

# Legality of posting student grades essay sample

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### The Buckley Amendment: An Overview

The Family Educational Rights and Privacy Act (FERPA), also known as the Buckley Amendment, define the terms of its relationships with students and parents. This act makes sure that most interaction between a students and the College is considered secret, and that such information about students experience can be shared with the parents of individual students only under very particular situations as defined by federal law. All rights granted to students under this law take effect at the time of enrollment in a post-secondary educational program regardless of the age of the students.

This Act was passed to identify the lack of protection and policy guiding the sharing of educational documents; Senator Buckley of New York introduced and passed FERPA legislation as an attachment to a separate bill in the US Senate (Groves, 2001). The main points of FERPA restrict federal funds from state and local education agencies that do not provide channels for parents and students of the age of majority to check educational records maintained and kept on file. Parents are given the right “ for a inquiry to challenge the content of their child’s school records, to insure that the records are not erroneous, ambiguous, or otherwise in infringement of the confidentiality or other rights of students, and to provide and opportunity for the correction or deletion” of information they question (20 USC 1232g).

Moreover, FERPA requires that parents’ written permission be obtained before their child’s personal information be shared with third parties; written approval is not required to share information with the following: other school personnel, including teachers, who have a lawful interest in the child’s

education; officials at other schools the child enrolls in; the Comptroller General of the US, or an administrative head of an education agency or state educational authority; and financial aid application material. If a parent issues a request to examine a child's file, the school must reply within forty-five days. Schools that receive federal funds must have a recognized modus operandi to grant such requests, or they must inform the US Department of Education (FERPA 20, USC 1232).

Information that is not selected as an "educational record" includes material that is "in the sole possession" of supervisors, administrators, and instructors (Doyle, 2002). Documents created by law enforcement personnel and physician records are also not considered educational documents, and newly, directory information such as student's name, address, telephone, activities, major, and the like. If an institution makes directory information public "it is required to give notice to a student before doing so" (as in Doyle, 20 USC 2132g. (1)(5)(B)).

The impact of FERPA has important consequences. First, the amendment has encouraged educators to "reflect upon their records and document policies and help them remove the piecemeal approach of state and local laws" (Groves, 2001). At this point, mentioning state and local laws brings understanding to the precedence the federal amendment; in addition, courts have processed conflict mainly in cases involving educational records where local rules are less strict. Secondly, the condition that parental permission and student rights must be taken in hand with the sharing and viewing of

educational records has had a great impact on the way educational institutions do business.

### Legality of Posting Student Grades

In the 2002 Supreme Court decision in *Falvo v. the Owasso Independent School District*, the possible intersection of peer grading and FERPA was considered. Justice Kennedy ruled that classroom work-including assessments are not considered educational record (Friedman, 2002). The class work as records under FERPA would “impose substantial burden on teachers across the country” (Falvo 233 F3d. 1203). The principal distinction in the case focused on the opinion that a student’s test grade, evaluated by a peer and shared in front of the entire class, is not “maintained” until the teacher records it.

The practice of peer-grading has risen to public attention quite noticeably as a consequence of legal actions begun by a concerned mother. Kristja Falvo at first protested to school counselors about the practice of classmates grading her own children’s work and calling out these grades to the teacher. When Falvo asserted that this practice severely humiliated her children, she was told that her children could always choose having their grades privately reported to the teacher (*Falvo v. Owasso Independent School District*, 2000; Ragsdale, 2001). The school system felt this policy satisfactory and declined to direct teachers from having students exchange papers to correct them.

Ms. Falvo being unhappy pursued up this matter. On October 6, 1998, she brought a lawsuit against the school district and three administrators in <https://assignbuster.com/legality-of-posting-student-grades-essay-sample/>

Federal District Court. The court decided in support of the school system and let the practice of peer-grading stand, finding no breach of federal laws. Ms. Falvo then proceeded this matter to the Federal Appeals Court-10th Circuit on July 1, 2000, hoping to reverse the Federal District Court decision.

The appeals court found the school system in infringement of the Family Educational Rights and Privacy Act (FERPA), which makes illegal schools from maintaining “ a policy of permitting the release of educational records of students without written consent of their parents” to anyone other than statutorily designated authorities or individuals (Falvo, 2000, p. 7). The penalty for violation of FERPA is the loss of federal funding to the offending institution. This federal ruling had the effect of prohibiting peer-grading in six states: Oklahoma, Kansas, Colorado, New Mexico, Utah, and Wyoming (Romano, 2001).

It may look as if that the primary legal issue involved in this matter is that of disclosing embarrassing low grades in the classroom and that peer-grading might be fine if these grades were just reported privately. Nevertheless, the case is in fact about the legality of peer-grading itself, as the U. S. Appeals Court states: “ the prior act of one student grading another’s paper itself constitutes a disclosure” (Falvo, 2000, p. 10). The Court of Appeals’s view is that even if only one other student knows a student’s grade, the law has been breached.

The Court of Appeals decision was itself appealed before the U. S. Supreme Court, which heard arguments on November 27, 2001. The appeal to the high court requests clarification on what are “ educational records” under

FERPA (Leslie, 2001). On February 19, 2002, the Supreme Court decided unanimously that peer grading does not violate FERPA.

During the Supreme Court arguments, Justice Stephen Breyer expressed concern that applying FERPA to peer-grading would suppress teachers' classroom practices (Walsh, 2001). In writing the Opinion of the Court released on February 19, 2002, Justice Kennedy agreed, first spelling out that the grades that students give each other do not signify educational records that must be kept private (Owasso Independent School District No. I-011 v. Falvo, 2002).

