MY MOM WANTS TO SPEAK TO YOU: FERPA COMPLIANCE AND ESCALATED PARENTAL ENCOUNTERS

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INTRODUCTION & WELCOME

NINER ALERT: A Brief Case Study

Discussion of the “Modern Parent”

Review Actionable Conflict Resolution Strategies

FERPA 101 and Scenario Illustrations

Campus Resources

CONFLICT RESOLUTION CREDENTIALS

- Younger Brother of 4 older brothers
  - *Deescalation intensive work*
- Older Brother of 1 younger brother
- Professional Uncle (9 nephews and nieces)
- 4 years of service as a YMCA Summer Camp & After School Counselor
- 4 years of service advising clients at a public hospital

NINER ALERT: A BRIEF CASE STUDY

- Upset parent calling with regards to a Niner Alert.
- Insisting that they need to speak to "someone in Legal."
- Clarified that they are a lawyer.
- Explained their child works as an RA & that they (understandably) had concerns about their child's safety and security.
- Demands:
  - *a personal escort, and*
  - *to understand what security measures were being put into place to protect similarly situated students.*

(a) “Calm down”– to impart an immediate sense of comfort.

(b) “What is your problem?”– to clarify the parent’s priorities.

(c) “First of all…”– to signal you are about to make a critical point.

(d) None of the above

NINER ALERT: A BRIEF CASE STUDY

- Upset parent calling on the line
- Demands:
  - *a personal escort, and*
  - *to understand what security measures were being put into place to protect similarly situated students.*
- Knowing what NOT to say is half the battle
- Make a connection
- Find common ground
- Provide resources

THE MODERN PARENT (NOT SO DIFFERENT AFTER ALL)

- Parents want to be more involved– at times, this may come across as "overly involved."
- Higher financial investment than ever– can also become a significant stress factor. What comes across as "hovering" is actually monitoring an investment.
- "Snowplow" or "Lawnmower"– may come across as aggressive. Pushing ahead to clear all obstacles, which can lead to underdevelopment, stunted self-advocacy skills, and poor resilience qualities.
  - *This could be a stress response, or simply a complete misunderstanding*
  - *Difficulty navigating the "big shift" to Higher Education*

THE WHY BEHIND THE BEHAVIOR

- Often, this behavior stems from high financial investment, anxiety, and a misunderstanding of the college environment.
- Stress “Triggers”: What lies below the surface
- Survival Mode: the brain is exceedingly more likely to pick up on nonverbal cues.

SOFT SIGNALS

- Empathy and Understanding
  - *Never losing sight of the fact that you are delivering potentially upsetting news (e.g. unable to share information they need at this time)*
  - *Remembering to remain curious: Until you are completely sure you have fully understood the listener's issues, you should ONLY be asking questions.*
- Tone of Voice– "Low and slow" – Teresa Blolick
- Body Language
  - *Avoid appearing distracted or preoccupied*
  - *Remaining seated*
  - *Keeping hands in sight*

DEESCALATION TECHNIQUES

- Deescalation Rule #1: Do not "escalate," aka knowing what NOT to say:
  - *Anything directive or corrective is less likely to be productive with someone expressing a grievance*
- Make the connection: Don't just say "I understand." Illustrate why you came to understand.
- Time is on your side: If all else fails, offer to set a time when you can revisit the conversation and calmly communicate.
- Establishing Boundaries Without Escalating Tension: Knowing when to end the conversation or involve a supervisor/department leadership.

