



**Proposal to Amend the UMD Policy and Procedures on the Disclosure of Student Education Records (Senate Document #17-18-16)**  
**Educational Affairs Committee | Chair: Toby Egan**

The Senate Executive Committee (SEC) and Senate Chair Falvey request that the Educational Affairs Committee review the Proposal to Amend the UMD Policy and Procedures on the Disclosure of Student Education Records and evaluate whether revisions to the University's policy are necessary.

Specifically, we ask that you:

1. Review the University of Maryland Policy and Procedures on the Disclosure of Student Education Records (III 6.0[A]).
2. Review similar policies on disclosure of student education records at Big 10 and other peer institutions.
3. Consult with the University Registrar on the proposal.
4. Consult with a representative of the Office of the Provost on how best to ensure that faculty are informed of potential changes to the policy.
5. Consult with the Senate Student Affairs Committee on the proposal.
6. Consider the impact of the European Union's General Data Protection Regulation (GDPR) on handling records for international students.
7. Consult with a representative of the Office of General Counsel on federal guidance on the Family Educational Rights and Privacy Act (FERPA) and any recent amendments as well as any proposed changes to the University's policy.
8. If appropriate, recommend whether the policy should be revised and submit recommended revisions to the policy for Senate consideration.

We ask that you submit a report to the Senate Office no later than **May 1, 2018**. If you have questions or need assistance, please contact Reka Montfort in the Senate Office, extension 5-5804.



## University Senate PROPOSAL FORM

<b>Name:</b>	Adrian Cornelius
<b>Date:</b>	11/17/2017
<b>Title of Proposal:</b>	Proposal to Amend the UMD Policy and Procedures on the Disclosure of Student Education Records
<b>Phone Number:</b>	4-8249
<b>Email Address:</b>	adrianc@umd.edu
<b>Campus Address:</b>	1130 Mitchell Building
<b>Unit/Department/College:</b>	Office of the Registrar
<b>Constituency (faculty, staff, undergraduate, graduate):</b>	Staff
<b>Description of issue/concern/policy in question:</b>	This is the UMD policy to comply with the federal Family Educational Rights and Privacy Act (FERPA). The last update to this policy was 10/01/2002. Since that time, the federal policy has had three amendments. I believe the University policy should be amended to accommodate the necessary FERPA amendments, and the document itself should be reworded for correctness and reformatted, as necessary, to improve the flow and understanding of the information.
<b>Description of action/changes you would like to see implemented and why:</b>	<ul style="list-style-type: none"> <li>- Reword for correctness and reformat the document for improved flow and understanding of the information.</li> <li>- Update the definition of "Attendance" to include online options.</li> <li>- Update the "Education Records" exclusion related to peer-graded papers</li> <li>- Update the definition of "Personally Identifiable Information" to include biometric record.</li> <li>- Update the definition of "School Official" to include students serving on UMD committees.</li> <li>- Update the "Prior Consent Not Required" sub-section of the "Disclosure of Personally Identifiable Information" portion of the policy to include items 1, 2, 3, 12, 14, 16, 17, 18, 19, and 20 (see attached).</li> </ul>

	<p>These changes are to accommodate the necessary FERPA amendments in the University policy since the UMD policy's last update in 2002.</p>
<p><b>Suggestions for how your proposal could be put into practice:</b></p>	<p>Compliance with the amendments of the federal FERPA policy is already in effect. The proposed updates are intended to bring the University policy in alignment with the compliances.</p>
<p><b>Additional Information:</b></p>	<p>I have worked with Attorney Laura Anderson-Wright (UMD Office of General Counsel) on this policy update proposal, and am submitting it on behalf of both of us.</p>

### III-6.30(A) UNIVERSITY OF MARYLAND POLICY AND PROCEDURES ON THE DISCLOSURE OF STUDENT EDUCATION RECORDS

(APPROVED BY THE PRESIDENT 1 AUGUST 1991; updated April 15, 1996, June 2, 1997, and October 1, 2002 by President's Legal Office; updated November xx, 2017)

#### I. POLICY

A. It is the policy of UMD to comply with the requirements of the federal Family Educational Rights and Privacy Act (FERPA), also known as the Buckley Amendment, concerning the disclosure of student records. FERPA affords eligible students certain rights with respect to their education records. These rights include:

1. The right to inspect and review the student's education records;
2. The right to request the amendment of the student's education records; and
3. The right to provide written consent before UMD discloses personally identifiable information (PII) from the student's education records, except to the extent that FERPA authorizes disclosure without consent.
4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by UMD to comply with the requirements of FERPA.

