

## **Information Disclosure and Transparency As Tools for Promoting Confidentiality in Business Education Programme**

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### **Abstract**

*Several challenges arise due to the varying roles of records in any institution. Institutional records, confidentiality and privileged communication overlap, and this may cause conflict among ethical, moral obligation and legal responsibility as prescribed by professional regulating bodies. However, students are entitled to confidential right, just as parents are also given access to information about their children. Also, Business educators may request for the disclosure of confidential information about their students. Above all, understanding confidentiality within an institution's setting is critical to good professional practice. Therefore, this paper examined information disclosure and transparency as tools for promoting confidentiality in Business Education Programme. It also discussed the relationship with the learner, parents/guardians and colleagues. The concept of educational legitimacy and interest were discussed as well as disclosure to third parties, disclosure to authorized educators and finally, exceptions to the duty of confidentiality. The paper recommended that educational institutions, preparing professionals in the field of Business Education should model good practices in their handling of confidential information concerning the students enrolled in their institutions or programmes.*

**Key words:** Business Educators, records, confidentiality, information disclosure

### **Introduction**

Business educators are responsible for fostering the emotional, esthetic, intellectual, physical, social and vocational development of students. They are responsible for the emotional and physical safety of students. Therefore, students should be treated with respect and dignity. To gain their trust, the diversity in their classrooms, schools and communities, should be respected. Business Educators act with integrity by maintaining the dignity and credibility of the profession. They understand that their individual conduct contributes to the perception of the profession as a whole. They respect confidentiality unless disclosure is required by law. Business educators would be accountable for their conduct while on duty, as well as off duty, where that conduct has an effect on the educational system. Therefore, it is of paramount importance that Business Educators strive for professional growth, seek to exercise the best professional

judgment and integrity and sustain the highest degree of ethical conduct in maintaining the respect and confidence of colleagues, students, parents, and other members of the community.

This paper therefore, was discussed under the following subheadings

- Concept of Information Disclosure and Confidentiality
- Relationship with the Learners
- Relationship with Parents/Guardians
- Relationship with Colleagues
- Educational Legitimacy and Interest
- Disclosure to Third Parties
- Disclosure to Authorized Educators
- Recognized Exceptions to the Duty of confidentiality
- Professional Conduct
- Other Relevant Laws
- Conclusion
- Recommendations

### **Concept of Information Disclosure and Confidentiality**

The term "disclosure" means to permit access to or the release, transfer or other communication of personally identifiable information contained in a student's record by any means, including but not limited to, oral, written or electronic means.

Several challenges arise due to the varying roles of records keeping in various institutions. Institution record, confidentiality and privileged communication overlap and may cause a conflict among ethical, moral obligation and legal responsibility as prescribed by Business Education Regulating Bodies. However, students are entitled to confidential rights; parents are also given access to this information. In addition, Business Educators may request disclosure of what may be considered confidential information that may centre on a dilemma situation. Therefore, understanding confidentiality within the educational setting is critical to good professional practice.

Business Educators move towards self- regulation in adhering to the ethical principle in the code of professional ethics. Confidentiality is an ethical principle to ensure the privacy of clients, whether they are students, parents, teachers or another interested party. It serves the purpose of preventing improper dissemination of information that may result in a bias and foster an unhealthy environment of distrust. Although applications of confidentiality can be confusing, a strong knowledge base of ethical standards and the law can improve and facilitate the practice of psychological services in institutions of higher learning. Confidentiality refers to the ethical obligation to conceal information obtained through a professional relationship (Jacob & Hartshorne, 2007)

It is expected that members of the teaching profession maintain trust in the profession, relate with students on mutual trust and respect, give due regard to the safety and wellbeing of students under their responsibility, respect the diversity and uniqueness of the learning community they belong to, keep good relationships with parents and guardians, act with integrity, honesty, probity and fairness, be profound on the need for

confidentiality where appropriate, take responsibility for maintaining the quality of professional practice, and advocate public trust and confidence in the teaching profession. Information disclosure and transparency in teaching and learning aims to improve higher education teaching and learning experiences. They enable faculties to gather, share and promptly benefit from current data about students' learning by coordinating their efforts across disciplines and the institution as whole and thus, bring into play confidentiality in the profession.