FERPA BASICS

- Federal law was enacted in 1974– pertains to education records
- Prevents education records from being disclosed without consent (unless an exception applies)
- Permits students to have access to their own education records
- What is an "education record" according to FERPA?
  - *Information that is **directly related** to the student (other than directory information) and*
  - ***Maintained** by the University*

EDUCATION RECORDS

- Directly Related: Personally identifiable to the student.
  - *Name*
  - *Student ID number/SSN*
  - *Any other information that would allow individuals in the university community with inside knowledge to identify the student*
- Maintained: **Virtually anything** identifiable to the student that is in position of or controlled by the university or its agents.
  - *Handwritings*
  - *Electronic data/emails*
  - *Film audiotapes, CDs, etc.*
  - *Grades, papers, etc.*

FERPA RIGHTS AND PENALTIES

- Students' rights under FERPA
  - *Right to **prevent** disclosure of education records*
  - *Right to **inspect** their education records*
  - *Right to **seek amendment** to education records*
  - *Right to **be notified** of the laws regarding education records*
  - *Right to **file a complaint** with the Department of Education*
- Failure to comply could result in suspension of federal funding (worst case)
- No private right of action for damages under FERPA

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RELEASE OF EDUCATION RECORDS (EXCEPTIONS)

- Written consent of student (FERPA Waiver)
- School officials with legitimate educational interest
- Parents if student is dependent
- Directory information (unless privacy hold)
- Judicial order/subpoena
- To another university if student transfers
- Health/safety emergency
- Certain student disciplinary records

STUDENT CONSENT (WAIVER)

- Must be **in writing** (electronically is okay)
- Must be **signed and dated** (electronically is okay)
- Must Specify:
  - *Records to be disclosed*
  - *Purpose of disclosure*
  - *Identity of person to whom the records will be disclosed*
- Note: Student's **presence and lack of objection** is not sufficient.

FERPA MYTHS: SWORD V. SHIELD

- i HaVe A FErpA wAiVeR. You have to tell me.
- I have a FERPA waiver… Do not meet with my child without me.
- I have a FERPA waiver… LEGALLY, you have to xyz
- I'm the one paying the tuition (dependent child)…. I need to be involved
- If a third party is inhibiting your ability to effectively serve the student's interest, empower yourself to discontinue or pause.

SCENARIO #1: STUDENT CONSENT

Mama Boucher arrives unannounced at the Academic Advising office demanding to speak with you immediately, after learning that her son Bobby received a failing grade in Animal Physiology.

Demonstrating remarkable self control, Mama Boucher quietly screamed at the top of her lungs that "there just ain't no way [her] Bobby got anything less than an A."[1] Mama Boucher and demands to see "every last single one" of Bobby's grades.

Next Steps?

[1]As she taught Bobby everything there is to know about 'gaetas (allegators?)

SCENARIO #1: STUDENT CONSENT

When presented with the University's standard FERPA form, Mama Boucher clarifies that she "ain't signing no contract" and politely informs you that you and the school you work for are (collectively) the devil.

Mama Boucher calmly erupted into a fit of hysterics "I PAID FOR THE CLOTHES ON THAT BOY'S BACK! IF I WANT TO SEE HIS SCHOOLIN' RECORDS, THAT'S JUST WHAT IM GONE DO!! HE AIN'T GOT NO PROBLEM WITH IT, AIN'T THAT RIGHT BOBBY?"

Bobby: "Ye–yy–Yes mama."

Do you need a FERPA waiver from Mama Boucher if Bobby (eligible student) is present and (verbally) consents?

SCENARIO #1: STUDENT CONSENT

Congratulations! Thanks, in large part, to Mama Boucher's infectiously calm demeanor, you have collaboratively identified Bobby's struggles. Mama Boucher turns her attention to identifying how the school may be failing her son (because no good deed goes unpunished).

Remembering the young lady Bobby mentioned last week, Mama Boucher wants to make sure Bobby isn't "running around with any little girls." Mama Boucher demands that you confirm whether a student by the name of Vicki Vallencourt[2] is is currently enrolled at the university– and whether Vicki has been "sniffing around [her] Bobby."

[2] also, somehow, the Devil

DEESCALATION, IN GENERAL

1 → 2 → 3 → 4 → 5

STOP!!

