents - a measure that gave universities broad entitlement to enact procedures to fit their own institutional needs. Cutler gives several examples of parental notification policies (and changes) in place at public and private universities. She states that lines of communication have now been opened under Federal decisions that were previously closed, between counselors employed by universities and the parents of enrolled students. For example, in the 1960s, the U.S. courts gave broad clearance for universities to function *in loco parentis* and to both resolve conflicts and inflict discipline in many forms without notifying parents back home of their children's actions. This situation created many of the intrusive surveys and data-gathering practices which motivated Senator Buckley and others to demand a reevaluation of these practices at the Federal level. Cutler, a trained counselor, writes that child-rearing and personal development involves both the knowledge imparted by parents through the family unit, and the social knowledge gained by students of all ages in the school systems they attend during the day. For this reason, school counselors have a

unique obligation to bridge the gap between institutional action and student behavior by taking advantage of the ability to communicate with parents regarding student behaviors in the university environment. The collaborations possible between trained counselors and parents can help students develop in a manner that respects the student's boundaries and need for exploring their independence, but also gives them resources to deal with social issues they face in the teenage and later years. These activities can minimize student perceptions of lonesomeness and misunderstanding which, as we have unfortunately seen in the Columbine High School and Virginia Tech events, can lead to dangerous situations. These situations can be *proactively* addressed through the cooperation of attentive faculty and administrators, who should notify counselors of conspicuous student behaviors without fear of "violating FERPA" and/or placing the students at risk of danger or repercussions for speaking up. Many situations can be effectively remedied following counselors' trained evaluation, as counselors contribute invaluable support to the mental well-being of students that ensures the continued safety of all on campus. Students should also feel at ease with requesting help from trained counselors without fear of inappropriate disciplinary measures for doing so, a protection that has been afforded to them through FERPA and its subsequent amendments.

Similar in focus, Merlone writes that a survey of elementary and middle school counselors revealed confusion and diverse practices regarding the storage, sharing, and destruction of counselors' notes (372). Merlone discusses the creative solutions that have been observed regarding teachers' documentation of their work with a student or class of students - in response to a lack of direction regarding other more preferred forms of

documentation. In a survey conducted among 15 counselors, 9 counselors report destroying records after a student leaves the school, 2 report retaining student records forever, and others report retaining records for anywhere from one to ten years after a student leaves the school. Additionally she writes, "Several mentioned that notes regarding suicide gestures or major behavioral or disciplinary issues would be kept for a longer period" (374), though one might question the reasoning behind their decision. Merlone study also shows that upon a student's graduation to the middle or high school level, 8 out of the 15 counselors reported meeting with members of the receiving school to discuss the students with whom they worked, and of these, 2 discussed all of the students from the school (374). This practice demonstrates that many students may never be discussed among faculty, despite the oft-extensive documentation that has been kept on the student by past teachers (this "institutional knowledge" becomes lost by virtue of being inaccessible, until it is no longer valid when the student begins interactions with a new teacher). Exceptions exist of course to this finding. Merlone discusses cases which show that counselors' notes are not part of the official school record, but that they are subject to subpoena. Counselors have been traditionally encouraged, she writes, to refrain from including any identifier (or defamatory, or quotable) information in these notes and in fact, it has been successfully defended in court that counselors' notes merely constitute hearsay and are not therefore valid forms of evidence (373). Merlone's study could be made more impactful through follow-up studies of a larger scope, as well as longitudinal studies conducted at the postsecondary level which may or may not reveal different conclusions regarding records management practices. The situation Merlone describes

mirrors the situation the author observed at the postsecondary institution, where we see lack of a centralized guideline for faculty management of student information - including students for which they may maintain an advising file or file of materials for providing recommendations and references.

In his article, Rosenblatt (2008) discusses the security requirements of a metric system and states that automatic collection of data will produce fewer errors than human-inputted data. Rosenblatt acknowledges that "perfect" computer security does not exist, but he outlines several key components of systems that can minimize risk and accomplish the needed actions effectively. For example, the system should be consistent and objective, and it should include metrics built into the infrastructure for purposes of assessment and policy compliance (8). Rosenblatt cites the example of a university networked system that has assigned each host computer both inbound and outbound bandwidth usage quotas, with the penalty for exceeding these limits a reduced bandwidth for the immediate hour with possibility for another hourly reduction. He states that automation of these tasks allows for greater administrative effectiveness, as well as greater awareness and behavioral changes because all affected parties are subject to the same policy. Additionally, his team has implemented an incident response system which identifies compromised computers on the network (that is, successful attacks that result in a crippling at a local point of entry) and removes their network connectivity. These procedures have enabled the university to address the large scale of its user audience - over 35,000 nodes or data points - in a uniform way that preserves the network viability over time. His team is also then able to provide specialized support for the compromised

node and restore the node to its proper usage, usually by removing the malware or virus that infiltrated. He notes that in order to combat such phishing activity, the team performs several outreach and education activities aimed at increasing awareness and safe behaviors among the university community members. For example, false messages asking for identifier information such as university ID numbers are often used to access resources only available to the university community, such as library access and privileges, recreational facilities access, and retail discounts. By publicizing the risks and harm that is possible through unauthorized access, the security team has gained significant approval among his clients both in terms of policy compliance (fewer privacy leaks and reports of violations) as well as goodwill and a stated willingness to incorporate dedication to privacy protection into everyday actions and behaviors. Legal compliance, he states, carries a number of implementable solutions which can also be obtained through metrics. While it is difficult to pre-determine the exact nature of future inquiries regarding networked computer behaviors (legalities change), implementing automated metrics now will prove beneficial in future requests for funds and reports. For example, the security team recently began tracking the number of different ISPs a person uses to log in (that is, the physical node location where the individual accesses the network). From these numbers, the team was able to formulate a methodology for determining when a user's account may be compromised, a valuable tool for preventing further unauthorized activity. "By studying these numbers and looking at the geographical distribution of the ISPs, we discovered that logins by the same user from more than seven ISPs in 48 hours usually indicates a compromised password. That allows us to contact the

person and get them to change their password" (11). In his work, his team has striven to build "a security system that only looks for bad behavior without looking at content" (11), a strategic goal that balances the university's need for networked oversight as well as individuals' privacy rights and relevant Federal policies related to protecting that privacy, such as FERPA, HIPPA, and others pertaining to digital files and personal credit. Rosenblatt states that metrics should serve a security goal that is realistic, protective of user privacy, and protective of informational assets (in this case, data). Metrics should be implemented because these numbers provide statistical references during funding requests, and they allow information technology professionals to measure their success in combating individual problems over time.

Chute (2004) discusses the existence of student information in a university archives context, a situation that may arise in an institution that stores student records in a long-term archival environment and which may provide intellectual or physical access to these records. Chute states that researchers may wish to utilize student records as source documents for an analysis of "review and validation of academic issues and longitudinal trend analyses" (214). Institutional responses to the sensitivity issue prevalent in student records have included: redacting the physical record, redacting a provided copy of the record for research purposes, requiring signed agreement that he or she cannot release this information to others, denying access to any living student's files, and/or requiring the researcher to destroy student identification information in the data as soon as he or she has completed the analysis. The researcher faces institutional repercussions for failure to abide by the given restrictions in the form of institutional rejection of the research

and/or withdrawal of forms of support to the researcher at fault (215). Chute's findings utilizing a survey conducted among archivists at Association of Research Libraries (ARL) member institutions (64 respondents) demonstrate that the provisioning of access to student records is highly variable even among ARL member institutions. While the institutions share a common awareness of FERPA and respect for student privacy in general, the methods by which researchers are afforded or denied access to student materials vary greatly due to misinterpretations and localized practices. Institutions report that the sheer volume of student materials accumulated year after year has implications for the time and resources that institutional archivists can properly devote to student records management, aggregation, and other labor-intensive procedures such as redaction (228). The professionalization of archival work would also suggest that archivists would benefit from formulating a set of best practices regarding student records management and disposition that would be recognized nationwide, in light of the other duties required of archivists. Chute suggests that additional research be conducted to establish the cultural value of continuing to hold identifiable or aggregate student information in the institutional archive, which may take into consideration forms of research such as genealogy, institutional history, and personal biography writing, and the archival practices that would best support these forms of research.

III. Defining the Student Record

What are the components of a student's record? Definitions for the student record vary from institution to institution, and have been poorly stated at these local levels. A

detailed analysis of record components must be carried out in order for a university to describe and retrieve records in physical and electronic forms. It can be stated with some universality that a student's record is comprised of a set of documents, which may be physically contained in a folder. (Variability occurs at the document level, but may include application materials and transcripts). At institutions which group documents by name of the student, a student's documents cannot be retrieved individually, but only through their collocation under the student's given name and identification. Because documents are grouped both intellectually and physically by individual person, one cannot therefore retrieve a single document without also retrieving the entire folder that contains that document.

