



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF MANAGEMENT

Privacy, Information, and Records Management Services

June 19, 2014

Khaliah Barnes  
Director, EPIC Student Privacy Project  
1718 Connecticut Avenue, NW  
Suite 200  
Washington, DC 20009

RE: FOIA Request No. 14-01135-F

Dear Ms. Barnes:

This is the second interim response to your fax dated April 15, 2014, to the U.S. Department of Education (Department) requesting information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Your request was forwarded to the Family Policy Compliance Office ("FPCO") to search for documents that may be responsive to your request.

On May 14, 2014, the Department sent you a letter (copy enclosed) in regards to a telephone conversation [with Gregory A. Smith, Director of the FOIA Service Center, and Regina Miles, FOIA Coordinator within FPCO] on Friday, May 9, 2014, asking you to narrow the scope of the request, but you advised the Department that you would like the scope of the request to remain as it is written.

Enclosed is a CD containing 320 pages of documents responsive to your request, which were processed in FPCO.

However, certain information has been withheld according to the FOIA exemption specified below:

- Personal Information is withheld under (b)(6) of the FOIA, 5 U.S.C. § 552(b)(6) and Departmental Regulation 34 CFR § 5.71(a). Disclosure of this information would constitute a clearly unwarranted invasion of personal privacy.

You have the right to appeal this initial decision by writing to the address below 35 days from the date of this letter. Your appeal should be accompanied by a copy of your initial letter of request and this denial letter, and should contain any evidence or argument you wish the Department to consider in making an administrative determination on your appeal.

Appeal Address:

U.S. Department of Education  
Office of Management  
400 Maryland Avenue, SW, LBJ-2W311  
ATTN: Appeals Office  
Washington, DC 20202-4500

Or, you may complete the online FOIA appeal form, located at:  
[http://www.ed.gov/policy/gen/leg/foia/foia\\_appeal\\_form\\_1.html](http://www.ed.gov/policy/gen/leg/foia/foia_appeal_form_1.html).

At this time, the Department is continuing to process your request and your FOIA request case file remains open. It will not close until the Department provides you with a response regarding outstanding responsive documents from FPCO.

If you have any questions, please contact the FOIA Service Center at (202) 401-8365 or [EDFOIAManager@ed.gov](mailto:EDFOIAManager@ed.gov).

Sincerely,



Maria-Teresa Cueva  
FOIA Public Liaison, OM/PIRMS

Enclosures



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF PLANNING, EVALUATION AND POLICY DEVELOPMENT

DEC 6 2010

(b)(6)

Dear (b)(6)

This is to respond to your September 2, 2010, complaint form to the Family Policy Compliance Office (FPCO) in which you express concerns that the Hypnosis Motivation Institute (Institute) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. § 1232; 34 CFR § 99. FPCO administers FERPA, which affords parents and eligible students certain rights pertaining to education records.

FERPA provides that an educational agency or institution that receives U.S. Department of Education funds may not have a policy or practice of denying parents or eligible students the right to:

- Inspect and review education records (34 CFR § 99.10);
- Seek to amend education records (34 CFR §§ 99.20, 99.21, and 99.22); or
- Consent to the disclosure of personally identifiable information from education records except as specified by law (34 CFR §§ 99.30 and 99.31).

The term "education records" is defined as those records that are directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed for your information is a FERPA guidance document. You may also find more information regarding FERPA on our website at:  
<http://www2.ed.gov/policy/gen-guid/fpc/index.html>.

You assert that the above educational agency or institution did not comply with one of the following provisions of FERPA:

- ☐ **FERPA's access provision.** The school did not provide you access to your child's or your education records within 45 days of your request.
- ☒ **FERPA's disclosure provision.** The school improperly disclosed information from your child's or your education records.

- \_\_\_\_\_ **FERPA's amendment provision.** The school has refused to amend your child's or your education records per your request and not provided you with an opportunity for a hearing on the disputed education records.