Identify the Issue

"Active Listening"

Express Empathy

"Acknowledge Feelings"

Find Common Ground

"Negotiate"

Work Towards a Solution

"Resolve"

STUDENTS AS DEPENDENTS

- FERPA provides that a school **may** share (with a parent or legal guardian) education records of a "dependent student" **without the consent of the student.**
  - *"May" is a key word, here*
  - *"Dependent student" as defined in Section 152 of the Internal Revenue Code*
- University **must** verify the student's dependent status.
  - *May ask student to confirm, or*
  - *Ask parents for a copy of the relevant portion of their most recent tax return*

SCENARIO 2: DEPENDENTS

Mr. Perry approaches you as you are headed to lunch and tells you that a colleague just informed him that his son Neil was selected to star in the school play. “That’s great! You must be very proud” was not the correct response.

Mr. Perry, a law partner at an international law firm specializing in Higher Education, informs you that Neil is a “dependent student” and demands to know what extracurricular activities Neil is currently engaged in.

In a clear attempt to deescalate the pandemonium you’ve incited, Mr. Perry threatens that if you do not immediately act on his request, he will march directly to University Advancement and withdraw his $1.8 Million endowed scholarship from the institution.

How should you respond?

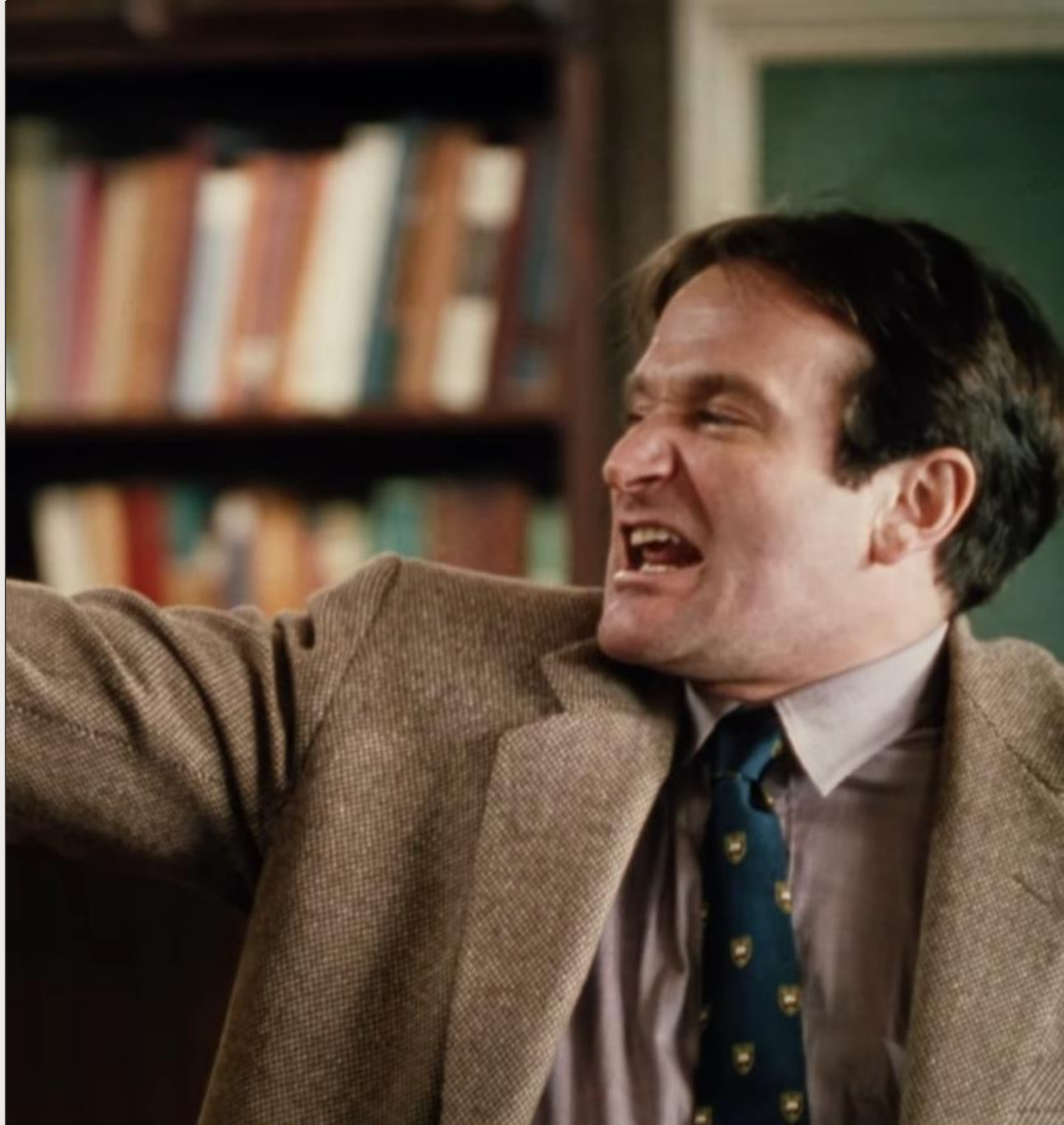
SCENARIO 2: DEPENDENTS

(a) Clarify that the Thomas Perry Endowed Scholarship does not pay your salary.

(b) Inform Mr. Perry that the university "*may*" does not mean you are required to share *if* Mr. Perry can verify Neil's dependent status.

(c) Immediately contact your supervisor– it's above you now.

(d) Employ conflict resolution and deescalation skills.



SCHOOL OFFICIALS

- School officials with a **legitimate educational interest**
- Questions to consider:
  - *Are they a **properly qualified** school official?*
  - *Have they **clearly articulated the interest**?*
  - *Do they **need** the information to **perform their duties**?*
  - *Is the interest **educationally related**?*
  - *Is the interest **narrow in scope**?*
  - *Have they **been informed** as to the **restrictions/dissemination** to others?*

SCENARIO 3: SCHOOL OFFICIALS

