

## **UW-Madison FERPA Hearing Procedure**

In accordance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, current and former students are entitled to a hearing before a designated University official to contest information contained in the student's education record(s) that the student believes is inaccurate, misleading, or in violation of the student's privacy rights. Through a FERPA hearing, a student may challenge the content of a record created by UW-Madison. This ability to challenge the content of a record does not supplant any of the other appeals processes already in place at UW-Madison, including, but not limited to, grade appeals, academic misconduct hearings, or nonacademic misconduct hearings. For example, a FERPA hearing can be used to assert that a grade was not properly recorded, but a FERPA hearing cannot be used to argue that a different grade should have been assigned based upon the quality of work. As a general matter, UW-Madison cannot change the content of records created by outside individuals or entities, even if UW-Madison possesses a copy of such records.

Prior to requesting a hearing, the student should try to resolve the matter informally with the University employee responsible for creating and/or maintaining the record(s). If the matter is not resolved informally, the student may request a hearing pursuant to this policy.

1. The student shall submit a written request for a FERPA hearing to the UW-Madison University Registrar via e-mail at: registrar.wisc.edu. The request for a hearing must include (a) copies of the contested record(s) or a description of the contested record(s) with enough specificity that they can be identified and located by the University Registrar; (b) a statement that the student has attempted to resolve the matter informally including the identity of the University official(s) with whom the student worked toward informal resolution, or an explanation as to why informal resolution was not appropriate; and (c) a statement explaining why the student believes the record(s) is inaccurate, misleading, or in violation of the student's privacy rights.
2. Within five (5) business days after receiving the written request for a hearing, the University Registrar will schedule a hearing, which shall take place as soon as reasonably practicable. The University Registrar will notify the student and the University employee(s) responsible for creating and/or maintaining the record(s) (the parties) of the date, time, and location of the hearing. As a general matter, two hours will be allotted for the hearing. If the student believes a longer hearing is necessary or other accommodations are necessary, the student should submit to the University Registrar for consideration a request for an extended hearing along with an explanation why a longer hearing is necessary or any other accommodation requests.

3. The University Registrar will act as the hearing examiner and be responsible for (1) maintaining order; (2) listening to and reviewing information presented by the parties; and (3) issuing a written decision. If the University Registrar has a direct interest in the outcome of the hearing, other significant conflict of interest, or is not available within a reasonable timeframe, then the Vice Provost for Enrollment Management will serve as the hearing examiner. The hearing examiner may request counsel from an attorney in the UW-Madison Office of Legal Affairs.
4. Each party must provide the hearing examiner with any documents the party wishes the hearing examiner to consider no later than ten (10) business days prior to the hearing date. No later than five (5) business days before the hearing, the hearing examiner will provide both parties with copies of all documents received, unless significant and legally authorized privacy reasons preclude sharing information with the student.
5. The hearing will be conducted in closed session, unless the student waives their privacy rights pursuant to FERPA and no information about any other student is contained in the education record(s) at issue. A request for an open hearing must be made no later than three (3) business days prior to the hearing date.
6. The hearing will be audio recorded. The recording shall be kept by the Office of the Registrar for the timeframe required by its document retention procedures.
7. At the hearing, the student will provide information and rationale explaining why the student believes the record(s) is inaccurate, misleading, or in violation of the student's privacy rights. The University employee(s) responsible for creating and/or maintaining the record will present information and rationale explaining why the employee believes the record(s) is correct and/or that the student's privacy rights were not violated.
8. The parties may present witnesses at the hearing. Each party is responsible for arranging for the attendance of their own witnesses. Witnesses who are not parties will only be permitted to be present while testifying. Both parties and the hearing examiner may question witnesses. Questioning will be informal. The formal rules of evidence do not apply to a FERPA hearing. The hearing examiner may consider any relevant information and may exclude irrelevant or duplicative information.

9. The student may be accompanied at the hearing by a support person (including an attorney at the student's own expense). The support person is limited to advising the student and may not speak on the student's behalf or question witnesses.
10. After the hearing, the hearing examiner will deliberate in closed session and issue a written decision to the parties. The decision will be based solely upon information presented at the hearing and applicable law. Generally, the written decision will be issued within ten (10) business days. This timeframe may be longer if the circumstances warrant (e.g., exceptionally complicated matter).
11. If the hearing examiner decides that the education record(s) was inaccurate, misleading, or in violation of the student's privacy rights, then the University Registrar shall provide instructions for remedying the matter. If the hearing examiner decides that the record(s) was accurate and/or the student's privacy rights were not violated, then the student has the right to provide a statement to accompany the contested record(s) stating the student's disagreement.
12. If the student provides a statement to accompany the contested record(s), UW-Madison will maintain that statement along with the record for as long as it maintains the record. If UW-Madison discloses the record or portion of the record to which the statement relates, it will also disclose the student's statement.
13. The hearing examiner's decision shall be final.

*Last reviewed, January 2015, by Office of Legal Affairs, Office of the Registrar, and Dean of Students Office*