Murray, and Harry (1996) posited that university teachers were expected to possess content competencies pedagogical competence, the ability to deal with sensitive topics in an open, honest and respectful way; the ability to contribute to the intellectual development of the student, the ability to treat students' grades, other academic records and private communications with strict confidentiality; an assessment of students in a valid, open and fair manner congruent with the course; and respect for the institution.

Information contained in educational records is confidential but it may be reviewed by "Institution Officials" who have a legitimate educational interest in the students without the prior consent of the students. A university official has a "legitimate educational interest" if a review of students' record is necessary to fulfill the officials' professional responsibilities to the university. He may also have legitimate educational interests both in students who are currently enrolled and in those no longer enrolled. It can be added that a student or a former student however, may request any school official to release personally identifiable information from his or her records to a third party by providing written authorization, which can be rooted and handled through the office that is responsible for maintaining the record, such as the registrar's office or Student Affairs, etc.

### **Relationship with the Learners**

The key commitment of the teaching profession in Nigeria is to guide the learners, youths and adults in the pursuit of knowledge and skill and to develop healthy attitudes that enable them to become happy, useful and responsible citizens. The Teachers Registration Council of Nigeria (TRCN), in accomplishing this, stressed that the teacher in his relationship with the learner should;

- Respect learners' right.
- Have responsibility for educational programmes.
- Have empathy for learners.
- Maintain confidentiality of a learner's information.
- Seek fair remunerations
- Expose or eschew social and related abuse of office
- Vanguard against examination misconduct.
- Abhor illegal learner groups.
- Serve as a role model.

The professional relationship between staff and students should be based on mutual trust and respect, and the requisite boundaries recognized. This is particularly important where members of staffs are involved in assessment procedures which may determine the student's future. It is not acceptable for any member of staff to abuse their power through a sexual relationship (The Educational Institute of Scotland, 2004).

### **Relationship with Parents/Guardians**

A parent has the right to information, so, Business educators should furnish parents/guardians with all relevant information about activities, progress and problems of their students as and when required so as to imbibe the habit of steady communication with parents/guardians regarding the affairs of their students. More so, Business educators should respect the confidence of both parents and students who may bring personal matters to their notice. Business educators should show courtesy to and have respect for parents/guardians and offer maximum co-operation in dealing with issues concerning their students. They should resist taking gifts and favour from parents and guardians which will likely influence them to show favour to their students in the performance of their duty.

### **Relationship with Colleagues**

In relating with colleagues, (TRCN) spelled out some element of confidentiality which are that mutual relationships among teachers or educators should at all times be beneficial and aimed at uplifting the profession to the highest level and cooperating with one another to achieve professional goals. They should be honest by demonstrating integrity in all contacts, respect persons and property, be trustworthy and preserve confidence. In addition, they should not use dubious or unethical means such as deception, misinformation, etc. to put students in trouble.

### **Educational Legitimacy and Interest**

However, information about the students given in confidence to Business educators should not be disclosed except requested by law or is in the interest of the students, parents/guardians or the public. In addition, all vital information must not be disclosed to a third party except as may be provided by applicable law. All disciplinary proceedings, the identity of individuals involved in particular disciplinary matters, and all disciplinary files, testimony and findings are confidential. The mere fact that you are a university official or are involved in students' conduct does not mean you have legitimate educational powers to disclose confidential information without authorization. In order words, records should be used only in the context of official university business in conjunction with the educational success of the student. Legitimate educational interest is limited. While you need to access education records for students' in a particular task, situation or position, you do not necessarily need to see such records outside that situation or position.