The FPCO should more acutely focus its role in enforcing FERPA by regulating institutions' access procedures involving student records. A discussion of the student record is centered around the notion asserted in the legislation that students should maintain the exclusive right to view their own materials. This right is exercised at the institutional level, in such a way that the student's ability to request and view their own materials is shared and identical for all eligible students with an official relationship to the educational institution. Specific regulation of the provisions of FERPA is currently lacking at the end-user level, and has resulted in varying practices among institutions that must provide its students with access to their student file. The procedures for providing this access are poorly elucidated, and should be clearly defined at the Federal level. This can be accomplished through the issuance and maintenance of procedural clarifications by the FPCO, the national office responsible for enforcing and investigating claims

relevant to FERPA. The primary reasons why specific FERPA procedures should be regulated at the Federal level are: 1) to establish uniform requirements for investigating claims of privacy rights violation, and 2) to prevent excessive variation among schools in providing students with access to their educational records. Currently, records management practices reflect institutional need and are not directly tied to a specific FERPA guideline that specifies how to manage the physical and intellectual contents of student records. This has resulted in great flexibility in asserting "compliance" to the Federal law of FERPA because there is no shared understanding of records methodology and best practice. Institutions place greater emphasis on institutional-level needs and case-by-case professional judgment than on Federal guidelines for determining practices, because few Federal guidelines exist relevant to the management of educational data. With a commitment to enforcing the requirements of FERPA through records management guidelines, the FPCO would likely see fewer violation claims filed for reasons of records mismanagement, because institutions would be required to follow specific management guidelines for both paper and electronic data in order to remain compliant with FERPA and suitable to receive Federal funds. In this situation, records management practice would be closely aligned with privacy rights enforcement and would not simply be left to the professional judgment of records administrators, but would be clarified by the FPCO and the Department of Education for purposes of standardizing practices at universities nationwide.

While students have the ability to request viewing of their student file, the content that is retrieved for them by records administrators does not represent the full amount of

information that is held related to their educational career at the institution. Upon presenting proof of identification - and after allowing time to retrieve the folder from an off-site storage location - a student is able to view materials submitted at the time of application to the university, including many forms the student completed himself/herself, and materials submitted on their behalf by recommenders. However, the university Registrar's holdings for an individual student - indeed, one's "educational record" - include information from several other sources as well, besides the initial application materials. For example, as seen in Section VI.a of this paper, universities collect student information in a range of both physical and electronic management systems from routine activities completed by the student during their terms of enrollment. Students submit name changes, course credits, changes in address and email contact, and transcript requests over several years and terms of attendance. Are these submissions retroactively applied to previous documents submitted with different information? The opportunity afforded to the student to make perceived changes to their record has resulted in a student record that is not "stable," but ever-changing as the student's educational activities develop and come to be reflected in an official capacity. Metadata related to each authorized login, course registration, transcript request, third-party access allowance, and financial exchange is collected and stored on the electronic server that powers the online student interface to their official record, as described in Section VI.a. What is the full representation of a "student record" and at what term of enrollment is this determination best made? Whether periodic "snapshots" of the student record should be recorded at known stages of academic attainment, or whether the only authoritative record can be

created at the time of a student's graduation are areas that are not currently defined in the legislation. Definitions of these record-related activities represent a significant area of future proposed emphasis for the FPCO were it to choose to enforce FERPA with greater oversight of effective records management.

Additional records not traditionally considered part of the student's academic file - and not presented during student requests to view their file - are records retained by departments other than the Registrar for purposes other than admissions processing. Advising records, for example, are assembled and retained by departments over the course of a student's period of enrollment yet little to no regulation of their disposition exists, either as a mandate from the Registrar or as part of the Federal FERPA mandate. These records contain large amounts of personally identifiable information yet have been overlooked in student privacy regulation efforts because they are considered ancillary records, retained for faculty use. Likewise, a great amount of digital information is gathered by the Registrar and related admissions departments over the course of a student's period of enrollment, and this information is stored on multiple databases including OASIS and in multiple source formats. Yet when a student logs in to view their student information on URSA, the student views all of this information as a compiled, single entity as if it is stored singly. There is no indication that multiple instances of compilation and identity-linking occur between these records databases "behind-the-scenes" and thus students are not aware that this accurate information about them exists other than what they view on URSA and in their student "folder." When the FERPA legislation and related documents express the concept of "student concern" and "student

ability," the legislation overlooks the fact that students are not being made fully aware that more information exists about them that is not presented during a request to "view their folder." The student thus retains a false understanding about the appropriate dispersal of sensitive academic and related information within the university structure, because regular disposal and destruction of these "ancillary" records is neither supervised nor suggested in either Federal or institutional-level privacy recommendations. These records should be considered as academic documents in future privacy legislation.

A textual analysis of the FERPA legislation reveals that in subsec. (a)(4)(A), "education record" is defined to include components specified as "records, files, documents and other materials." This connotes a parent-child relationship between the education record and the documents that make up that record. The components of a student's education record must meet two qualifying criteria: they contain information directly about the student, and they are maintained by the educational institution. The necessity of meeting both of these criteria demonstrate the limits of what can be considered a part of a student's official record. The realization that an education record is actually quite narrow in scope is made clear by McDonald, who writes that mere discussion and even written memos exchanged among administrators and teachers regarding students only constitutes "personal knowledge" and is not applicable as a student record. The intention here is to explain that teachers' concern to abide by FERPA should not come in the way of their duties and responsibilities to ensure the student's well-being and general safety. It is permissible, for example, to discuss students' health and classroom activities without fear of impugning on the student's right to privacy so

long as such discussions are not recorded and retained in any official capacity. In fact, McDonald argues that such discussions may be essential from both the teacher and student perspectives, because promotion of a safe learning environment remains a stated, shared responsibility. It is particularly significant that McDonald acknowledges the shadow of the Virginia Tech situation at the outset, because such discussions among the university community may have helped alter the actions that later unfolded. He writes, "We do neither the student nor ourselves a favor if we don't try to reach out and deal with such situations when we still have the opportunity. When the situation appears to be urgent, however, it is both appropriate and permissible to disclose the concern as broadly as seems necessary" (McDonald).

McDonald also address the notion of consent from the observation that much of the current focus has been on the student, and their right to control the dissemination of their personal information (and to file a investigable claim of violation if they feel it has been infringed). Little attention has been paid to the administrators' and teachers' right - and obligation as members of the learning environment - to exercise the judgment that is also afforded to them in FERPA and to proactively seek assistance for a student they feel may be in a troublesome personal situation. Administrators can appease any concern they have with violating FERPA by simply scheduling a consultation with the student (individually, at first) and assembling resources on behalf of the student's best interest. By securing the student's consent in such a manner, administrators are not infringing on a student's privacy rights at all, they are simply exercising the professional judgment that is permissible under FERPA - *and expanded* in the recent amendments. McDonald writes,

"if we choose not to disclose student information when we would be permitted to do so, whether for legitimate policy reasons or by default, we should not use FERPA as an excuse." Furthermore, if the student is either a Federal tax dependent, under the age of 18, or involved in a crime, both administrators and parents have the ability to intervene and share student information with authorities and resources; there is "no excuse" not to do so. The student's primary control of records gained after the age of 18 is not equivalent to total control in the event of health or safety emergency - as students under 21 can still be investigated for drug or alcohol violations, particularly in an educational setting. Legitimate administrator-level investigations that are pertinent to a student's well-being are not violations of the student's FERPA privacy rights, and it is highly advisable, McDonald points out from the legislative standpoint, for an administrator to care enough about the student's well-being and assist the student in matters to which the administrator has been alerted in the course of conducting professional interactions with the student.

IV. Implication of FERPA for High School and College Students

This section addresses the relationship between prospective college students and their student record: including how and why students come to care about the contents of their file, and how access policies change after the age of 18. Secondary school students may have little to no direct involvement with their own student records until their senior year of high school - as under the provisions of FERPA these records remain under the sole control of their parents until they reach the age of 18 or enroll in postsecondary education. Students under the age of 18 are considered minors under FERPA (subsec.

(d)), and as such their parents retain sole rights to access their student records. However as these students prepare college applications in earnest beginning in the summer before their senior year forward, students must become aware and confront the implications of FERPA, and make decisions that will affect their future use of these application documents. For example, students will travel to prospective college sites and may initiate a student file at individual admissions offices, each of which are subject to that university's practice and adherence to the guidelines stated in Section 1232g. As noted above, each university is responsible for implementing FERPA at their institution according to individualized protocol, which is not specified in the actual Federal legislation. This has resulted in quasi-similar practices followed at different universities according to their needs and which are affected by primary factors such as size of the student body and public or private status, and on a secondary level, records storage capacity (which is related to enrollment size), and number of students enrolled from 1974 forward (the inception date of the legislation). Some universities, for example, may not have the ability to retroactively apply the FERPA regulations to records of students who departed from the university prior to 1974, when the university was not legally bound to retain student records under Federal law. Additionally, high school students complete individualized application forms for different universities, as well as individualized recommendation forms which they give to those teachers and/or supervisors he or she has decided to ask to write a letter of recommendation for their application. These application documents, authorized by the representative university, must contain a reference to the FERPA law as stated in section (e) of the legislation, and it is the student's responsibility

to respond to the choice posed by their awareness of FERPA at the time of application. At this time, the student has the ability to choose whether or not to waive or retain their rights of access to these documents following admission to a university.

