

FERPA HEARING PROCEDURES

1. Student Right to and Request for a Hearing

- A. Right to a Hearing. In accordance with JMU Policy 2112 paragraph 6.4, a student who is or has been in attendance at JMU may request a hearing when their challenge to an education record is not satisfactorily resolved through informal discussions with the records custodian procedure. A request to challenge multiple education records can be consolidated to a single hearing. For the purpose of these procedures, the requesting student and the records custodian may be referred to collectively as “the parties.”
- B. Requesting a Hearing. The student must submit a written request for a FERPA hearing via email to registrar@jmu.edu with a copy to the records custodian and include or attach the following:
 - i. copies of the contested records or descriptions of the contested records with enough specificity that the records can be identified and located by the Registrar;
 - ii. the written request initiating the challenge that was provided to the records custodian;
 - iii. if not contained within the written request to the records custodian, a statement explaining why they consider the education record to be inaccurate, misleading, or otherwise in violation of their privacy rights; and
 - iv. the written response of the records custodian or, if there is no such written response, the student’s understanding of the record custodian’s response.
- C. Confirmation of Receipt and Status. The Associate Vice Provost and University Registrar or designee will promptly notify the student that their request for a hearing has been received and either
 - i. will be processed in accordance with this procedure; or
 - ii. is missing a required component and that their request will be considered received when it is complete.
- D. Timelines. Timelines in these procedures are provided, though with notice to the parties may be extended by JMU as needed. In all circumstances, the timelines must be reasonable, including the timeframes within which the hearing is held and written decision provided to the parties.

2. The Hearing Official(s)

- A. Designation. The provost will designate the Hearing Official(s). The Hearing Official(s) may be one individual or a panel of three Hearing Officials. The Hearing Official(s) shall have no direct interest in the outcome of the hearing.
- B. Hearing Chair. If one Hearing Official is serving that individual also performs the roles of the Hearing Chair. If a panel of three Hearing Officials is appointed, one Hearing Official shall be designated as the Hearing Chair. The Hearing Chair is the point of contact for the parties and responsible for maintaining order and procedure.

3. Scheduling the Hearing and Notice

- A. Scheduling the Hearing. Within ten (10) business days after confirming receipt the completed written request for a hearing as described in 1(C)(i) above, the Hearing Chair will schedule a hearing. The hearing will take place as soon as reasonably practicable, and scheduling will consider the JMU class and work schedules of the student, record custodian, and Hearing Official(s), and the reasonable schedule limitations of the student's support person.
- B. Hearing Length. Hearings will be scheduled for two (2) hours; however, a student who believes a longer time is needed may submit to the Hearing Chair for consideration a written request for a longer hearing specifying the need for a longer hearing and the length of time requested.
- C. Hearing Format and Location. Hearings may be in person on JMU property or virtual via a JMU videoconference system, at the discretion of the Hearing Chair.
- D. Notice of the Hearing. The Hearing Chair will notify the student and the records custodian of the date, time, and location of the hearing no later than ten (10) business days prior to the hearing.
- E. Witness Notice Provided by Parties. Parties are responsible for providing their own witnesses with notice of the date, time, and location they should appear for the hearing. Parties are responsible for ensuring their witnesses' attendance at the hearing. The Hearing Officials do not communicate hearing information to witnesses nor delay or reschedule due to witness unavailability or absence.

4. Hearing Procedure

- A. Provision of evidence prior to the hearing. The Hearing Officials will consider the student's hearing request including information in and attachments to the hearing request (see 1(B)). No later than five (5) business days prior to the hearing, each party must provide the Hearing Chair with any additional documents it would like the Hearing Official(s) to consider and with a list of witnesses, if any, and a brief

statement of information each witness is expected to provide. The Hearing Chair will promptly provide these documents and witness lists to the other party unless prohibited by law (e.g., applicable privacy laws).

- B. Support Person. The student may, at their own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney. No later than five (5) business days prior to the hearing, the student must notify the Hearing Chair of the name of their support person, if any. If the student is assisted or represented by an attorney during the hearing, the records custodian may be assisted or represented by an attorney from the Office of University Counsel during the hearing.
- C. Closed Session. The hearing will be held in closed session. The only individuals permitted in the hearing are the Hearing Official(s), the student and their support person, the records custodian, and witnesses when giving their testimony. Individuals in the hearing may not provide individuals outside of the hearing access to the hearing via livestreaming or any other method.
- D. Recording. The hearing will be audio or audio/video recorded by the Hearing Official(s). The recording will be considered part of the case file. Other individuals are prohibited from recording.
- E. Relevance and Rules of Evidence. The parties will be given a full and fair opportunity to present evidence relevant to the issue. The Hearing Chair may preclude irrelevant evidence (including witness testimony). Formal rules of evidence do not apply to a FERPA hearing.
- F. Presentation of Evidence. During the hearing each party may present relevant evidence to include information, documentation, and witness testimony. The student will be the first party to provide evidence. The records custodian will be the second party to provide evidence. Both parties, the student's support person and the Hearing Official(s) may question witnesses and the other party, though the parties and support person must first be recognized for that purpose by the Hearing Chair.

5. Hearing Official(s) Deliberations and Decision

- A. Deliberations. The Hearing Official(s) will deliberate in closed session, which is attended by only the Hearing Official(s) and is not recorded. The Hearing Official(s) will consider only and the decision will be based solely on the evidence presented at the hearing. The Hearing Officials will decide whether the contested education record was inaccurate, misleading, or otherwise in violation of their privacy rights and the appropriate next step as outlined below. If the Hearing Official(s) are a panel of three individuals, then a decision is that of the majority.
- B. Written Decision. The written decision of the Hearing Official(s) will contain the following:

- i. A decision that the contested education record was or was not inaccurate, misleading or otherwise in violation of the student's privacy rights.
 - A decision that the contested education record was inaccurate, misleading or otherwise in violation of the student's privacy rights shall instruct the records custodian to amend the record accordingly.
 - A decision that the contested education record was not inaccurate, misleading or otherwise in violation of the student's privacy rights shall also notify the student of their right to place a statement in the record commenting on the contested information in the record or stating why he or she disagrees with the decision of the agency or institution, or both.
- ii. A summary of the evidence.
- iii. The reasons for the decision.

The written decision will be issued to the parties within ten (10) business days, though the Hearing Chair may reasonably extend this timeframe if needed. The Hearing Official(s) decision is final.

6. Post-Hearing Procedure

- A. Record Amendment. If the record is amended as described above in 5(B)(i), the records custodian or their university designee shall inform the student of the amendment in writing once it is finalized.
- B. Statement Placement. If the student provides a statement for placement in their education records as described above in 5(B)(i), JMU shall maintain the statement with the contested part of the record for as long as the record is maintained and disclose the statement whenever it discloses the portion of the record to which the statement relates.
- C. Hearing Case File. The hearing case file shall include the request for a hearing; all evidence submitted for consideration at the hearing; the audio recording of the hearing; the written decision; and a copy of the student's statement as described in 5(B)(i), if any. The case file shall be maintained in the Office of the Registrar for the period and in the manner required by law.