Based on the information you provided FPCO, we are unable to investigate your allegation(s) for the following reason(s):

- \_\_\_\_\_ Your complaint is untimely. A complaint must be received by FPCO within 180 days of the date of the alleged violation or of the date which the complainant knew or reasonably should have known of the alleged violation. (See highlighted portion of the enclosed guidance.)
- X   FERPA permits educational agencies and institutions to disclose education records to school officials with legitimate educational interest and other specified parties without consent. (See highlighted portion of the enclosed guidance.)
- \_\_\_\_\_ Requests to modify a grade, opinions in education records, and other substantive decisions are not subject to FERPA's amendment provision. (See highlighted portion of the enclosed guidance.)

Furthermore, you have not provided sufficient information for this office to investigate your allegation based on your belief that your instructor improperly disclosed your personal information that was contained in your education records. Should you wish to pursue your allegation, please provide this office with information (i.e. a signed written statement from a third party who can verify that information contained in your education records was improperly disclosed) to support your allegation. Once this office receives this necessary information, we will take any appropriate action.

Please forward any future correspondence regarding your allegation through U. S. mail to:

Family Policy Compliance Office  
U. S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-8520

Sincerely

(b)(6)

Bernard Cieplak  
Program Analyst  
Family Policy Compliance Office

Enclosure



DEC 6 2010

(b)(6)

Dear

(b)(6)

This letter is in response to your October 10 and 14, 2010, correspondence you sent to the Family Policy Compliance Office (FPCO) in which you state that your rights under the Family Educational Rights and Privacy Act (FERPA) were violated when the educational agency or institution that your child or you attend failed to provide you copies of your education records. FPCO administers FERPA, which affords parents and eligible student certain rights with regard to education records.

FERPA is a Federal law that gives parents and eligible students the right to have access to their child's or their education records, the right to seek to have the records amended, and the right to consent to the disclosure of information from the records, except where permitted by law. The term "education records" means those records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution.

Under FERPA, a school is required to provide a parent or eligible student an opportunity to inspect and review the student's education records within 45 days of a request; however, a school is only required to provide copies of education records, or make other arrangements, if a failure to do so would effectively prevent the parent or eligible student from obtaining access to the records. A case in point would be a situation in which the parent or eligible student does not live within commuting distance of the school.

Our review of the information that you provided does not indicate that the school has denied you an opportunity to inspect and review your child's or your education records but, rather, has provided you with copies of those records, although it is was not required by FERPA to do so.

Enclosed for your reference is a fact sheet on FERPA. You may also find more information regarding FERPA on our website at: <http://www2.ed.gov/policy/gen/guid/fpcop/>.

Sincerely,

Bernard Cieplak  
Program Analyst  
Family Policy Compliance Office

Enclosure



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF PLANNING, EVALUATION AND POLICY DEVELOPMENT

DEC 6 2010

(b)(6)

Dear

(b)(6)

This is to respond to your October 10, 2010, complaint form sent to the U.S. Department of Education, Family Policy Compliance Office (FPCO) in which you express concerns that the Washoe County School District violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. § 1232; 34 CFR § 99. FPCO administers FERPA, which affords parents and eligible students certain rights pertaining to education records.

FERPA provides that an educational agency or institution that receives U.S. Department of Education funds may not have a policy or practice of denying parents or eligible students the right to:

- Inspect and review education records (34 CFR § 99.10);
- Seek to amend education records (34 CFR §§ 99.20, 99.21, and 99.22); or
- Consent to the disclosure of personally identifiable information from education records except as specified by law (34 CFR §§ 99.30 and 99.31).

The term "education records" is defined as those records that are directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed for your information is a FERPA guidance document. You may also find more information regarding FERPA on our website at:  
<http://www2.ed.gov/policy/gen/guid/fpc/index.html>.