Sources of information regarding FERPA abound as a reflection of the large audience for this type of information, including high school students and their parents. College counselors, recommenders, and the universities themselves often advise prospective students on whether to waive or retain their rights of access under FERPA. Ultimately, the student must choose whether to retain or waive their rights and note their decision with a binding signature attached to this choice. As stated in subsec.

(a)(1)(D)(ii), the university may not require the student to waive his or her rights as a condition of gaining admission; the prospective student must be allowed to choose freely among the two options. The university then follows its own practice regarding favorable or negative consideration of the student's choice to waive or retain their rights of access; this is not specified or ordained by the legislation itself. Universities may for instance state that they do not consider the student's FERPA decision outright when making admissions decisions, but may also acknowledge that they look more favorably on recommendation letters which have not previously been viewed, or "vetted," by the applicant (presumably to ensure that only favorable documents are considered in the application). Following receipt of the application documents and notation of the student's choice, the university is required to follow institutional practice and abide by the Federal legislation in the event of any request by the student (alone) to view these documents in the event that they enroll in the university. The rights of a student to access their

materials under FERPA commence upon their enrollment at the institution (and acquisition of a student identification card or number); these rights do not extend to admitted high school students who wish to view their records at a college prior to their first term of attendance as a student. The university is not responsible, under subsec. (a)(6), for documents submitted by students who do not ultimately enroll. In fact, in order to abide by the regulations imposed by FERPA, the university may mandate the disposal of documents for applicants who do not enroll after a specified number of years. (This is manifest in the university's request for a new application following a period of non-enrollment, as the previous materials are not retained past a stated number of years.) One constant that holds across all universities, however, is sole right given to only the named student to request his or her own records, and not those of another student, past or present. The FERPA legislation does not allow for parents of a minor student, or students 18 years and older, to designate individuals to assert their rights to access documents on their behalf, this is the sole right of the adult student. Enforcement of this one-student-per-file specification is often carried out through requiring the student to provision a recognized form of identification both at the time of request and at the time of inspection of their documents.

There exist varying levels of connectedness between the student and their record, which become manifest in actual requests by students to view their educational file. Students request to view their materials out of personal interest as well as to test the claims of record-keeping practice publicized by the university on its application forms and registrar services. As seen in the illustrated experience discussed in VI.a, a majority

of students never exercise this right. Minor high school students in particular may choose not to interact with their student file because of a perceived inability to appeal grades or written evaluations, and/or students may not feel the need to contest their record if they find themselves in a stable educational environment or one with a small student-to-teacher ratio, and they have received verbal feedback through other, non-official means. Adult college students may choose never to view their educational file because they may believe that in "waiving their rights" to view certain materials at the time of application (such as letters of recommendation), they waived their rights to their entire file. This is a mistaken assumption, because although the record-keeping office does retain the ability to redact from a viewing session any restricted materials, all other materials not "waived away" would be available for inspection. The student may choose not to view these materials because of the narrow timeframe in which a valid request can be made (the time of enrollment) which occurs during a time in which the student may be busy with other school-related activities. Additionally, the student may perceive an inability to affect the contents of their educational file, for much of the documentation was created and assembled at a prior stage in the student's academic career. Students may be hesitant to view their educational file because doing so may validate prior decisions which the student may not wish to see visually in person (e.g. if a student changes his/her major, or alters his/her declared field of study as a high school applicant). The student may feel that his or her current educational file is not the best representation of their total academic efforts and may wish to distance themselves from its contents (especially if the student is contemplating a repeat or transfer). Finally a student may simply be unaware of the

ability to exercise their rights under FERPA to view the information the university has on record for them. Many students are not knowledgeable of university policies and procedures that relate to their activities as students in the long-term view of the university, and students may instead become involved in more immediate social and recreational activities that they do not realize are not recorded in an official capacity.

V. Implications for Records Management Practice at Public Universities

It is important that record-keeping practices align with the admissions procedures followed by the university, as Shepherd and Yeo (45) have documented the relationship between organizational structure and records program. Additionally we see in this university illustration that record-keeping activities are often carried out by two or more different departments and associated staff. For example, a university admissions department may reference specific practices and rights related to information contained in student documents, the physical carriers of which are maintained by a university registrar or archives. The successful execution of stated activities requires ongoing coordination between department staff at both a broad policy and daily task level. Despite a documented need to accurately define the contents of a student record, FERPA does not provide a granular level of institutional mandate regarding the specifics of maintaining "education records" over extended and potentially lifetime periods - yet it does universally hold that recognized students must be able to access their records if they request them. This has resulted in a gap identified by Essex (2004) which continues to exist, between FERPA's legal ruling and implementation of this law by the individual

institutions. Essex writes that "the burden of proof rests with school personnel to demonstrate that information in the files is accurate" (111) because so long as the student retains a recognized affiliation with the institution, personnel can be held responsible in the event that any component of the student file is questioned or found to be falsified, inaccurate or misleading in the eyes of eligible individuals. These individuals can include the students themselves - who may pursue litigation or damages under the Civil Rights Act of 1871, Section 1983 - or eligible Federal authorities including representatives of the Comptroller General of the United States, Secretary of Education, Attorney General, or accrediting organizations (subsec. (b)). Essex outlines ten situations that could invite legal challenges if not addressed appropriately, which result from administrators' poor understanding or response to the FERPA legislation (regardless of intent). The circumstances he discusses include: not communicating a student's FERPA rights to non-English speakers, not monitoring appropriate professional access to student files, not preserving students' confidentiality even among faculty members, adding sensitive behavioral comments to a file without appropriate documentation, avoiding a fireproof safe to store files, communicating unsubstantiated information which could be cause for defamation or slander, and not informing the responsible party of court orders or subpoenas (112-113). These situations are presented as examples of poor professional awareness of Federal law; secondarily they illustrate the relevance of, and need to maintain standard, appropriate records management practices at high schools and universities nationwide. As Essex concludes, "FERPA violations do not create a private cause of action; however, when combined with Section 1983, they may provide a basis

for recovery regarding constitutional rights violations. Educators must adhere to all aspects of FERPA or pay for it later" (113).

Additionally, it is difficult for an individual researcher to compare the specific access procedures in place at various institutions (that receive Federal funding), because these rights are only accorded to eligible, enrolled students at the time of the request: as noted in Section 1232g, subsec. (b) and (d), only parents of minor students and students over the age of 18 have access privileges to their documents, and neither party can designate even a well-qualified researcher to access their student records for mere observation. A comprehensive study of FERPA implementation at institutions of differing sizes and public or private status would necessitate the recruitment of numerous currently-enrolled students at a range of institutions for a stated research purpose of instructing each student to request to first view their student file under their FERPA rights, then record their experience or inability to access these documents, and finally submit their documentation to the researcher for purposes of collocation and comparison. Among the many privacy challenges posed by such an investigation would be identification of eligible students (by name and contact information) followed by abstraction of the information they provide so as not to identify individuals from the representative context of their report. Additionally, the reports received from the individual students would reflect the experience as they had interpreted it, not that of the researcher him or herself (and it would be inaccurate for the researcher to project expected findings onto the research, which is reflective of the reports received from subjects). As has been observed, the legitimacy of privacy over student records has been

established at the Federal level, but actual procedural enforcement has been left to the institutions themselves. Only when challenges to an institution's management of student records have been brought forward, either by eligible students or authorities, has consideration been made to potentially standardize the specific filing systems and disposition procedures in place at institutions nationwide. In order to prevent potentially harmful litigation arising from mismanagement of student records or the information contained thereof, institutions should adopt well-tested models of retention schedules, disposition of necessary information, and appropriate digitization practices and establish protocols for continuing these same practices in the future.

