

# Legal and Ethical Guidelines

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In recent years, there have been numerous suits and issues raised on the question of students' records and privacy; therefore, it is imperative that academic advisors become familiar with important ethical/legal guidelines for advising and SHIP's application of FERPA. Understanding the legal implications of advising not only can save advisors from potential problems, it can also improve the advisor/student relationship by clarifying advisors' and students' rights and responsibilities.

## Legal Issues

According to Jerry Ford (1990), the courts generally respect and recognize the expertise of academicians and are reluctant to interfere in educational and academic matters unless some action occurs that is conspicuously offensive and denies students their protected rights. Most legal issues related to academic advising fall under four areas:

- The contractual relationship between student and institution;
- Guidelines governing privacy of student records;
- The concept of privileged communications; and
- Academic due process and the need for grievance procedures.

The University's catalog and other publications form the basis of a contract with the student. The responsibility for knowing this information rests with the student and, as long as the advisor is not grossly negligent, arbitrary or capricious, the advisor will not be held personally responsible. Advisors can protect themselves by keeping good notes of advising sessions and by knowing when and where to refer, should the student's questions or problems extend beyond the advisor's expertise.

Advisors must respect a student's privacy and should take great care in recording information about advising discussions. In addition, care should be taken in maintaining confidentiality in discussing issues regarding students with other faculty, administrators, or staff. Such privileged communications

are permitted and appropriate if the shared information is necessary to help a student and is in his or her best interests.

Students are given due process and have recourse in grievances and other academic matters through the policies and procedures outlined in the catalog and through the dean's and provost's offices.

### **FERPA (Family Educational Rights & Privacy Act)**

The guidelines governing student privacy issues are included in the Family Educational Rights and Privacy Act (FERPA) of 1974 (20 U.S.C. § 1232g). You may also hear this referred to as the Buckley Amendment. FERPA provides students with access to their educational records, including advising notes. Also, if a student is independent (as defined by the IRS code), the Act prohibits sharing information with anyone, including parents, without the student's written consent.

Faculty has the educational right to access and view students' academic information. This access comes with responsibilities to protect this information. Directory information may be released, as long as the student has not indicated they do not want this information released. For those students who have requested their directory information not be released, "Do not release" will display on the mainframe on many screens. It is also printed at the top of the academic record on the web. Directory information includes name, home and local addresses and phone numbers, enrollment status, email address, major, degree and honors. Any information other than directory information may not be released to anyone.

Grades are private information, and only the student is able to view this information. It is Shippensburg's policy that we do not discuss a student's record with anyone over the phone, including parents. If a parent wants information concerning a student, please refer the parent to the office the Registrar. Social security numbers are private information. You may not use this number or a portion of this number to post grades in public view. Graded papers should be given to students in class or left with staff to keep in the building office for pick up. Do not leave papers outside your office for students to go through. Advisors have access to students' transcripts and transfer evaluations. These are to be kept private as well. Whether the files

are in your administrative office or your own private office, please keep these files from view when you are not working with the student.

When emailing more than one student at a time make sure addresses are placed in the "Blind Copy" area so students are unable to view others' addresses. Many students have elected not to have their e-mail address shared. Therefore, the best practice is to always put email addresses in the "Blind Copy" area.

**For more information on FERPA:**

**1. US Department of Education:**

<http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

**2. Information for Faculty:**

[http://www.ship.edu/admin/registrar/ferpa\\_fac.html](http://www.ship.edu/admin/registrar/ferpa_fac.html)