You assert that the above educational agency or institution did not comply with one of the following provisions of FERPA:

- ☒ **FERPA's access provision.** The school did not provide you access to your child's or your education records within 45 days of your request.
- ☐ **FERPA's disclosure provision.** The school improperly disclosed information from your child's or your education records.
- ☒ **FERPA's amendment provision.** The school has refused to amend your child's or your education records per your request and not provided you with an opportunity for a hearing on the disputed education records

Based on the information you provided FPCO, we are unable to investigate your allegation(s) for the following reason(s):

- \_\_\_\_\_ Your complaint is untimely. A complaint must be received by FPCO within 180 days of the date of the alleged violation or of the date which the complainant knew or reasonably should have known of the alleged violation. (See highlighted portion of the enclosed guidance.)
- \_\_\_\_\_ While FERPA requires that a parent or eligible student be provided an opportunity to inspect and review education records, the law would only require that a school provide a copy of the records or make other arrangements for inspection of the records if certain circumstances exist. (See highlighted portion of the enclosed guidance.)
- \_\_\_\_\_ FERPA permits educational agencies and institutions to disclose education records to school officials with legitimate educational interest and other specified parties without consent. (See highlighted portion of the enclosed guidance.)
- \_\_\_X\_\_\_ Requests to modify a grade, opinions in education records, and other substantive decisions are not subject to FERPA's amendment provision. (See highlighted portion of the enclosed guidance.)

Furthermore, you have not provided sufficient information for this office to investigate your allegation that you were denied access to your child's records. In order to obtain access to your child's education records, we suggest that you write to your child's school and specify those of your child's education records to which you are seeking to inspect and review. If your son's school fails to comply with your request within 45 days after it receives your request or otherwise denies your access, you may write to this office again. This office's mailing address and telephone number is:

Family Policy Compliance Office  
U. S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-8520  
Telephone: (202) 260-3887

Sincerely,

(b)(6)

Bernard Cieplak  
Program Analyst  
Family Policy Compliance Office

Enclosure





UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF PLANNING, EVALUATION AND POLICY DEVELOPMENT

DEC 8 2010

(b)(6)

Dear

(b)(6)

This is in response to your November 19, 2010, letter to Secretary Arne Duncan requesting assistance in receiving your son Stefano's (Student) medical records from Rumsey Hall School (School) or the School pediatrician, Dr. John Ewing. You state that the Student attended the School, a private boarding school, beginning in 2006. You have made several requests to the School and to Dr. Ewing for the Student's records, but the School has not provided you the requested records. You have also requested that the State of Connecticut Department of Public Health assist you in obtaining the medical records, but that agency informed you it could not help you because Connecticut law does not entitle you to access the records. Your letter was forwarded to this Office for response because we administer the Family Educational Rights and Privacy Act (FERPA). FERPA is a Federal law that addresses issues related to student education records.

FERPA affords parents the right to have access to their children's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of information from their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students."

FERPA applies to educational agencies and institutions that receive Federal funds from programs administered by the U.S. Department of Education (Department). Because private and parochial schools at the elementary and secondary levels do not generally receive funds from the Department, FERPA does not apply to these schools. Private or independent schools that do **not** receive Federal funds from programs administered by the U.S. Department of Education and, thus, are not subject to FERPA may set their own policies regarding student records (pursuant to any State regulations/laws).

Page 2 (b)(6)

Based on the information you provided, it appears that the School is not subject to FERPA since it is a private school serving students in grades K-9. As explained above, we are unable to assist you with concerns relating to education records at a school to which FERPA does not apply. I regret we cannot be of assistance to you in this matter.

I trust this is helpful in explaining the scope and limitations of FERPA. A guidance document about FERPA is enclosed.

Sincerely,

(b)(6)

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosure





UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF PLANNING, EVALUATION AND POLICY DEVELOPMENT

DEC 9 2010

(b)(6)

Dear

(b)(6)

This is to respond to your April 19, 2010, letter sent to the U.S. Department of Education, Family Policy Compliance Office (FPCO) in which you express concerns that the Longmeadow Public Schools violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. § 1232; 34 CFR § 99. FPCO administers FERPA, which affords parents and eligible students certain rights pertaining to education records.