VI. Student Record-keeping at UCLA: An Illustration

As stated in the language of the FERPA law, the ability of students 18 years and older to view their records is limited only to currently enrolled and graduated students of the postsecondary institution. This excludes admitted students who do not ultimately enroll, as well as students who are not admitted at the institution (these application materials are subject to enforcement of separate disposition schedules, as the university is not legally responsible to retain or provide access to any students other than those enrolled). American universities both public and private have enacted similar procedures that allow enrolled postsecondary students to view their personal files. The procedure followed by one such public institution, the University of California, Los Angeles (UCLA) will be analyzed here in the context of records management and access practices followed. Records management has been shown in prior theoretical and practical studies

to have great and direct influence on an institution's ability to provide a promised level of access to documents held in compliance with Federal legislation. Such organizations that are impacted by records management practice include not only universities and colleges, but other information institutions such as archival repositories, academic libraries, medical centers, clearinghouses, agencies, institutes, and other organizations that hold historical material and provide some advertised level of access. Records management represents one of the most visible areas within the discipline of information studies that most directly links scholarly theory with professional practice. At UCLA, records management practices related to student records are carried out by two departments that deal with undergraduate and graduate students respectively: the University Registrar and Graduate Division. A discussion of human subjects research oversight as it relates to the inspection of student records at UCLA is presented, followed by an outline of the activities carried out by the two record-keeping departments (Section VI).

The investigation of student records would be made manifest in practice by an individual student request to schedule an in-person viewing appointment of one's own student folder. For purposes of describing this practice, the author submitted the scope of this proposed activity (an appointment in Murphy Hall), to the Institutional Review Board (IRB), which has the authority to determine whether an activity meets the definition of "human subjects research." Even though the scope of this investigation lies solely in a single set of student records, the author sought to ensure and illustrate that the IRB should recognize and reinforce that the retrieval and access activities performed by the staff of the University Registrar and related departments did not constitute actual human intervention

or informed approval of the described activity. According to the American Association of Collegiate Registrars and Admission Officers (AACRAO), enrolled students retain the right to review and inspect *only his or her own* educational records, and control the disclosure of personally-identifiable information to third parties²⁷. Some limitations are specified by the AACRAO as well, such as the ability for a student to access his or her parents' financial records, as well as view confidential letters, documents, or receipts to which the student has voluntarily waived their rights (and if so, the institution can temporarily remove restricted items to accommodate a viewing request). Additionally, student records are organized by student (i.e., not aggregated), which means that each folder is thereby identifiable as belonging to a particular student (a condition recognized by the IRB, which discourages identification of individuals by past or personal attributes in research analyses). Following consultation of the *Investigator's Manual for the Protection of Human Subjects*²⁸ and policies specified in the OPRS Standard Operating Procedures, the author determined that the investigation would be submitted to the IRB for exemption. The claim of exemption was submitted to the administration of the North General Institutional Review Board (NGIRB)²⁹ whose purview lies largely in humanities disciplines and new research thereof. Not only was the submitted claim (see Appendix 1) an accurate reflection of the proposed investigation of student records, but the statements made in this form were dutifully followed by the investigator during the scheduled appointment at the university departments.

²⁷ AACRAO, "Practical Online Guide to the Family Educational Rights & Privacy Act" at http://www.aacrao.org/ferpa_guide/enhanced/main_frameset.html.

²⁸ UCLA OPRS. *Investigator's Manual for the Protection of Human Subjects* (October 29, 2004 version). Accessible online at <http://www.oprs.ucla.edu/human/manual/TOC>. Retrieved February 28, 2009.

²⁹ North General Institutional Review Board (NGIRB) within the UCLA OPRS. Description found at <http://www.oprs.ucla.edu/human/girb-staff#north>. Retrieved February 28, 2009.

For the purposes of this investigation, IRB/OPRS Policies 5, 41, and 42 are most pertinent, as these policies specify the practice of research activities recognized under IRB/OPRS Standard Operating Procedures that most relate to my investigation. These three policies are described below.

Policy 5³⁰ constitutes "OPRS Review Process - Certification of Exemption from IRB Review," which holds that the Category 4 research activity is most applicable to this investigation of student records. Category 4 includes "Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in such a manner that subjects cannot be identified, directly or through identifiers linked to the subjects. All materials that will be used to conduct the research must already exist at the time the research is proposed, as signified by the date of the principal investigator's signature on the HS-7 Form. Research involving access to UCLA medical records does not qualify for exemption from IRB review." (OPRS Policy 5, p. 3).

Policy 41³¹ constitutes "Research Involving Secondary Use of Existing Data." This policy specifies that "Data analysis is considered to be a research activity and therefore requires IRB oversight; the secondary use of existing data about human subjects requires UCLA IRB approval or certification of exemption from UCLA IRB review prior to UCLA investigators' access to and/or provision of the data" (OPRS Policy 41, p. 1). Student records are specifically included as an existing data set from public or private

³⁰ OPRS Human Research Protection Program (HRPP) Policy 5 (last revised July 5, 2007). <http://www.oprs.ucla.edu/human/documents/pdf/5.pdf>. Retrieved February 28, 2009.

³¹ OPRS Human Research Protection Program (HRPP) Policy 41 (last revised July 5, 2007). <http://www.oprs.ucla.edu/human/documents/pdf/41.pdf>. Retrieved February 28, 2009.

document sources. As stated in this policy, student records qualify as existing data, and student records contain both personal identifiers and individually identifiable data. Additionally, student records are "publicly available" in the sense that any enrolled student (in this public institution) can request their own student records - even though individuals cannot view the records of any individual but themselves.

Policy 42³² constitutes "Research Involving Public Use Data Files". While the general public cannot access any one student folder by name, an identified student (current or graduated) is able to access their own student folder, as a member of the student body in a public university. Relatedly and in accordance with the policy, specific informational content was not recorded by the investigator in a manner that could identify the subject by reading the content of said recorded information. Additionally, Policy 4³³, "Research Conducted by UCLA Students," was referenced in the context of determining the oversight of this graduate thesis, specifically the statement that "research conducted by undergraduate and graduate students at UCLA is subject to the same policies and procedures as research conducted by faculty."

The claim form specifications had the effect of guiding and narrowing the scope of targeted documents and activities analyzed in the investigation. The claim maintains several conditions of note, described here. Regarding the use of identifying markers, the author acknowledged that while a direct identifier would be used to retrieve these documents from their source location, no such numbers would be utilized for a secondary

³² OPRS Human Research Protection Program (HRPP) Policy 42 (last revised December 15, 2008). <http://www.oprs.ucla.edu/human/documents/pdf/42.pdf>. Retrieved February 28, 2009.

³³ OPRS Human Research Protection Program (HRPP) Policy 4 (last revised July 5, 2007). <http://www.oprs.ucla.edu/human/documents/pdf/4.pdf>. Retrieved February 28, 2009.

purpose once the initial retrieval had been performed (nor are these numbers duplicated herewith). The documents were not retained by the investigator as a result of viewing said records on-site. The subjects viewed were constituted solely of the author's own student file, the contents of which were previously submitted to the same Graduate Division during the application period for the current, enrolled academic program. The present analysis conducted for purposes of describing established practices does not involve manipulation or creation of new data, only focused analysis of existing practices as applied to current documents. Viewing the student file allowed the investigator to describe records management practices at this setting from an end-user perspective. The UCLA Office for Protection of Research Subjects (OPRS) in consultation with the Human Subject Protection Committees (HSPC) determined that this analysis "does not constitute human subjects research as defined in the Federal regulations" and determined that neither approval nor exemption from approval from Institutional Review Board (IRB) review was necessary³⁴.

At the institutional level, Federal requirements are implemented through departmental agreements and written policies that govern specific student-related activities. A large public university will often make these policies publicly available, while focusing on its intended scope and specifications. Policies observed for large institutions can sometimes more easily be condensed, than policies of small original scope can be expanded. As a case study example, the UCLA Registrar and Graduate

³⁴ OPRS Administrator notification email (see Appendix 1). Dated March 9, 2009.

Division adhere to FERPA as demonstrated in documentation and several policies. The Graduate Division adheres to a document entitled "Codification of the Policies and Procedures Governing Graduate Admissions," revised by the UCLA Graduate Council in June 2008³⁵, which outlines the policies and procedures governing admissions into UCLA's graduate programs. This document guides ongoing admissions practices in accordance with by state and Federal admissions guidelines as mandated by the University of California Office of the President, and makes reference to policies of similar content followed by peer institutions (e.g. in outlining a seasonal admissions cycle, transfer credit negotiations, and consortium programs conducted in conjunction with other institutions). Additionally, the UCLA Registrar, which maintains both undergraduate and graduate student records, provides staff training that covers FERPA compliance in the context of protecting workers and students from inappropriate disclosure of protected information. This is offered in the form of in-person training sessions, an online tutorial³⁶, and an online quiz³⁷ on all matters related to FERPA at the university. Records management in general is outlined in the UCLA Business & Finance Policies for Records Access & Management³⁸, authorized by the Vice Chancellor - Finance, Budget, and Capital Programs, which provide handling guidelines as well as local-level Retention and Disposition Schedules and Policies³⁹. It is noted that these local schedules mirror the UC Universitywide Schedules for the same content. Specifically,

³⁵ Graduate Council publication (1/1992, rev. 6/2008). Accessible at <http://www.gdnet.ucla.edu/gasaa/library/gccodific.pdf>.