B. Following is an outline of the policy, and an explanation of the procedures by which students may obtain access to education records. Accordingly, UMD shall provide students with annual notification of their rights pursuant to FERPA.

#### II. DEFINITIONS

A. "Attendance" includes, but is not limited to, attendance in person or by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunication technologies for students who are not physically present in the classroom; and the period during which a person is working under a work-study program.

B. "Directory Information" means information which would generally not be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, a student's name, address, telephone listing, e-mail address, date and place of birth, major, field of study, full-time/part-time status, participation in officially recognized activities and sports, weight and height of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended.

C. "Disclosure" means to permit access to, or the release, transfer, or other communication of, personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

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**D. "Education Records"** means those records directly related to a student and maintained by UMD, or by a party acting on UMD's behalf. Education records do not include:

1. **Sole possession records:** records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.

2. Records maintained by UMD, Police solely for law enforcement purposes and kept separately from the education records described above.

3. Records of employment which relate exclusively to the individual in that individual's capacity as an employee, and are not available for use for any other purpose.

(NOTE: If a currently enrolled student is employed as a result of his or her status as a student, records relating to that employment are education records.)

4. **Medical records:** records on a student who is eighteen years of age or older made by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional made or used only for treatment purposes and available only to persons providing treatment.

(NOTE: Treatment for the purposes of this definition does not include remedial educational activities.)

5. **Post-attendance records:** also called alumni records, are records which contain only information relating to a person's activities after that person is no longer a student at UMD, and do not relate to that person as a student.

6. Grades on peer-graded papers before they are collected and recorded by a teacher.

**E. "Eligible Student"** a student who has reached the age of 18 or is attending UMD.

**F. "Parent"** means a parent of a student, and includes a natural or adoptive parent, a guardian, or, in the absence of natural or adoptive parents, an individual acting as a parent.

**G. "Party"** means an individual, agency, institution, or organization.

**H. "Personally identifiable information"** or "PII" means data or information which includes, but is not limited to, a student's name, a name of a student's parent or family members, an address of a student or a student's family, a personal identifier, such as a social security number, University Identification Number (UID), or biometric record; other indirect identifiers, such as mother's maiden name; other information that alone, or in combination, is linked or linkable to a specific student and that would allow a reasonable person in the UMD community who does not have personal knowledge of the relevant circumstances to identify the student with reasonable certainty; or information

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requested by a person who UMD reasonably believed knows the identity of the student to whom the education record relates.

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I. "Record" means any information or data recorded in any medium (e.g. handwriting, print, tape, film, microfilm, microfiche, database, any form of electronic data storage including emails).

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J. "School Official" is a person employed by any institution within the University of System of Maryland in an administrative, supervisory, academic, research or support staff role; a member of the Board of Regents; or a person engaged, employed or under contract with UMD to perform a special task, such as an attorney, auditor or student serving on a UMD committee (e.g., University Student Judiciary, Honor Council, Standing Review Committee, scholarship & awards committees, etc.).

Deleted: "Student" means any individual who is or has been in attendance at UMCP and on whom education records are maintained.

K. "Student Recruiting Information" is information identified in the Solomon Amendment that UMD is required to provide to military recruiters upon request. Those items are: student name, addresses, telephone listings, age (or year of birth), class level, academic major, degrees received and the most recent educational institution in which the student was enrolled.

### III. RIGHT TO INSPECT AND REVIEW EDUCATION RECORDS

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A. Each student in attendance at UMD has a right to inspect and review his or her education records within 45 days after the day UMD receives a request for access. A student should submit to the registrar, dean, head of the academic department, or other appropriate official, a written request that identifies the record(s) the student wishes to inspect. The school 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 school official to whom the request was submitted, that official shall advise the student of the correct official to whom the request should be addressed.

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#### B. Procedure

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##### 1. Form of Request

Requests for access to education records must be made in writing and signed by the student.