### **Disclosure to Third Parties**

It is prohibited to disclose personal information to third parties in most circumstances, but several exceptions are set out in various institutions.

**Written Consent-** Release of a student's record or a disclosure to a third party must be with student's consent. The request must be in writing and contain the signature of the student who must specify the record to be released state the reason for the released and the party or class of parties who may receive the record. For example, examination papers are considered confidential student records and that is why they should not be left in a

public area, instead, distribute the examination papers in class or leave them with a departmental staff who can distribute them upon verifying the identity of each student.

Also, release of a student's course work, grades, GPA or other confidential information to inquisitive parents or any other third party can only be allowed if there is written permission from the student. Faculty members, as with any other campus staff, can have access to confidential student information only under legitimate educational interest. A student's class schedule is confidential and should not be released to a third party, including spouses and parents, without the student's written authorization.

**Directory (public) information-** Third parties have access to directory information which may be released without the student's prior consent. The following are the data elements that may be released without the student's permission: Name of student; Addresses (e-mail); Telephone numbers; Area of specialization; Date and place of birth; Dates of attendance; Last school attended; Number of course units in which enrolled; Degrees and honors received; Participation in officially recognized activities; and Name, weight and height of participants. Any other thing that is not included in the above mentioned list of "directory information" record of a student is considered confidential.

#### **Disclosure to Authorized Educators**

A disclosure may be made without prior written consent for several different classes of officials in the Education field:

- ✓ Officials who have legitimate institutional interest.
- ✓ Officials of another school where the student intends to enrol
- ✓ Federal and state education officials including the Secretary of Education, state and local education authorities.
- ✓ Financial aid information related to determining eligibility, amount of aid, conditions for the aid, and enforcing the terms and conditions

#### **Recognized Exceptions to the Duty of Confidentiality**

There are some circumstances that give rise to the disclosure of information by law. In such circumstances, the requirement of law overrides the duty of confidentiality. Some of such circumstances are:

**Subpoena or Judicial order-** A school may disclose personal information without the prior consent of a student to respond to a lawfully issued court order or subpoena. Where disclosure is compelled by law, students must conduct themselves in an orderly manner, and the conduct should comply with legally issued subpoena and or judicial orders. In case where the records need not be released immediately, the university must notify the student of the subpoena and set a date of release. If no other legal orders to the contrary are received, the office should release such records on the scheduled date. In instances where court orders require the records to be released immediately, student conduct should comply with such requirements.

**Public Interest-** Student conduct records may be released to law enforcement or other public safety officials in the event of an emergency, and or if such information included in the record poses a significant and substantial threat to the public safety of the university or other entities. A school may release records if an emergency situation occurs that threatens the health or safety of the student or other individuals.

**Institutions' Accreditation Exercise** – Information can also be provided to the National University Commission (NUC) for accreditation purpose. Federal regulations require that the disclosure is allowable on the condition that only the representatives of the organization see the original records.

**Statistical Information-** Information that is not identifiable with one person can be released or disclosed purposely for research activities; it should not be possible for anyone to associate the statistical information with a particular person.

**Protection Against legal Liability** – Student conduct or the university may release records internally and or to any hired consultants, representatives or others representing the institution in any legal matter.

### **Professional Conduct**

In order that teachers in Nigeria maintain professional standards of practice and conduct that are universally acceptable and also meet the demands of the Teachers Registration Council of Nigeria regarding the ethics and quality of professional practice, all teachers should be guided and bound by the rules contained in the Teachers Code of Conduct. Teachers would be guilty of professional misconduct if the Teachers Disciplinary Committee (TDC) which was set-up by the Teachers Registration Council of Nigeria rules that they have contravened any or all of the rules in the Teachers Code of Conduct. They should be subject to the following conditions:

- i. An allegation of misconduct must have been made against such teachers.
- ii. An investigation into such an allegation involving the persons in question must be carried out by the Teachers Investigation Panel (TIP).
- iii. A proper trial must be conducted by the Teachers Disciplinary Committee (TDC) where they should be given every opportunity to defend their actions and conduct. Penalties would be imposed in any of the ways prescribed by the Teachers Registration Council of Nigeria Act 31 of 1993. 12. (Revised 2005)

### **Other Relevant Laws**

Apart from the TRCN Act, teachers in the pursuit of their professional calling are to familiarize themselves with and abide by the provisions of other relevant laws that relate to the performance of their duties. These laws include:

- (a) The United Nations Declaration on Human Right, 1947
- (b) The Corrupt Practices and other Related Offences Act, 2000
- (c) The Child Rights Law, 2003.

### **Conclusion**

In dealing with student records, it is expedient to obtain prior consent from students before disseminating any information. Institution records, confidentiality and privileged communication overlap and may cause a conflict among ethical and moral obligation, and legal responsibility as prescribed by professional regulating bodies. Indeed, there are many aspects to confidentiality and clear guidelines as to the roles and responsibilities of the professionals involved with students. Business educators and school counsellors alike need to be informed of the existing law as well as local school policies to make them

aware of the professional implications. Business educators and counsellors may look to professional codes of ethics and the law for guidance when faced with some issues. It should be emphasized however that many dull areas still exist. Therefore, in promoting confidentiality in dealing with personal information regarding students' institutions should develop and implement codes of fair information practices for dealing with such information.

### **Recommendations**

For effective and versatile promotion of confidentiality in Business Education student records, the followings were recommended.

- Authentication of the identity of students, parent, school official and other parties to whom personally identifiable information from education record is released should be given priority.
- Educational institutions preparing professionals in the field should give significant attention to informing all those entering the field about confidential legal requirements and model good practices in their handling of confidential information concerning the students enrolled in their institutions or programmes

### **Bibliography**

- American Psychological Association. (2002). Ethical principles of psychologists and code of Conduct. *American Psychologist*, 57,1060 -1073.
- Boomer, L.,& Hartshorne, T. (1995). Confidentiality and student records: A hypothetical Case. *Preventing School Failure*,39 (2), 15.
- Educational institute of Scotland (2004) Policy implementation in inclusive education
- Fisher, C. B. (2009). *Decoding the ethics code: A practical guide for psychologists (2nd ed.)*. Thousand Oaks, CA: Sage Publications.
- Flanagan, R., Miller, J., & Jacob, S. (2005). The 2002 revision of the American Psychological Association's ethics code: Implications for school psychologists. *Psychology in the Schools*, 42(4), 433-445.
- Jacob, S. (2008). Best practices in developing ethical school psychological practice. In A. Thomas & J. Grimes (Eds.), *Best practices in school psychology V (pp. 1932-1932)*. Bethesda, MD: National Association of School Psychologists.
- Jacob, S., & Hartshorne, T. S. (2007). *Ethics and law for school psychologists (5th ed.)*. Hoboken, NJ: John Wiley & Sons\
- Murray H. et al. (1996). Ethics in Learning. National Association of School Psychologists. (2000). *Professional conduct manual*. Bethesda, MD: Author. Retrieved April 6,

Olatunji, J.O. (1996). Professionalization of teaching in Nigeria: How realistic. *Andriana forum* 9(1), 81-84.

Okeke, B.S. (2004). Teaching in Nigeria: The bureaucracy and professionalism. Enugu.

Richardson, V. (2003). The dilemna of professional development *Phi Delta Kappan*, 84(5), 401-406.

Teachers Registration Council of Nigeria (2010). Professional standards for Nigerian teachers, avolated version. Abuja, Federal Ministry of Education.

Teachers Registration Council of Nigeria (TRCN) (2005). Teachers handbook. Abuja, Federal Ministry of Education.

Teachers Registration Council of Nigeria (2013). Teachers code of conduct. Abuja, Federal Ministry of Education.