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Appeal moving forward in student privacy case
Judge says releasing records could cause “irreparable injury”

CHICAGO—The University of Illinois, having won a stay of a court order that threatened the privacy of student records, is moving forward with its appeal in the case, originally brought by the Chicago Tribune seeking the release of name and address information of certain applicants’ parents and recommenders.

In issuing a stay of her original March 9 order in *Chicago Tribune Company vs. University of Illinois Board of Trustees*, finding that the University could not withhold the records sought by the Chicago Tribune in two Illinois Freedom of Information Act (FOIA) requests on the grounds that their disclosure would violate the Family Educational Rights and Privacy Act of 1974 (FERPA), U.S. District Judge Joan B. Gottschall said, “I think the Seventh Circuit [Court of Appeals] ought to opine before all of this is made public.”

Judge Gottschall told lawyers handling the case at an April 20 hearing: “Presumably there are people who are students who are now going to be under, if this is made public, they’re going to be under a cloud, that clout got them in rather than their merits. This is ... extremely damaging to individual human beings. The irreparable injury is such that it seems to me that there ought to be a Court of Appeals ruling before this information is made public.”

University officials had requested the stay, arguing that Judge Gottschall’s order effectively put them in the position of violating FERPA, the federal law that protects the privacy of student records. In addition, it would expose the University to the risk of losing millions of dollars in federal student aid funding.

“Federal financial aid enables students from all backgrounds to attend the University. It’s absolutely vital to their college prospects and to our role as a public university,” University President Michael J. Hogan said. “We could not accept putting those funds at risk.”

The case stems from two of 15 state FOIA requests by the Chicago Tribune in 2009 seeking records that include the names, addresses and hometowns of parents of certain students attending the Urbana-Champaign campus. The Tribune has also filed a separate, state court action seeking other information, including students’ names, grade point averages (GPAs) and their scores on standardized tests such as the ACT and SAT.

The University provided nearly 5,800 pages of documents in response to the Tribune FOIA requests, and the newspaper used the information to launch a series of articles in May,

2009. The school's admissions policies were reformed in September 2009, following the resignations of the campus chancellor and the university president, and the replacement of six out of nine of the University trustees.

The University had argued that FERPA prohibits the release of the information at issue in the federal case because the law states that, "[N]o funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein . . .) of students without the written consent of their parents to any individual, agency, or organization."

Judge Gotschall's ruling in the case conflicted with other court rulings on FERPA, and if left to stand would set an adverse precedent for thousands of students and their parents, as well as hundreds of colleges and universities, said Samuel Skinner, an attorney at Greenberg Traurig, LLP, who is representing the University.

"Intrusions into student privacy, once committed, cannot be undone," Skinner argued.

The University of Illinois, like all institutions of higher education, collects and maintains a broad range of records and information regarding applicants, current and former students and their parents. The records include names, addresses, Social Security numbers, high school transcripts, college application materials and family financial information. The U of I has a total enrollment of nearly 77,000 undergraduate, graduate and professional students on campuses in Urbana-Champaign, Chicago and Springfield.

"We take seriously our obligation to honor the trust that student applicants place in us when they share the details of their personal, academic, and financial situations," said Hogan. "That's why we had to appeal Judge Gottschall's decision."

Briefs for the appeal are expected to be filed early this summer, with oral arguments likely to follow in early fall.

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The University of Illinois is a world leader in research and discovery, the largest educational institution in the state with more than 76,000 students, 24,000 faculty and staff, and campuses in Urbana-Champaign, Chicago and Springfield. The U of I awards more than 19,000 undergraduate, graduate and professional degrees annually.