³⁶ Available at <http://www.registrar.ucla.edu/ferpaquiz/Tutorial.aspx>.

³⁷ Available at <http://www.registrar.ucla.edu/ferpaquiz/>.

³⁸ Available online at <http://www.policies.ucla.edu/businessfinance.htm>.

³⁹ Available online at <http://www.finance.ucla.edu/Records/retention.htm>.

"Disclosing Student Records Information" is the delegation of UCLA Student Affairs⁴⁰. Student records are covered in both UC and UCLA-level policies, including UC Policies 130.00-134.00 and UCLA Policy 220. UC Policy 130 provides definitions, inspections procedure, and waiver specifications related to UC students and their student file. In particular, the policy differentiates between students and applicants, and states that applicant records are subject to institutional protocol, in the form of "campus guidelines and/or regulations."⁴¹ UCLA Policy 220⁴² defines "student," "attendance," "record," "student record," and several terms related to "public information," specifies textual similarities with the language of FERPA, and outlines the procedures undertaken by students to view their records. This policy provides a granular-level specification of the access procedures that must be followed not only in order to comply with FERPA regulations, but also to standardize practices related to viewing requests and departmental handling of such requests in an appropriate and predictable manner. However, electronic records are not included in the Policies, and because of the original content that is recorded in digital form, additional investigation and documentation of electronic information is necessary at the institutional level.

VI.a. UCLA Registrar and the Student Record: Access and Retention

The University Registrar is the primary academic service provider for enrolled undergraduate students, and it coordinates activities related to graduate students with the

⁴⁰ Outlined at <http://www.policies.ucla.edu/studentaffairs.htm#studentrecords>.

⁴¹ Available at <http://www.ucop.edu/ucophome/coordrev/ucpolicies/aos/toc130.html>.

⁴² Available at <http://www.adminvc.ucla.edu/appm/public/220.htm>.

Graduate Division. The University Registrar (currently Anita Cotter) leads an office of over 55 staff members that operates as "the secretary to the faculty and as the official record keeper of the University"⁴³. The University Registrar, part of the Division of Student Affairs, maintains long-term responsibility for and conducts a number of daily academic services, including those related to transcripts, verification transcripts, late enrollment petitions, diplomas, name changes, residence for tuition purposes, undergraduate readmission, and veterans affairs⁴⁴. The Registrar also conducts several activities via an online website and records system entitled URSA (University Records System Access). Since its inception in 1996, URSA has recorded over ten million user sessions, and has handled 53,000 users in a single day⁴⁵. A secure site, URSA encrypts all data and offers real-time access to official student records. URSA Online is available Sunday 6 p.m. through Tuesday 1 a.m., and from Tuesday to Saturday, 6 a.m. to 1 a.m., Pacific Time (Monday, March 30 is the busiest day of the year for URSA OnLine). Further indications of its authoritative effect on student registration and academic service procedures are evidenced by the relaunch of an improved, secure system in 2002, current practices of relaying to students notifications of university deadlines and procedures almost exclusively through URSA's personal electronic communication, and emergency notifications (BruinAlert). All users of URSA read the Privacy Notice which states, "In accordance with the Family Educational Rights & Privacy Act (FERPA) of 1974 and subsequent amendments, your records cannot be released without your consent. All

⁴³ UCLA Registrar's Office: About Us. <http://www.registrar.ucla.edu/faq/about.htm>.

⁴⁴ UCLA Registrar's Office brochure 2008-09. Retrieved November 10, 2008.

⁴⁵ URSA OnLine: FAQ. <https://www.ursa.ucla.edu/gen/ursafaq.asp>.

outstanding obligations (financial, academic or administrative) due to the University must be cleared before your transcript request can be processed" (www.ursa.ucla.edu). Some of the online services available through URSA and its assembled links (to UCLA departments such as Student Affairs, Student Health and Wellness, Bookstore, Bruin OnLine, Financial Aid, Housing, Transportation, and BruinCard⁴⁶) include access to the General Catalog, Schedule of Classes, fee information, academic and administrative calendars, forms and instructions, and publication archives (Table A).

Table A. UCLA Registrar's Office summary of services.

<u>In-person (Murphy Hall)</u>	<u>Online (URSA)</u>
Academic Transcripts	UCLA General Catalog
Verification Transcripts	Schedule of Classes
Late Enrollment Petitions	Fee Information
Diplomas	Academic and Administrative Calendars
Name Changes	Forms & Instructions
Residence for Tuition Purposes	Publication Archives
Undergraduate Readmission	
Veterans Affairs	

⁴⁶ URSA OnLine: Login Page. <https://www.ursa.ucla.edu/Default.asp>.

An analysis of the procedure undertaken by enrolled students at the University of California, Los Angeles who request access to their student documents as permitted by FERPA is presented in this section. This description of procedure utilizes information that is publicly available to enrolled students, representative of standard departmental practice, and which would result from comparable student inquiries. In the case of undergraduate students, the University Registrar alone handles all provisioning of student records, while in the case of graduate students, both the University Registrar and the Graduate Division offices collaborate to obtain and provide access to the requested file. It is noted that there are over 26,000 undergraduate students and over 11,000 graduate students enrolled at this particular institution⁴⁷.

A scheduled viewing appointment through the University Registrar and Graduate Division allows a student to view their own personal student file - or at least that which is presented as such. Additionally the author observed current records management and realized access practices in place, in the context of the legislative mandate imposed by FERPA and scholarly literature. The appointment was conducted in accordance with the procedural activities specified in the author's statements given in the IRB form (Appendix 1). In particular, the author followed adherence to the research procedure described in category 4 (45 CFR 46.101(b)(4)) as "Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in such a manner that subjects cannot be identified, directly or through identifiers linked to

⁴⁷ About UCLA / UCLA Newsroom at <http://newsroom.ucla.edu/portal/ucla/about-ucla.aspx>.

the subjects" (OPRS Policy 5). It is noted that medical records would not qualify for this stated exemption. During the scheduling of the appointment, the author spoke with an administrator in the University Registrar and requested to view the personal student file. The administrator recorded the student's university identification number and verified that the student was currently enrolled (a condition for viewing the file) at the appropriate academic level. The administrator then placed a request for the student file to be located by the University Registrar. It was communicated to the requestor that due to off-site storage at a commercial records facility in Cerritos, CA, the requested file would not be available for inspection on campus for approximately one business week (assuming that the file was located and delivered promptly). The requestor was instructed to visit the University Registrar in one week's time to view the acquired file. There was no fee posted to the student's account for this service. The requestor did visit the office one week after placing the request. At the University Registrar, it was communicated by the coordinator in Enrollment & Degree Services that the student file was not found within the box containing folders surrounding the given alphabetical listing, and arranged more generally within the same admissions cycle⁴⁸. Following a consultation with an officer in Graduate Division, the officer placed a request for a different box of folders arranged by a related categorization. This second request resulted, after a few days, in successful retrieval of the student folder. During this visit⁴⁹, the investigator was given access to view - under supervision and within the present office space - only those documents permissible for student viewing in accordance with the decision under FERPA made at

⁴⁸ February 20, 2009 in Murphy Hall, UCLA campus.

⁴⁹ February 27, 2009 in Murphy Hall, UCLA campus.

the time of submission. It was stated that the student was allowed to request photocopies of 1-2 pages of this available material, but any additional photocopy requests or viewing of redacted items would need to be approved through written procedures. While this policy was duly noted, the investigator did not request additional access beyond that received during this visit.

At the time of viewing, it was noted by the administrative analyst that my request, even with its Federal mandate publicized on all application materials and on-site signage, was a rare event and one that the department does not handle on a daily or even monthly basis. In fact, I was informed that the analyst only receives one such request every 3-4 years from a current graduate student. It was noted that most requests occur after the graduate student has graduated, in which case responsibility for the student records transfers to University Registrar following passage of two years from graduation. Both of these examples, drawn from current and graduated student requests, demonstrate rare instances of students following through on requesting access to view their education records, a right provided to them under the FERPA legislation. It was not known the frequency of requests originating from current undergraduate students during this investigation. This low use frequency as reported may be unique to the institution described here, and other institutions may experience a higher volume of student requests to inspect their file in accordance with their FERPA rights.

