Legal Issues in Academic Advising

The Contractual Relationship
In academic affairs, a contractual relationship exists between the student and the institution. The basic provisions of the University Catalog, recruiting brochures, various bulletins, and the Student Handbook become part of the contract. The institution sets forth certain requirements for passing courses and for successful completion of programs and subsequent graduation. If students fail to meet the required standards, they may be penalized through such action as dismissal, suspension, or failure to graduate on schedule.

The Coastal Carolina University Catalog states that the ultimate responsibility for knowing degree requirements rests with the student. This type of statement normally protects advisors if they commit an advising error. The advisor is not going to be held personally liable for erroneous advising in the absence of gross negligence, irresponsible behavior, or arbitrary or capricious treatment of the student. Advisors should keep notes of their discussions with students during advising sessions. An accurate record of advising sessions will help solve any disputes over the content of previous advising and also serve as a legitimate protection against claims of erroneous advising.

Advisor Responsibility to the Student’s Right to Privacy
Since academic advisors maintain educational records – records of advisee grades and other academic information – they must understand the provisions of the Family Educational Rights and Privacy Acts of 1974 (commonly referred to as The Buckley Amendment or FERPA). This act provides students with access to the information placed in their advising files while ensuring that only institutional officials with a legitimate educational interest may view these files. In general, written consent must be obtained before any other party, including parents, may have access to student files. Advisors, upon request, must allow student access to their advising files. However, this fact does exclude students’ right of access to personal notes that advisors may have made during advising sessions. Under FERPA, these notes constitute records made by educational personnel and may be kept solely in their possession. Advisors may allow someone who temporarily performs their advising duties to see these notes, but if advisors are to be replaced permanently, they should remove any personal notes from the files before transferring them to the replacement.

FERPA affords students certain rights with respect to their education records. They are:

1. The right to inspect and review the student’s education records within 45 days of the day the University receives a request for access.
   Students should submit to the registrar, dean, head of the academic department, or other appropriate official, written requests that identify the record(s) they wish to inspect. The University official will make arrangements for access and notify the student of the time and place where the records may be inspected. If the records are not maintained by the University official to whom that request was
submitted, that official shall advise the student of the correct official to whom the request should be addressed.

2. **The right to request the amendment of the student’s education records that the student believes is inaccurate or misleading.**
   
   Students may ask the University to amend a record that they believe is inaccurate or misleading. They should write the University official responsible for the record, clearly identify the part of the record they want changed, and specify why it is inaccurate or misleading.
   
   If the University decides not to amend the record as requested by the student, the University will notify the student of the decision and advise the student of his or her right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the student when notified of the right to a hearing.

3. **The right to consent to disclosures of personally identifiable information contained in the student’s education records, except to the extent that FERPA authorizes disclosure without consent.**

   Coastal Carolina University will disclose information from a student’s education records only with the written consent of the student, except:

   a. To schools officials with legitimate educational interests;
      
      A school official is a person employed by the University in an administrative, supervisory, academic or research, or support staff position (including campus law enforcement and health staff); a person or company with whom the University has contracted (such as an attorney, auditor, or collection agent); a person serving on the Board of Trustees; or a student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

   b. To officials of other institutions in which the student intends to enroll provided that the student has previously requested a release of his/her record to the requesting institution;

   c. To authorized representatives of the U.S. Department of Education, the Comptroller General of the United States, the Attorney General of the United States, state/local educational authorities, organizations conducting studies for or on behalf of the University, and accrediting organizations;

   d. In connection with a student’s application for, and receipt of, financial aid;

   e. To comply with a judicial order or lawfully issued subpoena;

   f. To parents of dependent students as defined by the Internal Revenue Code of 1986, Section 152;

   g. To appropriate parties in health or safety emergency; or

   h. To the alleged victim of any crime of violence that results in disciplinary proceedings conducted by the University.
Coastal Carolina University has designated the following items as **Directory Information**: a student’s name, mailing addresses (local, permanent, electronic), telephone numbers, photograph, electronic image, semester/s of attendance, enrollment status (full- or part-time), date of admission, date of graduation, college, major and minor fields of study; whether or not currently enrolled, classification (freshman, etc.), type of degree being pursued, degrees, honors, and awards received (including scholarships and fellowships), the most recent educational institution attended, weight and height of members of athletic teams, and whether the student has participated in officially recognized activities and sports sponsored by the University.

The University may disclose any of these items without prior written consent unless the student has submitted a written request to the Office of the Registrar not to release directory information pertaining to them. This request must be made at the time of registration but no later than 14 days after the beginning of the term. The University may publish a Student Directory annually. Students who do not wish to have information printed in the Student Directory should complete a Student Directory Privacy Request Form, available in the Office of the Registrar. Student Directory Privacy Request Forms must be completed no later than 14 days after the beginning of the term.

4. **The right to file a complaint with the U. S. Department of Education concerning alleged failures by Coastal Carolina University to comply with the requirements of FERPA**

**The name and address of the Office that administers FERPA is:**

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

Questions concerning this law and the University’s procedures concerning release of student education records may be directed to the Office of the Registrar, Singleton Building 108, (843) 349-2019.

Appeals: An appropriate hearing board will provide each student with an opportunity to challenge the content of their University education records, to ensure that the records are accurate, and provide an opportunity for the correction or deletion of any inaccurate, misleading, or otherwise inappropriate data contained therein. Hearing requests should be made to the University Registrar.

**Advisor Right to Privileged Communications**

Although the law recognized students’ right to privacy with regard to their educational records, it also recognizes advisors’ right to privileged communications. In an effort to assist students as they develop, advisors can discuss confidential information regarding students with other appropriate individuals. The courts generally respect the right to such communication and will not hold advisors liable for statements considered as privileged
communications. However, this right is not an absolute one, and advisors must exercise good judgment in making all confidential statements. To determine the appropriateness of confidential discussions, advisors should simply ask if such a discussion would serve the student’s best interests. At times, students will come to advisors with personal problems; normally these problems should remain confidential. However, in some instances, students may tell an advisor of certain intentions that would prove harmful to them or possibly to others, such as the intention to commit suicide or the desire to harm another person. Although these statements are made in confidence, an obligation rests with advisors to disclose such information to an appropriate party, such as parents, intended victim, a staff member of Counseling Services, an Affirmative Action Officer, or campus police.