FERPA provides that an educational agency or institution that receives U.S. Department of Education funds may not have a policy or practice of denying parents or eligible students the right to:

- Inspect and review education records (34 CFR § 99.10);
- Seek to amend education records (34 CFR §§ 99.20, 99.21, and 99.22); or
- Consent to the disclosure of personally identifiable information from education records except as specified by law (34 CFR §§ 99.30 and 99.31).

The term "education records" is defined as those records that are directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed for your information is a FERPA guidance document. You may also find more information regarding FERPA on our website at:

<http://www2.ed.gov/policy/gen/guid/fpc/index.html>.

You assert that the above educational agency or institution did not comply with one of the following provisions of FERPA:

- \_\_\_\_\_ **FERPA's access provision.** The school did not provide you access to your child's or your education records within 45 days of your request.
- \_\_\_X\_\_\_ **FERPA's disclosure provision.** The school improperly disclosed information from your child's or your education records.
- \_\_\_\_\_ **FERPA's amendment provision.** The school has refused to amend your child's or your education records per your request and not provided you with an opportunity for a hearing on the disputed education records

Based on the information you provided FPCO, we are unable to investigate your allegation(s) for the following reason(s):

- ☐ Your complaint is untimely. A complaint must be received by FPCO within 180 days of the date of the alleged violation or of the date which the complainant knew or reasonably should have known of the alleged violation. (See highlighted portion of the enclosed guidance.)
- ☐ While FERPA requires that a parent or eligible student be provided an opportunity to inspect and review education records, the law would only require that a school provide a copy of the records or make other arrangements for inspection of the records if certain circumstances exist. (See highlighted portion of the enclosed guidance.)
- ☒ FERPA permits educational agencies and institutions to disclose education records to school officials with legitimate educational interest and other specified parties without consent. (See highlighted portion of the enclosed guidance.)
- ☐ Requests to modify a grade, opinions in education records, and other substantive decisions are not subject to FERPA's amendment provision. (See highlighted portion of the enclosed guidance.)

For further information regarding issues which you believe may be addressed by the U. S. Department of Education, you may contact the Department via our toll-free telephone number at 1-800-USA-LEARN (800-872-5327).

Sincerely

(b)(6)

/ Bernard Cieplak  
Program Analyst  
Family Policy Compliance Office

Enclosure



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF PLANNING, EVALUATION AND POLICY DEVELOPMENT

DEC 9 2010

Mr. Brian Romell Giddens  
8306 Wilshire Boulevard #890  
Los Angeles, California 90211

Dear Mr. Giddens:

This correspondence responds to your letter to this office in which you raise issues which do not relate to the Family Educational Rights and Privacy Act (FERPA). For additional information regarding FERPA, a copy of a FERPA fact sheet has been enclosed. This office administers FERPA, which addresses issues pertaining to education records.

In your November 21, 2010, letter you raise concerns which may relate to issues addressed by the Department's Office for Civil Rights (OCR). Accordingly, we have enclosed the mailing address and telephone number for OCR's regional office in your State if you choose to initiate contact with that office as follows:

Office for Civil Rights  
San Francisco Office  
U.S. Department of Education  
Old Federal Building  
50 United Nations Plaza, Room 239  
San Francisco, CA 94102 4102  
Telephone: 415-437-7700

I trust this information is helpful in response to your inquiry.

Sincerely,

(b)(6)

✓ Bernard Cieplak  
Family Policy Compliance Office  
U. S. Department of Education

Enclosure

DEC 9 2010

(b)(6)

Dear

(b)(6)

This correspondence responds to your letter to this office in which you raise issues which do not relate to the Family Educational Rights and Privacy Act (FERPA). For additional information regarding FERPA, a copy of a FERPA fact sheet has been enclosed. This office administers FERPA, which addresses issues pertaining to education records.

In your November 21, 2010, letter you raise concerns which may relate to issues addressed by the Department's Office for Civil Rights (OCR). Accordingly, we have enclosed the mailing address and telephone number for OCR's regional office in your State if you choose to initiate contact with that office as follows:

Office for Civil Rights  
San Francisco Office  
U.S. Department of Education  
Old Federal Building  
50 United Nations Plaza, Room 239  
San Francisco, CA 94102 4102  
Telephone: 415-437-7700

I trust this information is helpful in response to your inquiry.