Coach Bolton (Head Basketball Coach) looks around at practice and doesn't see his star player in practice before the conference championship game. Wonders if he is being distracted, when a teammate indicates Troy (son of Coach Bolton) is currently engaged, practicing for the University Musical.

Coach Bolton comes into your office and indicates that he needs to make sure his son's "head is in the game." Coach Bolton requests access to information about Troy's extracurricular activities complete with a schedule of times and locations for practices.

Has Coach Bolton indicated a legitimate educational interest?

SCENARIO 3: SCHOOL OFFICIALS

Devin is the best snare drummer in the country. Dr. Lee (Band Director) offered Devin a full scholarship to play for the university band.

Much to Dr. Lee's surprise, someone notifies Dr. Lee that Devin does not know how to read music. Devin is relegated to remedial courses to learn how to read music, and suspended from participation.

During the suspension, Dr. Lee calls the advising office to find out how he can monitor Devin's progress for the duration of Devin's program suspension.

What are some questions you might ask in order to clarify whether Dr. Lee has a legitimate educational interest?

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WHAT IS NOT AN EDUCATION RECORD

- Campus police records
- Employment records (unless dependent on status as a student)
- Non-circulating faculty or staff records made for personal use
- Peer-graded assignments BEFORE collected by instructor
- Treatment records (medical/counseling)
- Certain alumni records
- Information about a student learned through personal observation and not otherwise recorded

Dean Big Brother Almighty was arrested last semester for an alleged hazing incident that occurred on campus. Dean Big Brother Almighty's attorney reaches out requesting a copy of the arrest record, as he believes it will prove his client's is completely innocent of all charges.

How would you navigate?

CAMPUS RESOURCES & CONCLUSION

- Guest Access Portal
- Student Consent for Access to Education Records
- Consent for Letters of Recommendation/Evaluation
- Verification Letter
- OLA Website on FERPA Consent and Release Forms
- University Policy 402, Student Records

QUESTIONS?

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