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##### 2. Place of Request

Requests are made to:

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Office of the Registrar,  
1130 Clarence Mitchell Building  
College Park, Maryland 20742-5231

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3. Response by UMD,

UMD will comply with a request for access within a reasonable period of time, not to exceed 45 days after UMD received a request for access. Whenever possible, arrangements shall be made for the student to read the records in the presence of a staff member.

Reproduction of Records

A student may ordinarily obtain copies of education records by paying the cost of reproduction. The fee for photocopies is \$.25 per page. There is no charge for staff time to search for or collect education records. Only copies of a student's current UMD transcript will be provided. However, an official UMD transcript can be provided upon specific request of the student and subsequent payment of costs for the document.

C. Types and Locations of Education Records Maintained at UMD

(NOTE: All requests must be routed through the Office of the Registrar)

1. Admissions (e.g. applications and transcripts from institutions previously attended)

a. Undergraduate:

Director of Undergraduate Admissions  
Clarence Mitchell Building

b. Graduate:

Director of Graduate Records  
Lee Building

2. Records & Registration Services (e.g. all on-going academic and biographical records, undergraduate and graduate)

Office of the Registrar  
1130 Clarence Mitchell Building

3. Departments

Departmental Offices  
Chair or Head of the Department

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4. Deans

Dean's Office of each School/College

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5. Resident Life

Student's housing records  
Director of Resident Life

6. Advisors (e.g. with student permission: letters of evaluation, personal information sheet, test scores).

7. Office of Student Conduct (e.g. student's judicial and disciplinary records)

Director of the Office of Student Conduct  
Clarence Mitchell Building

8. Counseling Center (e.g. biographical data, summaries of conversations with students, test results)

Director of the Counseling Center  
Shoemaker Hall

(NOTE: Where records are used only for treatment purposes, they are not education records and are not subject to this policy)

9. Financial Aid (e.g. financial Aid applications, needs analysis statements, awards made)

Director of Financial Aid  
Lee Building

(NOTE: There is no student access to parents' confidential statements)

10. University Career Center (e.g. recommendations, unofficial copies of academic records)

Director of the Career Center  
Hornbake Library

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11. Office of the Bursar (e.g. student accounts receivable, records of students' financial charges and credits with UMD).

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Office of the Bursar  
Lee Building

**D. Waiver of Access to Confidential Recommendations**

1. A student may waive any or all of their rights to review confidential letters of recommendation, subject to the following conditions:

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a. The waiver must be in writing, signed by the student, regardless of age;

b. UMD shall not require such waivers as a condition to admission, or the receipt of any service or benefit;

c. If right of access is waived, a student will be notified, upon written request, of the names of all persons making confidential recommendations. Such recommendations shall be used only for the purpose for which they were specifically intended;

2. A waiver may be revoked in writing at any time; however, by revoking it, the student does not have the right to inspect and review documents collected while the waiver was in force.

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**IV. RIGHT TO REQUEST THE AMENDMENT OF EDUCATION RECORDS**

It is the policy of UMD to provide students the opportunity to request that amendments be made to their education records which are believed to be inaccurate, misleading, or which violate the right to privacy or other rights.

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**A. Request to Amend an Education Record**

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1. A request must be in writing to the Office of the Registrar.

2. A request must contain:

- a. the specific document(s) being challenged; and
- b. the basis for the challenge.

3. UMD shall decide within a reasonable of time whether to amend the document(s). The student shall be notified of the decision in writing, and if the decision is to refuse to amend, the student shall be notified of the right to a hearing.

**B. Right to a Hearing**

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1. Upon request, a student shall be provided an opportunity for a hearing to challenge the content of education records.

2. A request for a hearing must be made in writing to the Office of the Registrar.

3. Within a reasonable period of time, the student shall be given reasonable advanced notice in writing of the date, place, and time.

C. Conduct of Hearing

1. The hearing shall be conducted by a UMD official with no direct interest in the outcome.

2. The student shall have a full and fair opportunity to present evidence, and may be represented by individuals of his or her choice, including an attorney. The cost for such representation shall be the responsibility of the student.

D. Decision

1. The student shall be notified in writing within a reasonable period of time.

2. The decision is to be based solely upon evidence presented at the hearing, and must include a summary of the basis of the decision.

3. In cases where the challenged information is found to be inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, the education records shall be amended accordingly within a reasonable time.

