

James J. Perry

EDUC 678

Privacy and Student Records

An Analysis of the NCAA Clearinghouse in Relation to FERPA

The Family Education Rights and Privacy Act of 1974 provided legislation giving students or parents of students under 18 privacy rights in regards to their academic record. Today, technology has made methods for information sharing easier and more readily available, thus creating challenges in protecting the privacy rights outlined in the more than 20 year old act. Two problems that can be investigated are personal negligence to the potential loss of privacy due to a lack of following personal security measures and breaches in cyber security of data collection and distribution agencies. An investigation into the practices of student athletes during the recruitment process and the NCAA's data collection for eligibility of prospective collegiate student athletes, offers a unique chance to witness some of the current issues of putting into practice the rights to educational privacy guaranteed in 1974.

FERPA guarantees students the right to privacy of academic records. The student's rights are maintained by their parent or guardian until 18 and subsequently turned over to the student thereafter. Anyone who is privileged to information regarding a student's academic record, such as school officials, can not release information regarding that student without signed consent. In 1974 the right to privacy of academic record was part of a broader move in government to protect privacy rights of individuals.

The legislation was a response to increased information sharing and a call to retain rights regarding the individual to retain ownership regarding personal information.

Since 1974 advancements in technology have made information sharing easier and the potential for infringement on privacy greater. While the ease of information transfer has great utility, with easier exchanges of information transfer there exists an increased chance of a breach of privacy. High school students looking to go to college and collegiate organizations looking for prospective high school students are two groups that must deal with the challenges of increased technology in information sharing and increased threats to privacy. A look at the behaviors of both groups should provide an opportunity to see the steps that each is taking to protect privacy rights and steps that need to be taken to improve protection of those rights.

National Collegiate Athletic Association

The NCAA is a non governmental agency created to provide rules and regulations for member intercollegiate athletic institutions. Included in the responsibility of the NCAA is the monitoring of recruitment activities by member institutions of high school students. Any rules or regulations of the NCAA should fall within state and federal law and compliance with NCAA rules by member institutions is contained to sanctions of athletic competition.

Prospective Student Athlete

A prospective student athlete is defined by the NCAA as “a student who has started classes for the ninth grade... A student remains a prospect until one of the following occurs, the individual enrolls in a minimum full time program of study at a four year collegiate institution or the individual participates in a collegiate practice.” (NCAA

Manual 2005-2006 p.88) This, quite obviously, encompasses every high school student in the country. Next, the NCAA considers any student who has been contacted by an institution's athletic staff member to be a "recruited" prospect. It is this group that the NCAA maintains records of, in order to enforce a series of compliance laws and regulations.

NCAA Clearinghouse

The NCAA Clearinghouse was created by the NCAA to serve "prospective student athletes, high school administrators, and member institutions." (NCAA <http://www.ncaaclearinghouse.net/ncaa/NCAA/common/index.html>) The main function of the Clearinghouse is to determine the eligibility and monitor the recruitment of prospective student athletes. In order to play intercollegiate athletics at Division I member institutions, a high school student must submit his academic information to the Clearinghouse. Further, in order to take an official visit at any member institution a prospective student must register with the Clearinghouse and release his academic information including his/her transcript and a copy of an SAT or ACT. Registering with the Clearinghouse is non negotiable for a prospect to take an official visit or play intercollegiate athletics at member NCAA institutions.

FERPA in Relation to the NCAA Clearinghouse

As detailed above, registering for the NCAA Clearinghouse is a mandatory step for a high school student to take if they have any desire to play collegiate athletics. Registering requires that these students release their rights to privacy of academic records to this non governmental agency. The release of academic records is common for any high school student attempting to go to college. In applying to a college high school

students release their academic records to those institutions. Given this as the case, releasing academic records for the Clearinghouse is in most cases done without a second thought. While the student may see the release as common, a clear difference should be noted. While applying to a college releases academic records to that particular school, releasing academic records to the Clearinghouse releases your records to any school's compliance members that are recruiting that individual. In this way the academic records are being released to a much broader audience and handled by an agency that needs to transfer this information to multiple parties.

As many colleges have discovered, protecting the privacy rights of students who have released their academic records to them can be challenging. As recently as 1997 the Need Based Educational Aid Antitrust Protection Act of 1997 was enacted in response to schools that had received financial aid information about students sharing those records with other institutions. Given the steps individual institutions need to take to protect the privacy of individual's records, the steps of a broad reaching organization like the NCAA needs to take are very real. The Clearinghouse further provides an online environment for students to monitor their eligibility status. This function, while useful to the students, adds security issues to an already demanding privacy situation.

NCAA Clearinghouse Online Environment

The Clearinghouse provides for students and college compliance offices an online environment. Prospective students have the opportunity to go on this website and view the NCAA regulations regarding the steps they need to take in order to be eligible to play collegiate sports. The details of eligibility include minimum GPA and SAT scores, as well as a detailed description of what Core Classes are required and the accompanying

GPA for those Core Classes. Students are provided an explanation of their privacy rights and an explanation of how a waiver is required to register with the Clearinghouse.

Students are also given a chance to apply for a waiver for the fee the Clearinghouse charges to register.