Sincerely,

Bernard Cieplak  
Family Policy Compliance Office  
U. S. Department of Education

Enclosure





UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF PLANNING, EVALUATION AND POLICY DEVELOPMENT

DEC 10 2010

(b)(6)

Dear

(b)(6)

This letter is in response to your September 28, 2010, complaint form and information which you sent to the U.S. Department of Education, Family Policy Compliance Office (FPCO). FPCO administers the Family Educational Rights and Privacy Act (FERPA), which affords parents and eligible students certain rights with regard to education records. Unfortunately the information you provided is not sufficient to determine if there has been a violation of your rights under FERPA.

FERPA is a Federal law that gives parents the right to have access to their minor child's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of information from the records. The term "education records" is defined as those records that are directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed is a copy of a FERPA fact sheet.

This Office investigates those timely complaints that contain specific allegations of fact giving reasonable cause to believe that a school has failed to comply with FERPA. A timely complaint is defined as one that is submitted to this office within 180 days of the date that the complainant knew or reasonably should have known of the alleged failure to comply with FERPA. While it appears that you believe the information disclosed about your child came from her education records, you have not provided sufficient information for this office to determine the name of the school official who disclosed information from your child's education records or if the information disclosed came from education records and not from hearsay or personal knowledge. Without further specific information, this office is unable to investigate your allegation.

Sincerely,

(b)(6)

Bernard Cieplak  
Program Analyst  
Family Policy Compliance Office

Enclosure





UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF PLANNING, EVALUATION AND POLICY DEVELOPMENT

(b)(6)

DEC 14 2010

Dear

(b)(6)

This is to respond to your undated letter that was received in this Office on October 18, 2010, in which you allege that Valley Forge Middle School (School) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. § 1232; 34 CFR § 99. You allege that your two children (Students) attend or attended the School.

You allege that the above educational agency or institution did not comply with one of the following provisions of FERPA:

- ☒ FERPA's access provision.
- ☐ FERPA's disclosure provision.
- ☐ FERPA's amendment provision.

FERPA provides that an educational agency or institution that receives U.S. Department of Education funds may not have a policy or practice of denying parents or eligible students the right to:

- Inspect and review education records (34 CFR § 99.10).
- Seek to amend education records (34 CFR §§ 99.20, 99.21, and 99.22).
- Consent to the disclosure of personally identifiable information from education records except as specified by law (34 CFR §§ 99.30 and 99.31).

The term "education records" is defined as those records that are directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed for your information are a FERPA fact sheet for noncustodial parents, guidance document, and complaint form.

Based on the information you provided this Office, we are unable to investigate your allegation(s) for the following reason(s):

- ☐ Your complaint is untimely. A complaint must be received by this Office within 180 days of the date of the alleged violation or of the date which the complainant knew or reasonably should have known of the alleged violation. (See highlighted portion of the enclosed guidance.)

- ☒ While FERPA requires that a parent or eligible student be provided an opportunity to inspect and review education records, the law would only require that a school provide a copy of the records or make other arrangements for inspection of the records if certain circumstances exist. (See highlighted portion of the enclosed guidance.)
- ☐ FERPA permits educational agencies and institutions to disclose education records to school officials with legitimate educational interest and other specified parties without consent. (See highlighted portion of the enclosed guidance.)
- ☐ You have not provided sufficient information for this Office to determine that a violation of FERPA may have occurred. (See enclosed guidance.)
- ☐ Requests to modify a grade, opinions included in education records, and other substantive decisions are not subject to FERPA's amendment provision. (See highlighted portion of the enclosed guidance.)

FERPA is a Federal law that gives custodial and noncustodial parents alike the right to have access to their children's education records unless there is a court order or State law that specifically provides to the contrary. The school may ask for legal certification denoting parenthood, such as a court order or birth certificate, from the parent requesting access to education records.