4. In cases where the challenged information is not found to be inaccurate, misleading, or otherwise in violation of the privacy or other rights of a student, the student shall be informed in writing of the right to place in the challenged record a statement commenting on the information and explaining any reasons for disagreeing with the decision.

5. The statements described above shall be kept as part of the student's record and disclosed whenever that portion of the record is disclosed.

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V. DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION

It is the policy of UMD to limit disclosure of personally identifiable information or PII without a student's prior written consent, subject to the following limitations and exceptions:

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A. Directory Information

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1. This information may be disclosed and may appear in public documents unless a student files a written notice not to disclose any or all of the information (i.e. opts-out). Such notice must be filed with the Office of the Registrar.

2. Students will be given annual notice of the categories of information designated as directory information.

#### B. Prior Consent Not Required

Prior consent is not required for disclosure of education records in several circumstances. These circumstances include:

1. To the student.
2. To anyone, if UMD has obtained the prior written consent of the student;
3. Anyone, in response to request for directory information, unless the student has opted-out;
4. To UMD school officials determined to have a legitimate educational interest. They may access student education records within the scope of performing their job duties.

A school official has a legitimate educational interest if the official is:

- a. Performing a task that has been assigned as part of his or her duties or is specified in a position description or contract.
- b. Performing a task related to a student's education.
- c. Performing a task related to the discipline of a student.
- d. Providing a service or benefit relating to the student's family, such as health care, counseling, job placement, or financial aid.

5. To officials of another institution of post-secondary education where the student seeks or intends to enroll, or where the student is already enrolled, if the disclosure is for purposes related to the student's enrollment or transfer. A student will be provided with a copy of the records which have been transferred upon request and payment of copying fees as described above.

6. To authorized representatives of the following government entities, if the disclosure is in connection with the audit or evaluation of federal or state supported education programs, or for the enforcement of or compliance with federal legal requirements that relate to those programs: U.S. Comptroller General, the U.S. Secretary of Education, U.S. Attorney General or State and local educational authorities, such as the Maryland Higher Education Commission (MHEC), the authority that is responsible for supervising UMD's education programs.

Subject to controlling federal law, these officials will protect information received so as not to permit personal identification of students to outsiders.

7. To authorized persons and organizations, such as the Department of Veteran's Affairs or an employer, in connection with financial aid for which the student has applied or which the student has received, if the information is necessary to determine eligibility for

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. b. A member of the Board of Regents. .
. c. A person engaged, employed by or under contract with the University to perform a special task, such as an attorney, or auditor and student serving on University committee (e.g University Student Judiciary, Honor Council, SRC, scholarship & awards committees, etc.).
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the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid. 8. To State and local officials to which such information is required to be reported by effective state law adopted prior to November 19, 1974.

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9. To organizations conducting education studies for, or on behalf of, UMD for the purpose of developing, validating, or administering predictive tests, administering student programs, and improving instruction. The studies shall be conducted so as not to permit personal identification of students to outsiders, and the information is to be destroyed when no longer needed for these purposes.

10. To accrediting organizations to carry out their accrediting functions.

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11. To either parent of a student who is claimed as a dependent for income tax purposes by at least one parent.

12. To parents when their student (under age 21) is found to have violated UMD's alcohol or drug policy. 13. To appropriate parties, when UMD determines that disclosure is necessary to protect the health or safety of the student or other individuals and the information will assist in resolving the emergency.

14. In response to a court order or subpoena, including *ex parte* orders under the USA Patriot Act. Unless the issuing entity orders UMD against prior notification, UMD will make reasonable efforts to notify the student before complying with the court order or subpoena.

15. To an alleged victim of a crime of violence when the disclosure is the results of a disciplinary hearing regarding the alleged perpetrator of that crime with respect to that crime.

16. To anyone requesting the final results of a disciplinary hearing against an alleged perpetrator who has been found in violation of the UMD Code of Student Conduct relating to a crime of violence or non-forcible sex offense.

17. To the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE) for the purpose of complying with a request from ICE relative to UMD's participation in SEVIS.

18. To military recruiters who request "Student Recruiting Information" for recruiting purposes only (e.g. Solomon Amendment).

