

The Impact of FERPA/HIPAA Regulations on Addressing Trainees with Problems of Professional Competence

Background

Came from a response to the 6/2006 “Assembly Needs Assessment”

2002 National Competencies Conference: all workgroups addressed issues of problematic trainees

Multi-system interactions – need to be in place for faculty to be aware of student problems and progress and how it fits with the bigger picture

Areas where student issues are addressed

CoA Domain E

APA Code of Ethics (1.04, 1.05: ethical obligation to address student issues)

APA Code of Ethics (7.04: new standard, states that you can require students to disclose personal information if it is necessary to evaluate/help them with personal concerns)

APA Code of Ethics (7.05: Mandated therapy)

AAPI Section 6

HIPAA

Federal law governing portability of insurance

Covers Protected Health Information

Most functions of educational institutions are NOT covered under HIPAA

Excludes FERPA records

State regulations may be more or less stringent

FERPA

Protects student records/file

Covers almost all student records

Medical treatment records are excluded from both unless accessed by outside sources

Exceptions to FERPA

OK to disclose to:

Other school officials without consent

Another school where they are enrolled

Parents of a dependent student

Accrediting organizations

Appropriate persons in emergency situations

Obtaining a consent/waiver is the easiest way to disclose FERPA records

Can't make students waive privacy rights (but can ask them to)

Remediation Ideas for Impaired Students

Increase or change supervision

Decrease workload

Recommend therapy/leave of absence/additional coursework

Formal Actions

Probation: should do in writing, identify concerns, include length of probation

Termination from program: make sure you give due process, consult with legal counsel

Recommend a career change

Examples

Scenario #1: A good student is argumentative and this concerns other students. Can you share this with their internship site?

A: Yes, you can share interpersonal concerns. Maybe do this after the student is accepted to the site but before they begin.

Scenario #2: You are concerned about a student suing for libel if you tell the internship site they are aggressive and not open to feedback.

A: Concentrate on describing the behavior and not making judgment.

Scenario #3: You are concerned about a student with depressive symptoms. Can you tell their parents?

A: You can if they are dependents or if it is a health and safety issue. You should communicate this to the student as well.

Q&A

Q: Is it covered under FERPA if I send a letter to another faculty member about a student?

A: Yes, unless it's just a note you immediately discard.

Q: If an applicant dropped out of another college and didn't say why, can I contact their former training director and ask?

A: Yes, you can talk to the school and share records under FERPA.

Q: If we get evaluations and feedback about students from their peers, are there FERPA rules that apply?

A: No, but there could be other legal problems like suing for defamation.