In order to exercise your rights under FERPA, I suggest you write to the appropriate official at the School and request the specific education records to which you are seeking an opportunity to inspect and review. Though it is not required, you may want to include a copy of this letter and the fact sheet for noncustodial parents along with your request. If the school fails to provide you an opportunity to inspect and review the requested education records or fails to contact you within 45 days, you may write to this Office again. At such time, please provide us with a dated copy of your request to the School, any response from the School, and a completed copy of the enclosed complaint form. We will review the information you submit and take any appropriate action.

Page 3 – (b)(6)

I trust this information adequately explains the scope and limitations of FERPA as it pertains to your concern.

Sincerely

(b)(6)

Ricky C. Norment  
Program Analyst  
Family Policy Compliance Office

Enclosures

DEC 14 2010

(b)(6)

Complaint (b)(6)  
Family Educational Rights  
and Privacy Act

Dear (b)(6)

This is in response to your October 10, 2010, letter to this Office in which you informed us that you wished to withdraw the above referenced complaint against the Glencoe-Silver Lake School District for an alleged violation of the Family Educational Rights and Privacy Act (FERPA). Per your request, your complaint is withdrawn.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

cc: Mr. Chris Sonju, Superintendent



DEC 15 2010

(b)(6)

Dear

(b)(6)

This is to respond to your recent November 30, 2010, complaint form to this office in which you appear to believe that the Marion County School District (District) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). This office administers FERPA, which addresses issues pertaining to education records.

FERPA is a Federal law that gives parents the right to have access to their child's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of information from the records. The term "education records" is defined as those records that are directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed is a copy of a FERPA fact sheet.

Under FERPA, a school must provide a parent with an opportunity to inspect and review his or her child's education records within 45 days of the receipt of a request. A school is required to provide a parent with copies of education records or make other arrangements when a failure to do so would effectively prevent the parent from obtaining access to the education records. Generally, a case in point would be a situation in which the parent does not live within commuting distance of the school. Based on the information you provided to this office, the District is required to provide you with access, although it is permitted to provide you with copies or make other arrangements for you to inspect and review your child's education records.

FERPA generally prohibits a school from disclosing a student's education records to third parties without parental consent. One of the exceptions to FERPA's prior written consent requirement allows "school officials" within the agency or institution to obtain access to education records provided the educational agency or institution has determined that they have "legitimate educational interest" in the information. A school official generally has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility. This office has interpreted the term broadly to include such positions as a teacher; school administrator; counselor; attorney; accountant; human resources professional; information systems specialist; and support or clerical personnel.



This office has responded to you by letters dated July 15, and November 4, 2010, and returned certain correspondence in order that you may use it to prepare a future response. As explained in our letters, we noted that it is the complainant's responsibility to clearly and succinctly state allegations of FERPA violations and provide only relevant documentation. The allegations that you raised in your most recent letter are not entirely clear. However, in an attempt to be responsive to your concerns, we will address those issues that we are able to identify in your complaint as being related to alleged violations of FERPA. In your recent letter you appear to assert though several "exhibits" that the District violated FERPA as follows:

- a. Exhibit A: It appears that you are stating that on July 14, 2009, you made an open records request for a copy of all of your son's "medical releases" to Ms. Beverly Morris who is the District's legal counsel. You further state that Ms. Morris responded to you in a September 2, 2010, letter which describes the District's procedure which you are required to follow in order to obtain access to your child's education records. You appear to believe these actions deny your right of access under FERPA.
- b. Exhibit B: It appears that you are stating that you made a July 14, 2009, request to Ms. Morris of the District to provide you with a copy of "your written release which grants permission to release your child's confidential and medical records that allow access to parents, non-current teachers, non-certified professionals, and non-current principals." It appears you believe that your rights under FERPA were violated by the District when Ms. Morris responded in her July 30, 2009, response.
- c. Exhibit C and E: In your exhibit C, you appear to believe that Mr. James Yancey, superintendent of the District, violated FERPA when he received an April 22, 2008, email from Ms. Mary Shawya who is a third party. It appears that you believe this email is part of your child's education records and confirms that Mr. Yancey improperly disclosed information from your child's education records to Ms. Shawya. You provided this office with a copy of that email to support your allegation. In exhibit E, it appears that you believe that Mr. Yancey disclosed a copy of Ms. Shawya's email to third parties without your prior written consent as required by FERPA.