19. To the Internal Revenue Service (IRS) for purposes of complying with the Taxpayer Relief Act of 1997.

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20. When the disclosure concerns sex offenders and other individuals required to register under state or federal law, and the information was provided to the University under 42 U.S.C. 14071 and applicable federal guidelines.

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C. Prior Consent Required in All Other Cases

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1. UMD will not release personally identifiable information in education records, or allow access to those records without prior consent from the student.

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2. The consent must be in writing, signed by the student, and dated. The consent will remain in effect until rescinded by the student, or its purpose is achieved.

3. The student must specify the records to be disclosed, the identity of the recipient, and the purpose of the disclosure.

4. A copy of the record disclosed will be provided to the student upon request and payment of copy fees described above.

D. Record of Disclosures

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1. Maintenance of List: UMD shall maintain a list of each request and each disclosure of personally identifiable information with each student's education records. The list shall include:

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- a. the parties who have requested or received the information;
- b. the legitimate interest the parties had in requesting or receiving the information.

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2. Inspection of List: The list of disclosures may be inspected by:

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- a. the student;
- b. the official custodian of the record; and
- c. other UMD and governmental officials.

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3. Exceptions

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Disclosures in the following circumstances do not need to be recorded:

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- a. disclosures to the student;
- b. disclosures pursuant to written consent;
- c. disclosures to school officials including instructional or administrative officials of UMD;
- d. disclosures of directory information; and
- e. disclosures related to some judicial orders or lawfully issued subpoenas.

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VI. RIGHT TO FILE A COMPLAINT

A. Students have the right to file a complaint with the U.S. Department of Education concerning alleged failures by UMD to comply with the requirements of FERPA. The name and address of the office that administers FERPA is:

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- Family Policy Compliance Office
- U.S. Department of Education
- 400 Independence Avenue, S.W.
- Washington, D.C. 20202

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A student may waive the right of access to confidential recommendations in the following areas admission to any educational institution; job placement; receipt of honors and awards.

The waiver must be in writing, and UMCP shall not require such waivers as a condition to admission, or the receipt of any service or benefit. If right of access is waived, a student will be notified, upon written request, of the names of all persons making confidential recommendations. Such recommendations shall be used only for the purpose for which they were specifically intended. A waiver may be revoked in writing at any time, and will only apply to subsequent recommendations.

Miscellaneous records

Graduate:

Deans' Offices

Comptroller General of the United States, the Secretary of Education, the Commissioner of the Office of Education, the Director of the National Institute of Education, the Administrator of the Veterans' Administration, the Assistant Secretary of Education, and State educational authorities

## V. CORRECTION OF EDUCATION RECORDS

It is the policy of UMCP to provide students the opportunity to seek corrections to education records which are believed to be inaccurate, misleading, or which violate the right to privacy or other rights.

### A. Request to Correct an Education Record

1. A request must be in writing to the Registrar's Office.
2. A request must contain:
  - a. the specific document(s) being challenged; and
  - b. the basis for the challenge.
3. UMCP shall decide within a reasonable time whether to amend the document(s). The student shall be notified of the decision in writing, and if the decision is to refuse to amend, the student shall be notified of the right to a hearing.

#### **B. Right to a Hearing**

Upon request, a student shall be provided an opportunity for a hearing to challenge the content of education records. A request for a hearing must be made in writing to the Registrar's Office. Within a reasonable time, the student shall be notified in writing of the date, place, and time. The student shall be given reasonable advance notice of the hearing.

#### **C. Conduct of Hearing**

1. The hearing shall be conducted by a UMCP official with no direct interest in the outcome.
2. The student shall have a full and fair opportunity to present evidence, and may be represented by individuals of his or her choice, including an attorney. The cost for such representation shall be the responsibility of the student.

#### **D. Decision**

1. The student shall be notified in writing within a reasonable amount of time.
2. The decision is to be based solely upon evidence presented at the hearing, and must include a summary of the basis of the decision.

3. In cases where the challenged information is found to be inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, the education records shall be amended accordingly within a reasonable time.

4. In cases where the challenged information is not found to be inaccurate, misleading, or otherwise in violation of the privacy or other rights of a student, the student shall be informed in writing of the right to place in the challenged record a statement commenting on the information and explaining any reasons for disagreeing with the decision.

5. The statements described above shall be kept as part of the student's record and disclosed whenever that portion of the record is disclosed.