Making peer-grading unlawful would produce a “drastic alteration” in the federal role in the conventionally local running of schools stating that “federal power would exercise minute control over specific teaching methods and instructional dynamics in classrooms throughout the country” (p. 9). The decision asserted that application of FERPA would restrict teachers' freedom to pursue many commonly accepted activities that make distinctions between students, such as awarding “gold stars” and “smiley faces” on papers as a public disclosure of merit. Perspectives have expanded on this to include topics ranging from the posting of commendable work to the ubiquitous practice of recognizing honor roll students and valedictorians (Lehrer, 2001; Pearl, 2001).

In his decision Justice Kennedy (Owasso Independent School District No. I-011 v. Falvo, 2002) described the benefits of peer grading, echoing those outlined in the research literature:

- Logistical—A teacher employing student-grading can spend more time “teaching and in preparation.”
- Pedagogical—“It is a way to teach material again in a new context.... By explaining the answer to the class as students correct their papers, the teacher not only reinforces the lesson but also discovers whether the students have understood the material and are ready to move on.”
- Metacognitive—“Correcting a classmate’s work can be as much as a part of the assignment as taking the test itself.
- Affective—“It helps show students how to assist and respect fellow pupils.”(pp. 7-8)

Falvo and critics of peer grading maintain that students should have a prospect of privacy and that forced, public sharing of test scores does, in fact, go against FERPA. Calling peer grading a “harmful practice,” those supporting Falvo refer to the fear that there exists “unnecessary risks with the welfare of children” in an environment where students share their performance freely and might in fact be embarrassed (Friedman, 2002). However, the NEA, AFT, and the National School Boards Association support the Owasso Public Schools stance and laud the Court for its judgment.

Despite the fact that this verdict continues to protect classroom materials, assessment, and discussion of student progress within the classroom convincingly safe grounds, the possibility that civil law suits could stem off of FERPA-type concerns is an issue raised by Elaine Cassel, an attorney in Virginia who teaches law and psychology online. Even though FERPA legislates that schools risk losing federal funds, she assess that the direction

in which the recent cases, like Falvo v. Owasso, is one that “ gives rise to individual civil rights claims” (Cassel, 2001).

### Teachers Aiding the Buckley Amendment

Students-grading is best thought of not as a separate educational procedure, however as a part of the system of learning and assessment performed in a teacher’s classroom. It involves sharing with students some of the power conventionally held by the teacher, the power to grade. Such power should not be employed irresponsibly or un-checked. Teachers should train their students the skills required in correct grading and should check students for accuracy in self- or peer-grading. When used correctly student-grading can be greatly accurate and consistent, saving teachers’ time. Teachers should check the accuracy of student grades and not only assume that grades are awarded fairly by all students (Boud, 1989).

There are valid reasons for inquiring the value of student-grading, particularly as statistically precise research in this area appears uncommon. If applied badly, the grades can be erratic and students may not learn anything valuable from the process.

The U. S. Supreme Court supports the use of student-grading on legal grounds and, in contrast to the lower courts, expressed concern with the impact of such teaching methods on promoting students understanding. Self-grading will better maintain confidentiality of student grades, should that be a matter of classroom teachers, school administrators, and parents. With peer-grading, at least one other student is aware of a peer’s grade if



names are left on the paper. Blind grading protects privacy fully for those teachers who use peer-grading.

The U. S. Supreme Court decided not to interfere in the choice of teaching and assessment methods of the nation's teachers. Many students share their grades freely with others, whether or not teachers keenly try to protect their confidentiality. Privacy can be protected and a teacher can benefit from having students help save them time and perhaps learn something in the process.

### References

Boud, D. (1989), The role of self-assessment in student grading. *Assessment and Evaluation in Higher Education*, 14, 20-30.

Cassel, Elaine. (2001), How the Supreme Court's recent case on whether students can legally grade each other and announce the results may impact online learning. FindLaw's Writ: Legal Commentary.

Doyle, S. (2002), FERPA: What exactly is an educational record? Balancing rights: Education law in a brave new world. Education Law Association Annual Conference. EA 032 378.

Falvo v. Owasso Independent School District (2000), Court of Appeals, 10th. U. S. Circuit.

Family Educational Rights and Privacy Act of 1974, 20 USC 1232g.

Friedman, S. (2002), Andy's right to privacy in grading and the Falvo versus Owasso Public Schools Case. *Clearing House*. 76(2) 62-66.

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Groves, S. and D. Groves. (2001), Professional discretion and personal liability of teachers in relation to grades and records. *Education*. 101(4): 335-340.

Lehrer, J. (2001), *Courting student rights*. McNeil-Lehrer Productions. Public Broadcasting System.

Leslie, G. P. (2001), Amicus Brief to the U. S. Supreme Court, No. 00-1073, *Owasso Independent School District v. Kristja J. Falvo*.

Pearl, N. (2001), *Making the grade public*. On the Docket. Medill News Service, Northwestern University, Medill School of Journalism.

Ragsdale, S. (2001), *Ask the kids how peer grading feels*. Des Moines Register.

Romano, L. (2001), *Supreme Court to test Okla. schools' policy of pupils grading peers*. *Washington Post*, p. A03.

Walsh, M. (2001), *Grading case takes high court back to school*. *Education Week*, 21(14), 28, 31.