While there exists little research conducted that attempts to illustrate the frequency of student requests for inspection of their student file since the passing of the FERPA legislation in 1974, the author observed a significant low retrieval and access rate

of student records. The lack of statistical documentation of student requests may be due to the fact that such requests are only noted in individual files and not as part of the university's general bookkeeping. In addition it must be noted that perceived benefits and detriments exist that may influence enrolled students' decision and motivations to view their current student file. Some benefits include an awareness of the intellectual content of non-redacted materials, first contact with materials solicited by the student but not previously seen, and visual confirmation of the physical paper content submitted on their behalf as their "application package," as evaluated by the student's chosen institution. Some detriments include an awareness of documents created by the institution during their time of enrollment for "tracking" purposes; exposure to unflattering materials, profiles, or evaluations; and an unwillingness or lack of reason to expend the time and effort needed to submit a request and view materials in-person and on-site. It remains that FERPA (1974) was not initially enacted with full understanding of the types of electronic documents in use that would become applicable in 2009. However the 2008 amendments⁵⁰ to the legislation do respond to changes in information technology in several ways. These include revised definitions, including the term "biometric record," a broadening of the term "attendance" to include online and distance-learning educational institutions, a revision of "directory information that recognizes that "opting out of directory information disclosures may [prevent use of] electronic communications systems that require the release of the student's name or electronic identifier within the school community" (§ 99.3).

⁵⁰ "Final FERPA Regulations (Dec. 9, 2008)." *Federal Register*. Vol. 73, No. 237. December 9, 2008. Accessible online at <http://www.ed.gov/legislation/FedRegister/finrule/2008-4/120908a.pdf>.

Currently, students are provided access to their "student file" through the electronic records system URSA and through the ability to request a supervised viewing of their paper file. However, these two measures represent just a proportion of the total educational holdings associated with an individual student. An interview with a records administrator⁵¹ demonstrated that additional records exist for each student in the form of electronic files in an internal database (OASIS) as well as synthesized reports of their classroom activities that are duplicated in the University Archives' academic files. The administrator stated that a student's file begins with receipt of application materials, including transcripts (often submitted from other schools). The common periods for student files to be first created are at the freshman and junior-year levels, as well as summer credits from any year submitted for academic credit. Application materials are first received, evaluated, and components are inputted into the electronic record-keeping system OASIS by the Admissions office, and the papers are later routed to the Registrar when there is no longer an active need related to admissions procedures. Once with the Registrar, the transcripts are scanned electronically and then are archived into paper folders. This scanning of transcripts allows the Registrar to provide printouts for student requests. These paper folders are then boxed by the Registrar and submitted to a contractor storage facility⁵². This facility creates an audit trail which enables workers to track the chain of custody for its clients, and workers also perform scanning during

⁵¹ April 22, 2009 with Brenda Moore at the Registrar's Office, 1113 Murphy Hall. Ms. Moore is Records Management & Training Coordinator in Enrollment & Degree Services, UCLA.

⁵² Iron Mountain (Cerritos, CA center).

transport, inventory, and security measures. Actual retention of these student files at the facility is subject to the maintenance actions performed by the UCLA Registrar in following the policies established in the University of California (UC) Records Management Disposition Schedules, specifically those for "Registration, Enrollment, and Performance (excluding UNEX)"⁵³ and "Admissions and Readmissions (excluding UNEX)"⁵⁴ materials. As seen in the Schedules for Registration, the Individual Student File (Record Copy) is retained for 5 years after graduation or withdrawal. The Registrar administrator carries out the retention actions by creating an annual list of those records attached to students who have been separated from the university 5 or more years. With this list in hand, the administrator visits the storage facility and pulls these individual folders from the boxes (a process that usually takes about one week). These folders are then shredded. As seen in the Schedules for Admissions, matriculated students' applications are retained for 1-15 years (paper application materials are retained longer than paper registration materials). While the paper application materials exist for only 5 years following the student's presence at the university, the electronic record of grades received during their enrollment period is retained according to a different schedule. For example, the Student Grade Record Card is retained permanently (Table B). The UCLA Registrar administrator explained that maintenance and disposition of electronic records is not currently specified by name in the UC Schedules, but that each UC campus creates policies followed by its staff. Currently, electronic registration records are "archived"

⁵³ See Table B (copy provided by Registrar administrator). Also available online at <http://www.ucop.edu/irc/recman/dispmanual/vii.html#VII-E>.

⁵⁴ See Table C. Available online at <http://www.ucop.edu/irc/recman/dispmanual/vii.html#VII-A>.

after 10 years of separation but students retain the ability to order copies of their transcript in perpetuity ("archived" is a staff term not displayed to the student). This ordering ability was first offered through URSA in 2006 and applies to most student records created electronically, from year 2004 forward.

Table B: UC Records Management Disposition Schedules (E) for Registration, Enrollment, and Performance (v. May 1988)

Record Type or General Description	Office of Record	Disposition in Years: Record Copy	Disposition in Years: Other Copies
Advisors Records and Notes	Department	2-5	---
Class Enrollment Check Lists	Registrar	0-1	0-1
Counseling Case Records (except medical and psychiatric records; for these see Student Health Records, Section IV)	Counseling Office	0-7	---
Course Reports - Final	Registrar	5-Permanent	0-5
Degree Candidates and Degree Summaries	Registrar / Grad Division	0-1	0-1
Degree Evaluation	Department / Registrar / Grad Division	0-10	---
Disciplinary Records, Academic	Registrar / Grad Division	0-10	---
Disciplinary Records, Non-academic	Dean of Students OGSR-SD	0-10	---
Grade Listings and Summaries	Registrar	0-1	0-1
Individual Student File	Registrar / Department / Dean of Students / Grad Division	5 after graduation or withdrawal	---
Preferred Course Program	Registrar	0-1	---
Progress Reports, major department	Department	2-5	---
Request for Course Approval	Registrar	5-permanent	Until superseded

Table B cont.: UC Records Management Disposition Schedules (E) for Registration, Enrollment, and Performance (v. May 1988)

Record Type or General Description	Office of Record	Disposition in Years: Record Copy	Disposition in Years: Other Copies
Schedule of Classes (Campus Institutional Studies Report)	OP / Campus Institutional Studies / Planning	10-then to Archives	0-2
Schedule of Classes (Regular and Summer Session)	Registrar and Summer Session	5-then to Archives	---
Statistical Summaries / Reports / Surveys	OP / Campus Institutional Studies / Planning / Registrar / AIS OGSR-SD	5-10 then to Archives	1-10
Student Grade Record Card	Registrar (V)	Permanent	0-5
Student Petitions (name changes, study list changes, changes of major, notices of withdrawal, et al.)	Admissions / Registrar	1-15	---
Student Specific Summaries	Registrar	0-5	0-1
Study List	Registrar	0-2	---
Transcript Requests	Registrar	0-3	---

The administrator stated that student folders are labeled by identification number, and that boxes are classified by major and minor components. The major ("primary key") component consists of the file numbers contained, and the minor ("secondary") component consists of the chronological contents of the folders contained in the box. An example of a minor component grouping would be "2008 Fall transfers" or "2008 Fall

freshmen." Boxes are each assigned a number, and each box retains a printed list with a description of its components. A current student file pulled to fulfill a request would contain a specific amount of information only (e.g. application forms and letters submitted), whereas it was noted that the older "student record cards" (deposited with University Archives) from the 1930s and 1940s contain a greater amount of aggregated data including addresses, names, and social security numbers of students' parents. As privacy laws developed in the 20th century, these policies gradually came to be reflected in the university's application forms and eventual student records holdings.

While the Registrar has existed in Murphy Hall for over 20 years, their records held date from prior to the university's founding (in 1919), including academic files from as early as 1882. The UCLA Registrar administrator explained that for "older" student records - records from 1882 to 1982 - all records were microfilmed and archived into such a system (individual paper copies were destroyed but group reports were bound in books). The microfilming of student records ceased in 1982, so for this 100-year span, the authoritative record is on microfilm. The microfilm was created after the paper records were bound into books, which often resulted in poor microfilm image quality and a search for the original bound papers in boxes. In 2004, an activity began to digitize paper transcripts beginning from the 1970s onto DVD - all transcripts that did not exist on microfilm. Currently, all student records from 1970 forward exist authoritatively on digitized DVD format. These activities demonstrate that the official student record does not consist of any physical material, but rather consists of the microfilm or digital file created *from* the original paper material (which is destroyed after the transfer). The

request is more easily filled utilizing the DVD format than using microfilm format, according to the administrator. Currently, there are no plans to reevaluate the contract, because it prevents paper files and storage costs from growing each year, frees space on campus, and because the company allows UCLA officers to go through the boxes to locate folders that may be misplaced (e.g. if an unsealed box fell and contents were spilled). The administrator explained that this particular facility was chosen because of its reputation for security and the fact that it is bonded. A request for materials from the off-site facility can currently be met in four days, including location in one day, and time for courier service. Additionally, all new transcripts from 2006 forward are now scanned before they are boxed for transfer off-site, because the Registrar has observed that a bulk of requests can be satisfied through providing this recent content on hand. The fall quarter traditionally represents a period of heavy scanning activity, as the Registrar evaluates and processes many transcript-related credits from summer courses. Before records were moved off-site in 1999 through the agreement, boxes were kept in the basement of Murphy Hall in a large "Retriever" facility with aisles and compact shelving. Maintenance was performed by student workers hired through the Registrar who filed records into this Retriever on campus. In 1999, the Retriever was removed to make room for additional Registrar employees, a staff which currently numbers 30. The administrator estimates that 8000 meters of box volume exists off-site. She estimates that the contents of 300 boxes are deleted during the "disposal week" that occurs each year as mandated in the Disposition Schedules. However, it is only individual folders that are removed, so an entire box is only removed if *all* of its contents are scheduled for removal. She added that

such consolidation is performed when time permits, each academic quarter, because this helps stabilize the box quantity and contain expenses over time⁵⁵.