In response to your concern identified in exhibit A above, it appears that you are concerned that the District's access policy denies your right of access to your son's education records under FERPA. You provided this office with a copy of the District's policy. Generally, FERPA does not prohibit a school from clarifying the conditions for which a parent is permitted to inspect and review his or her child's education records. In this instance, the District's access policy does not deny you access, but addresses the conditions for which any access request from you would be facilitated. Accordingly, it does not appear that the District has a policy or practice that has the effect of preventing you access to your education records in violation of FERPA. In the future, should you wish to inspect and review your education records, you should make appropriate arrangements with the District as set forth in its access policy.

You also appear to allege in exhibits A and B that the District denied you access to your child's education records when it did not provide you with copies of those records. As discussed above, the District is generally only required to provide you with access, although it is permitted to provide you with copies or make other arrangements. Accordingly, no basis exists for this office to investigate your statements in which you appear to allege that the District denied you copies to your child's education records.

Based on your exhibits C and E, it appears you allege Mr. Yancey disclosed information from your child's education records to a third party without your prior consent. As discussed above, education records are those records directly related to a student and which are maintained by an educational agency or institution. After careful review, we do not believe that the April 22, 2008, email forwarded by Ms. Shawya is part of your child's education records because it is not directly related to your child. Notwithstanding the fact that it does not appear to be part of your child's education records, it also does not appear that the email was forwarded to anyone other than school officials as permitted under FERPA and discussed above.

This Office investigates those timely complaints that contain specific allegations of fact giving reasonable cause to believe that a school has failed to comply with FERPA. A timely complaint is defined as one that is submitted to this office within 180 days of the date that the complainant knew or reasonably should have known of the alleged failure to comply with FERPA.

Allegations that the District violated FERPA prior to September 2, 2009, are untimely based on the date this office received your original March 1, 2010, letter to this office. Accordingly, this office will not take any further action in response to statements which relate to your exhibits A – C and E.

Your statements included in your exhibits D, F, and G, regarding legal and licensing allegations you made against a third party who may or may not be a school official, professional conduct of school employees, and your request for District services, respectively, are not addressed by FERPA. You may wish to contact the appropriate local or State agency to further address these issues.

I trust the above information is helpful in explaining the scope and limitations of FERPA as it relates to your concerns.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosure

DEC 15 2010

(b)(6)

Dear (b)(6)

This is in response to your October 16, 2010, complaint form and subsequent emails that you sent this office. You are alleging that the Arizona Department of Education violated the Family Educational Rights and Privacy Act (FERPA) when it denied you a transcript from your child's special education Due Process Hearing which you identify as Docket #10-C-DP-041-ADE. This office administers FERPA, which addresses issues that pertain to education records. Due to privacy concerns we do not discuss individual FERPA allegations and/or cases via email.

FERPA is a Federal law that affords parents the right to have access to their children's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of information from the records. Education records are those records that are directly related to a student and that are maintained by an educational agency or institution or a party acting for the agency or institution.

FERPA requires that an educational agency or institution comply with a parent's request for access to his or her children's education records within 45 days of receipt of the request. The agency or institution is not required by FERPA to provide copies of education records to a parent unless a failure to do so would effectively prevent the parent from exercising the right to inspect and review the records. For example, an educational agency could be required to provide copies, or make other arrangements, if the parent does not live within commuting distance of the agency.

