

Federal judge bars access to student disciplinary records

by Christine Tatum
TMS Campus
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WASHINGTON (TMS) — Universities would violate federal privacy laws if they revealed students' disciplinary records or details of campus judicial proceedings, a federal judge ruled this week.

The decision on Monday, March 20, has further stymied efforts by *The Chronicle of Higher Education* to access student disciplinary records from two Ohio universities. U.S. District Judge George C. Smith found that campus judicial files and proceedings are "education records" protected under the federal Family Educational Rights and Privacy Act, commonly known as FERPA. The law prohibits institutions of higher education from dis-

closing records including "personally identifiable information" that a student or his or her parents have not authorized the school to release.

The ruling has angered campus-crime experts and journalism groups across the nation, who say that colleges have used campus judiciary panels to conduct closed hearings that, in effect, hide illegal and embarrassing information that would be made public if reported to police.

"What the judge is saying is that you get special protection by committing a crime on campus, and that is patently offensive," said Kyle Niederpruem, president of the Society of Professional Journalists. "What's also horrible is that the victims of many campus crimes will never have their claims see the light of day.

"Everyone has the right to know about crime on campus," Niederpruem added. "Parents and students need the information to make informed decisions."

The Chronicle case stemmed from a 1997 Ohio Supreme Court ruling that disciplinary records were not "education records" and were, therefore, subject to public inspection. The court ordered Miami University to release complete records — including students' names — to a campus newspaper that had sued to see them under the state's public-records law.

Bolstered by that decision, the Washington-based *Chronicle* requested student disciplinary records of both Miami and Ohio State universities. Both institutions were complying with the request when the department stepped in and filed

suit against them for violating FERPA. Because the universities didn't challenge the department's lawsuit, *The Chronicle* intervened as a third party.

Smith sided with the department, and cited legal precedents holding that federal statutes should apply to all issues and documents except those specifically excluded. Because FERPA provides some exemptions, but not one for disciplinary records, Smith concluded such documents are "education records." He also stated that campus judicial proceedings — and the resulting documents — were not "criminal in nature," but instead an internal way of campus codes of conduct.

"Tell that to someone who has been date-raped or sexually assaulted," Niederpruem said.

In his decision, Smith stated em-

phatically that colleges and universities must continue publishing annual statistics on the number of campus crimes, including hate crimes, murder, rape, robbery, and theft.

"The Court believes that these disclosures are adequate to inform students, prospective students, and parents about the safety of various college campuses," Smith wrote. "Releasing the personally identifiable information of the students accused or convicted of violating university regulations, as well as information about victims, would not further advance the public's interest."

Statistics aren't enough to paint an accurate picture of campus crime, said Mark Goodman, executive director of the Student Press Law Center in Virginia.

"The judge's suggestion that statistics are all students need to be informed is a joke," he said. "For starters, statistics most schools provide are inaccurate, and secondly, they're at least a year old.

"And they don't help a young woman who's walking alone across campus to know what areas she needs to stay away from," he added. "That's because statistics alone don't provide any of the detailed information that would allow her or anyone else to take precautionary measures."

A spokesman for the Education Department said the decision was "encouraging," but declined further comment until attorneys there could review the court's decision.

The Chronicle is deciding whether to appeal the case.

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