Once a student registers with the Clearinghouse he can access his eligibility status with the Clearinghouse through a PIN that the Clearinghouse sends him/her. The student must either submit an official copy of their SAT or ACT or check the Clearinghouse as an institution they wish their score to be sent to when they take either test. The student must also sign a waiver, usually attained in their guidance office, releasing their academic transcript to the Clearinghouse. Once these steps have been taken the student is able to see the compilation of his academic record in relation to the minimum requirements of the NCAA to be eligible.

The benefit of this online interaction is huge. Students frequently are deemed ineligible to play intercollegiate sports as a result of misunderstanding what rules exist concerning minimum required academic records and test records. For example, the minimum required core courses needed to be eligible is being increased to 16 for the academic year 2007. This is a potentially dangerous situation for the uninformed. Failure to have 16 core credits at a minimum 2.0 GPA will lead to failure to be eligible, no exceptions. Providing students with feedback on their status can alleviate problems of ignorance and hopefully inspire high school student athletes to engage in their education more thoroughly.

The benefit of the online environment for member NCAA institutes is equally significant. Member institutions are under strict guidance as to how they need to conduct

themselves during recruitment and eligibility of current students. Compliance offices at colleges can receive accurate and detailed descriptions of a student's academic record and, therefore, eligibility status, in a remarkably fast way. Many times a compliance office can inform a coach that a student is ineligible and the student can go online enter his/her PIN and find out what part of his academic record is in question. Further, access to student information makes bringing student athletes into your school that should not be there very easy to find out and readily available.

Security Issues

The pitfalls of the type of information sharing that the Clearinghouse allows fall into three categories. The academic records are shared with the groups who have stakes in the information, the student, the Clearinghouse, and the member institution. All three stakeholders must understand the steps necessary in the online environment to protect the privacy of the information. Given the exchange of information between these parties it is vital that all become informed as the steps needed to take.

The student athlete must be aware of his/her privacy rights, first, in order to have a desire to protect those rights. Many students are apathetic or unaware of the rights given them by virtue of the federal act of 1974, FERPA. Once aware of what rights exist the student needs to understand the steps needed to be taken to best ensure those rights. First, the student is provided a Personal Identification Number (PIN). This number should be protected and never released to anyone else. Student athletes will go as far as releasing their PIN to coaches without even a request for that PIN. Lessons on identity theft and password protection are crucial steps in student athletes taking their privacy in their own hands.

The member institutions of the NCAA must be active participants in maintaining student athlete's privacy. First, a release of any student's academic record is required by that institute. Without a release the institution should not evaluate the student's record. If a release of a student's record is obtained it should only be used by that institution. Sharing of academic records should never occur between institutions. Within the institution the record should be protected and confined to those with clearance to view. Compliance offices at many institutions provide trained professionals with the access and obligation for protection of the student's privacy.

The student must be an active participant in his privacy. The student and his/her parents, if they are under 18, are the only ones who can waive the privacy rights of their academic. The student should be aware of who they are releasing the record to and what steps need to be taken to ensure that releasing the records to a group or groups does not release the records to all. Finally, the access that the student is given to view his own record and analysis of his record should be protected. Passwords to view sensitive information should be protected and never released. The opportunity to personalize the password should be taken and the necessary steps to make sure the password utilize capital letters, lower case letters, letters and symbols whenever possible. The student must be an informed participant in his privacy, from the basic rights he/she has to the steps needed to ensure those rights it is active participation which will serve their privacy rights best.

The Clearinghouse handles the academic records of every student athlete that participates in collegiate athletics and further every recruited high school athlete. Handling thousands of academic records is a bold task. Handling these records and

maintaining the privacy rights of those students is a monumental task. While students must sign a waiver to have their records on file with the Clearinghouse this does not enable the Clearinghouse to simply release, as common knowledge, that information. This is particularly important given the fact students are forced to release their information in order to collegiate sports.

The Clearinghouse also operates a website to handle information and disseminate information. Ensuring the privacy and security of the website is the obligation of the Clearinghouse. The website is not an https secure site which is a potential cause for concern. While students can attain their record through a PIN provided by the Clearinghouse the PIN is emailed to the student providing further opportunity for identity theft. Accepting academic records, even those who have waived privacy rights to that group, does not absolve that group from keeping the records private within the organization. The Clearinghouse must be a safe keeper of the records and take the security measures necessary to ensure the privacy rights of the student's academic records they have are protected.

Conclusion

Privacy rights are an integral part of the fabric of the United States. Today's technological advancements challenge the ways privacy can be protected. The privacy rights in regard to academic records were guaranteed to students and parents of students under 18 in the 1974 federal act FERPA. The challenges that FERPA faces in relation to today's technological setting can be seen in the analysis of prospective student athletes navigating the NCAA Clearinghouse. In order to share information and protect privacy all groups involved in the sharing must take their role seriously and take the security

steps necessary to accomplish this equally seriously. As information sharing becomes more widespread and mechanism make this sharing easier all parties involved with the information sharing must take their individual role in this process seriously and behave in a secure fashion. It is only in the shared responsibility of security that privacy can be maintained. Collaboration of all parties involved with information sharing is the best way to ensure that the information they share will stay secure between them.

References

NCAA Clearinghouse Retrieved Jan 21, 2005
<http://www.ncaaclearinghouse.net/ncaa/NCAA/common/index.html>

NCAA Manual 2005-06 National Collegiate Athletic Association
Indianapolis, IN July 2005