

Formal Hearing

The purpose of a Formal Hearing is to present information and evidence concerning a clerical or recording error in the education record which needs to be corrected. **The hearing is not an opportunity to review substantive decisions by SMAT faculty or staff concerning evaluation of academic work or outcomes of disciplinary proceedings.**

Students have the right . . .

- To have a hearing official who does not have a direct interest in the outcome of the hearing;
- To be advised by one or more individuals, including counsel;
- To have a full and fair opportunity to present evidence concerning requested corrections to the education record;
- To receive, within a reasonable period of time after the hearing, but not more than thirty business days, a written decision based solely on the evidence provided at the hearing. The decision will include a summary of evidence and reasons for the decision;
- To submit a statement into his or her education record commenting on the contested portion of the record which will be provided to any person who later views that portion of their education record, if the amendment is denied.

SMAT's Rights and Responsibilities When a Hearing is Requested

- To select a hearing officer in accordance with FERPA requirements. The hearing official may be any SMAT official who does not have a direct interest in the hearing outcome.
- The hearing shall in all respects be under the control of the hearing official and shall not be subject to formal rules of evidence or procedure.
- To deny a request for a hearing when the proposed amendment to the education record include anything more than correcting clerical errors.
- To schedule a hearing within a reasonable time, but not more than thirty business days, after receiving the hearing request.
- To provide evidence to the hearing officer to support the previous determination not to amend the student's education record.

Role of the Hearing Officer

- To allow the student the opportunity to present evidence relevant to the issues raised. The hearing officer has the right to determine whether particular evidence presented is relevant to the record and issue(s) in question
- To make his or her decision solely on the evidence presented at the hearing
- To provide the student with a timely written decision, including a summary of the evidence and reason for the decision.

Hearing Outcome

If the hearing officer finds that the record is inaccurate, misleading or otherwise in violation of the privacy rights of the student, SMAT will amend the record accordingly. The student will be notified in writing of the correction.

After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information.

Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):

- School officials with legitimate educational interest;
- Other schools to which a student is transferring;
- Specified officials for audit or evaluation purposes;
- Appropriate parties in connection with financial aid to a student;
- Organizations conducting certain studies for or on behalf of the school;
- Accrediting organizations;
- To comply with a judicial order or lawfully issued subpoena;
- Appropriate officials in cases of health and safety emergencies; and
- State and local authorities, within a juvenile justice system, pursuant to specific State law.

Enforcement Procedures

If an educational agency or institution determines that it cannot comply with the Act or this part due to a conflict with State or local law, it shall notify the Department of Education within 45 days, giving the text and citation of the conflicting law.

The Department of Education may require an educational agency or institution to submit reports containing information necessary to resolve complaints under the Act and the regulations in this part.

Where are complaints filed

A parent or eligible student may file a written complaint with the Department of Education regarding an alleged violation under the Act and this part. The Office's address is:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-4605.

Complaint Procedure

- A complaint filed under §99.63 must contain specific allegations of fact giving reasonable cause to believe that a violation of the Act or this part has occurred.
- The Department of Education investigates each timely complaint to determine whether the educational agency or institution has failed to comply with the provisions of the Act or this part.
- A timely complaint is defined as an allegation of a violation of the Act that is submitted to the Department of Education within 180 days of the date of the alleged violation or of the date that the complainant knew or reasonably should have known of the alleged violation.



- The Department of Education may extend the time limit in this section for good cause