

Family Educational Rights and Privacy Act - 1994

WHEREAS, the Family Educational Rights and Privacy Act of 1974 was intended to guarantee students the right of access to their education records and to protect them from inappropriate release of those records; and

WHEREAS, the original legislative intent of the Family Educational Rights and Privacy Act of 1974, as expressed in the plain language of the legislation, was to include within the definition of education records any record maintained by an educational agency, institution, or person acting for such agency or institution which contained information directly related to the student; and

WHEREAS, the student disciplinary records should clearly be included within this definition of education records; and

WHEREAS, the Georgia Supreme Court has recently ruled in *Red & Black Publishing Company v. The Board of Regents* [427 S.E.2d 257 (Ga. 1993)] that records maintained by judicial affairs professionals in the State of Georgia are available to requesting parties under Georgia's "Open Records Act" notwithstanding the privacy protections of the Family Educational Rights and Privacy Act of 1974, and notwithstanding the federal regulatory agency's view that the specific records in issue in that case were within the federal act's coverage; and

WHEREAS, some groups, including the Student Press Law Center, are seeking to extend this decision to other states; and

WHEREAS, the recent Notices of Proposed Rulemaking concerning amendments to the Family Educational Rights and Privacy Act of 1974 contained in the Higher Education Amendments of 1992 support the interpretation that discipline records are education records; therefore be it

RESOLVED, that the Association for Student Judicial Affairs fundamentally opposes the position taken by the Georgia Supreme Court in *Red & Black Publishing Company v. The Board of Regents* and any efforts to apply this decision in other states; further be it

RESOLVED, that the Association for Student Judicial Affairs strongly supports the position taken by the Department of Education in its recent Notices of Proposed Rulemaking concerning amendments to the Family Educational Rights and Privacy Act of 1974 contained in the Higher Education Amendments of 1992 which reaffirms the original intent of the legislation.

This resolution was passed by the membership of the Association for Student Judicial Affairs at the 1994 Annual Business Meeting on Saturday, February 12, 1994.