While materials are routed from Admissions offices at both the undergraduate and graduate levels at the university, the Registrar retains control over the records themselves once they have left these offices. It is the Registrar through which all student requests to view their materials are processed, because the Registrar alone maintains FERPA compliance (not Undergraduate Admissions or Graduate Division). The administrator specified that Undergraduate Admissions forwards all applicants' materials (including non-matriculated), while Graduate Division forwards only admitted students' (Table C) for series-level documentation and off-site pick-up. She noted that these materials are packed by Admissions and thus the Registrar does not have the chance to directly verify the contents until (and only if) a request from a student is submitted for those materials. In some instances, the Registrar's inability to verify the contents of the records it is ultimately responsible (under FERPA) for providing access to has caused consternation among Registrar staff when the items are not found in the location recorded by Admissions. This is realized by a message from the off-site facility that the requested materials (by number and list description) were not found in the assigned box location. In these situations, the Registrar maintains the ability to request that many potentially relevant boxes be delivered to the campus for the purposes of Registrar staff searching the boxes by alternate or misfiled labels to retrieve the needed folder. The administrator emphasized that these situations demonstrate the need to have policies in place which

⁵⁵ Brenda Moore stated that the pulling process, conducted at the Cerritos or Fullerton site, is "hot and tedious."

address misfiling and which ultimately help the office locate the files. As part of the UC, the UCLA Registrar must follow the UC policies specified in the Disposition Schedules, but it was noted that each campus retains some autonomy in applying the procedures "as a guide" and in accordance with campuses' activities and departments. As stated by Shepherd and Yeo (45) in their text on records management, the organizational nature of the responsible office does impact the design and effectiveness of the records program. During the administrator interview, the Registrar's authority was discussed in relation to records *not* maintained by the office: including faculty files and course exams. The administrator stated that some academic departments destroy exams six months after the course, but for many departments, the procedure is unknown and/or the department may never rid of the paper if they choose to store these files off-site. This is the authority of the department. The Registrar is only concerned with receipt of the final grade, and so the papers used to create that grade fall outside the responsibility of the Registrar. The administrator explained that through some advocacy work she has done with Dean's offices, she has commonly seen an inclination to keep only the minimal amount of paper following a course's completion. This is for reasons of liability related to academic dishonesty claims as well as specified time periods that such claims may be filed. Also falling outside the responsibility of the Registrar are financial and medical records, which are governed by the HIPAA regulations and local procedures (which may involve off-site storage in turn).

Table C: UC Records Management Disposition Schedules (A) for Admissions and Readmissions (v. Jan. 1992).

Record Type or General Description	Office of Record	Disposition Schedule in Years: Record Copy	Disposition Schedule in Years: Other Copy
Application, Undergrad - Matriculated	Registrar	1-15	0-2
Application, Undergrad - Non-matriculated	Undergrad Admissions	1-5	0-2
Application, Graduate - Matriculated	Grad Admissions or Registrar	1-15	0-5
Application, Graduate - Non-matriculated	Grad Admissions or Registrar	1-2	0-2
Intercampus Transfer, Applications for	Undergrad Admissions or Registrar	1-15	0-2
Intercampus Graduate Studies Exchange Program	Graduate Division OGSR-SD	1-permanent	0-5
Admissions Office Progress Reports (Periodic Activity Level)	Undergrad Admissions or Grad Admissions	0-5	0-3
Evals and Recommendations: Undergrad, Matriculated	Undergrad Admissions or Registrar	1-15	0-2
Evals and Recommendations: Undergrad, Non-matriculated	Undergrad Admissions	1-5	0-2
Evals and Recommendations: Graduate, Matriculated	Grad Admissions or Registrar or Department	1-15	0-5
Evals and Recommendations: Graduate, Non-matriculated	Grad Admissions	1-2	---

Table C cont.: UC Records Management Disposition Schedules (A) for Admissions and Readmissions (v. Jan. 1992).

Record Type or General Description	Office of Record	Disposition Schedule in Years: Record Copy	Disposition Schedule in Years: Other Copy
Statement of Residence Status (resident or non-resident)	Undergrad Admissions, Grad Admissions or Registrar	0-10	---
Statement of Intention to Register (SIR): Undergrad, Matriculated	Undergrad Admissions or Registrar	1-5	0-2
Statement of Intention to Register (SIR): Undergrad, Non-matriculated	Undergrad Admissions	0-2	---
Statement of Intention to Register (SIR): Graduate, Matriculated	Grad Admissions or Registrar	0-5	---
Statement of Intention to Register (SIR): Graduate, Non-matriculated	Grad Admissions	0-2	---
Test Scores (SCAT, GRE, et al.): Undergrad, Matriculated	Undergrad Admissions or Registrar	1-15	0-2
Test Scores (SCAT, GRE, et al.): Undergrad, Non-matriculated	Undergrad Admissions	1-5	0-2
Test Scores (SCAT, GRE, et al.): Graduate, Matriculated	Grad Admissions, Registrar or Department	1-15	0-5
Test Scores (SCAT, GRE, et al.): Graduate, Non-matriculated	Grad Admissions or Department	1-2	0-2

In addition to the paper filed maintained at the off-site facility, the Registrar maintains an electronic reference system that forms a crucial part of its record-keeping activities. Called OASIS (Online Administrative Systems Information Services), this mainframe system forms the basis of URSA (students' public interface) as well as SRWeb (Student Records Web interface for staff)⁵⁶. The early OASIS system was first used in the mid-1960s with check-sum, and the current version has been used at UCLA since the 1980s (when each campus office had dedicated terminals and activities were necessarily conducted in bulk). Access is provided only to UCLA staff employees with a job-related need to use administrative systems including OASIS, a distributed system of the UCLA AIS (Administrative Information Systems) mainframe⁵⁷. (Specifically, I interviewed the Training Coordinator who conducts sessions on various student records systems used on campus, FERPA, and student privacy). As the new DB2 version was developed, it allowed the Registrar to centralize class registration activities that had been performed by departments all across campus. At this time, personal computers had begun to increase in popularity, which allowed departments to connect to the Registrar and input their own information. As the Registrar gained authority in centralized registration, the office provided remote access to department administrators as well as the ability for departments to view "logical" enrollment numbers and room assignments. The administrator I interviewed served as training coordinator for the DB2 version and in this capacity traveled to campus offices which each had unique modems and access procedures. She related that it took two years for the university to set standards regarding

⁵⁶ Registrar's Information Services outlined at <http://www.registrar.ucla.edu/facultystaff/ris.htm>.

⁵⁷ Services outlined at <http://www.ais.ucla.edu/>.

departmental access, standards which have continued to reflect the browser capabilities in OASIS. The current OASIS system, which uses green-screens (overlaid into the URSA interface), is scheduled for replacement in October 2009 and will feature additional capacity and a new mainframe. Registrar officers scan materials and place the digital files and metadata information into the OASIS system. Information is then pulled from OASIS in response to student or staff requests. There exists a real-time relationship between OASIS and its component interfaces such as URSA, meaning that changes entered by students related to enrollment, name, and address are immediately reflected in their official record as maintained in OASIS. Many of these online services have developed in response to perceived pressures to deal as little as possible with paper, and "image" the necessary files digitally. This is seen in the "pull and destroy" procedure specified in the UC Disposition Schedules related to paper registration and admissions materials. Attention is paid prior to the shredding activity that the papers have been digitized and that the content is available through this electronic access at the local level.

VI.b. UCLA University Archives and the Student Record

The investigator encountered few challenges or special circumstances during this investigation that would indicate a unique or dissimilar experience to that which would be encountered by another student placing a similar request. However, because of the privacy restrictions and limitations imposed on the available materials to be requested and viewed, it is impossible to compare the quality of distinct information requests from a

single perspective. Through an interview with the University Archives Assistant⁵⁸, the author sought to validate the understanding gained through performing the access procedures in place regarding official student records. The UCLA University Archives, established in 1948, is the official repository for archival university records that document UCLA's decision-making processes and cultural history⁵⁹ (see Table D). During this activity, the archivist reinforced that the Registrar alone retains control over official student records, which are not duplicated in the University Archives' holdings. (Likewise the Registrar is responsible for archiving General Catalogs of course offerings⁶⁰, an effort not duplicated by the University Archives). The Registrar does provide the University Archives with some content for storage purposes only which is accessible only to recognized Registrar staff, in the form of "student grade record cards." These cards are subject to the disposition procedure imposed by the Registrar according to the University of California Business and Finance Bulletins⁶¹. Student grade record cards are a member of the Pre-Identified Vital Record (Campus) grouping according to RMP-4, Records Management and Privacy, Section 4⁶² published by the UC Universitywide Policy Office. As these cards are considered vital records, copies are given to the University Archives from the Registrar annually in the form of paper cards (microfilm backup since 2001) and are held for approximately 10 years following a student's graduation. The University Archives conducts no series analysis with these

⁵⁸ April 15, 2009 with Monique Sugimoto at the University Archives, Charles E. Young Research Library, Room 21560. See also Appendix 3.

⁵⁹ UCLA University Archives brochure of services (2009).

⁶⁰ Available at the Registrar Archives at <http://www.registrar.ucla.edu/archive/index.htm>.

⁶¹ UC BFB RMP Series at <http://www.ucop.edu/ucophome/policies/bfb/bfbrmp.html>.

⁶² RMP-4, Vital Records Protection at <http://www.ucop.edu/ucophome/policies/bfb/rmp4.html>.

records, which can only be requested from off-site SRLF storage via a request originating from the Registrar. These cards contain identifying information similar to the content found on the student transcript, but while the original transcript is retained by the Registrar in perpetuity, these duplicate student cards are retained by the University Archives for only a finite timespan (to aid in retrieval and access during the initial 10 years following a student's separation from the university). In addition to the student grade record cards, the University Archives receives "course reports" from the Registrar that contain the course name, student names and identifiers, grades, and meeting times from each academic year - subject to the same finite disposition as the student cards (though they represent a more collective level than individual students). These class rosters date from the university's first classes held in the 1920s. Currently, exchanges of class rosters occur about ten times each year between the Registrar and University Archives⁶³. These rosters are collated into catalogs each year. The first such catalogs were hand-size and bound, and currently they are presented in book form. It should be noted that the Registrar retains sole responsibility for the contents given in trust to the University Archives, and because of the sensitive nature of the educational records, strict retention and disposition practices are followed on a routine basis. The policies followed by the Registrar differ from the policies followed by other departments, such as Counseling, that do not deal with educational records but with other forms of records such as counseling or health notes. In her discussion of electronic security issues and college policies, Holub (2003) cites the specific case of UCLA as an example of policy

⁶³ Brenda Moore, April 22, 2009 interview.

restriction on staff members' ability to access student records for various purposes. She writes, "academic counselors have a different level of access compared to financial aid officials ...before any faculty or staff member can access information, they must fill out a form detailing what they want to view and why [which] must be approved by the computer-systems manager of the registrar's office" (Holub 3-4). As evidenced through the interview and literature, access restrictions apply not only for identifying individual students, but also for identifying staff who are given specific restrictions on accessing student records according to recognized departmental need.

Table D. UCLA University Archives summary of services.

<u>Materials Collected (Archival Collections)</u>	<u>Online Resources</u>
Correspondence files of the chancellors, deans, directors and chairs	UCLA University Archives Collections Finding Aids
Minutes of departmental meetings	University Archives Photograph Files: formerly Hoover Collection of Photographs
Records of administrative units and academic departments	UCLA History Timeline
Biographical files of persons affiliated with UCLA	UCLA Atkinson Photographic Archive (images of campus)
Photographs, moving image and audio recordings of sports and campus events	University of California History Digital Archives
Memorabilia	
Architectural histories of the campus	
Yearbooks, student directories, and materials related to student life at UCLA	
Theses and dissertations	

VII. Conclusion

The effective management of student records is a concern that is shared by records administrators seeking Federal funds, as well as students of the university seeking verification of their present or past academic status and educational attainment. While Federal legislation such as FERPA as well as related laws and amendments that have since been enacted ensure that privacy protection governs all actions performed on a student's file, specific management guidelines for disposition and digitization of content in both paper and electronic form have been left to U.S. educational institutions to implement individually. A low level of coordination among institutions that are federally funded has resulted in variant procedures by which students may gain access to their educational records. Increased coordination of records management practices among institutions and records departments would not only result in fewer privacy violations filed at the national office, but would also provide a structured means of ensuring continued access to official documentation of educational attainment for historical purposes. With more coordinated procedures reflecting the Federal compliance requirements affecting student records, privacy will continue to be protected at the institutional level as it has since 1974, and will continue to be realized as information is utilized in digital environments.

Appendix

Appendix A. "Claim of Exemption from IRB Review" (HS-7-2007) submitted to UCLA OPRS.

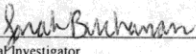
University of California, Los Angeles
OFFICE FOR PROTECTION OF RESEARCH SUBJECTS

**CLAIM OF EXEMPTION
FROM INSTITUTIONAL REVIEW BOARD (IRB) REVIEW**

PROJECT TITLE: Influence of the FERPA (1974) on Records Management and Access				
PRINCIPAL INVESTIGATOR:	Name	Degree(s)	University Status	Campus Phone Number
	Sarah Buchanan	BA	MLIS student	none
	Department	Campus Mailing Address	Mail Code	e-Mail Address
	Information Studies	GSE&IS Building	Box 951520	sarahab@ucla.edu
CO-INVESTIGATOR or FACULTY SPONSOR:	Name	Degree(s)	University Status	Campus Phone Number
	Anne Gilliland	MA, MS, PhD	Professor & Chair	(310) 206-4687
	Department	Campus Mailing Address	Mail Code	e-Mail Address
	Information Studies	GSE&IS Building	Box 951520	gilliland@ucla.edu
APPLICATION STATUS:	<input checked="" type="checkbox"/> New <input type="checkbox"/> Amendment If amendment, previous Exempt Protocol # _____			

INVESTIGATOR'S ASSURANCE

- I certify that the information provided in this application is complete and correct.
- I understand that as Principal Investigator, I have ultimate responsibility for the conduct of the study, the ethical performance of the project, and the protection of the rights and welfare of human subjects.
- I agree to comply with all UCLA policies and procedures, as well as with all applicable federal, State, and local laws regarding the protection of human subjects in research.
- I will ensure that this study is performed by qualified personnel adhering to the OPRS certified protocol.
- I will not modify the OPRS certified protocol or consent materials without first submitting an amendment to the previously certified Claim of Certification.
- I agree to obtain legally effective informed consent from human subjects as applicable to this research.



 Principal Investigator

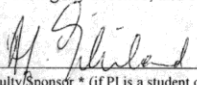
3/2/09

 Date

FACULTY SPONSOR'S ASSURANCE

By my signature as sponsor on this research application, I certify that the student or guest investigator is knowledgeable about the regulations and policies governing research with human subjects and has sufficient training and experience to conduct this particular study in accord with the approved protocol. In addition,

- I agree to meet with the investigator on a regular basis to monitor study progress.
- I agree to be available, personally, to supervise the investigator in solving problems should they arise during the course of the study.
- I assure that the investigator will promptly report significant or untoward adverse effects to the OPRS in writing within 5 working days of occurrence.
- If I will be unavailable, e.g., sabbatical leave or vacation, I will arrange for an alternate faculty sponsor to assume responsibility during my absence, and I will advise the OPRS by letter of such arrangements.



 Faculty Sponsor * (if PI is a student or a fellow)

3/3/09

 Date

* The faculty sponsor must be a member of the UCLA faculty. The faculty member is considered the responsible party for legal and ethical performance of the project.

Appendix B. Determination Received from OPRS.

Mail :: Search Results: Claim of exemption application titled "Influe... https://mail.ucla.edu/imp/message.php?actionID=print_message

Date: Mon, 9 Mar 2009 08:28:37 -0700 [03/09/2009 08:28:37 AM PDT]

From: "Brunt, Wendy" <WBrunt@OPRS.UCLA.EDU>

To: sarahab@ucla.edu

Cc: "Orkin, Alison" <AOrkin@OPRS.UCLA.EDU>

Subject: Claim of exemption application titled "Influence of the FERPA (1974) on Records Management and Access"

Dear Ms. Buchanan,

I received and reviewed the application for your project titled "Influence of the FERPA (1974) on Records Management and Access." Thank you for your submission.

We determined that the project described in your above referenced application does not constitute human subjects research as defined in the federal regulations. Therefore, neither certification of exemption from IRB review nor IRB approval of the proposed research is required. Please retain this email as documentation of this determination.

Please contact the OPRS if the project changes in order that we may update our determination at that time.

Sincerely,

Wendy

Wendy Brunt

Administrator

Office for the Protection of Research Subjects

University of California, Los Angeles

(310) 825-7122

(310) 794-9565 (Fax)

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