It appears that you are seeking a copy of your child's Due Process Hearing. As explained above, FERPA would require the Arizona Department of Education to provide you access to the Due Process Hearing it maintains on your child, but not a copy of it. There



Page 2 –

(b)(6)

may be provisions under Part B of the Individuals with Disabilities Education Act that go beyond the requirements of FERPA. Therefore, I suggest you contact the appropriate official at your State Department of Education at the following:

<http://www.nasdse.org/MeettheDirectors/tabid/60/Default.aspx>

I trust that the above information explains the scope and limitations of FERPA as it relates to your concerns.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

DEC 15 2010

Mr. Ed Pratt-Dannals  
Superintendent of Schools  
Duval County Public Schools  
1701 Prudential Drive  
Jacksonville, Florida 32207

Complaint (b)(6)  
Family Educational Rights  
and Privacy Act

Dear Mr. Pratt-Dannals:

(b)(6) has filed a complaint with the Department of Education alleging that Duval County Public Schools (District) violated rights afforded parents by the Family Educational Rights and Privacy Act (FERPA). This office, under authority of § 99.60 of the FERPA regulations (copy enclosed), investigates complaints in accordance with the procedures outlined in § 99.65. The section states in summary:

- The office notifies the complainant and the educational agency or institution against which the violation has been alleged, in writing, if it initiates an investigation of a complaint.
- The notification to the agency or institution under this section includes the substance of the alleged violation and asks the agency or institution to submit a written response to the complaint.

This letter serves to notify you of the allegations and to provide you the opportunity to submit a written response.

By letter dated July 7 and July 30, 2010, the Parent alleges that the District violated § 99.30 of the FERPA regulations by improperly disclosing information from her daughter Heather's (Student) education records. Section 99.30 states:

[A]n educational agency or institution shall obtain a signed and dated written consent . . . before it discloses personally identifiable information from the student's education records.



Specifically, the Parent alleges that on February 16, 2010, the Student's teacher, Ms. Mary Lewis, "submitted our daughter's assignments twice to Turnitin, an online plagiarism prevention service, by . . . typing in our daughter's name on the submission to identify her." Furthermore, the Parent writes:

The original assignment on Expository entitled Leadership Essay and the Rewrite was turned into the teacher on 1/28/10. This assignment was graded and inputted in the grade book on 2/4/10. Then on 2/16/10 at 8:58 PM EST Ms. Lewis submitted our daughter's Rewrite of the Leadership Essay first through Turnitin.com which the teacher willfully typed in our daughter's name identifying her on this already graded educational records. Secondly, Ms. Lewis on 2/16/10 at 8:59 PM EST (one minute later) ran our daughter's original Leadership Essay through Turnitin.com by identifying our daughter again on the submission.

To complete the procedure outlined in § 99.65(a)(2) of the FERPA regulations, please investigate the Parent's allegation and provide this office a written response within four weeks after you receive this letter. Please refer to complaint number 1470 in any correspondence regarding this complaint.

If you have any questions concerning the Act or the complaint procedure, you may contact Ms. Ingrid Brault of my staff. The name, address, and telephone number of this office are:

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-8520  
(202) 260-3887

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosure

cc: Parent

DEC 15 2010

(b)(6)

Complaint (b)(6)  
Family Educational Rights  
and Privacy Act

Dear (b)(6)

This is in response to your June 7 and July 30, 2010, letters to this office in which you allege that Duval County Public Schools (District) violated your rights under the Family Educational Rights and Privacy Act (FERPA). Specifically, you allege that the District violated your rights under FERPA when it improperly disclosed your daughter's education records to Turnitin, an on-line plagiarism prevention service.

This office has written Mr. Ed Pratt-Dannals, Superintendent, to inform him of your allegation. Enclosed for your reference is a copy of that letter. Once this office has had an opportunity to review the response from the District, we will again be in contact with you.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosure

(b)(6)

(b)(6)



Bernard Cieplak  
Program Analyst  
Family Policy Compliance Office

Enclosure





UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF PLANNING, EVALUATION AND POLICY DEVELOPMENT

DEC 14 2010

Honorable Tim Johnson  
Member, United States Senate  
Sioux Falls Office  
PO Box 1424  
Sioux Falls, South Dakota 57101

Dear Senator Johnson:

This is in follow-up to our April 22, 2010, response (copy enclosed) to your January 29, 2010, letter addressed to the Office of Legislative and Congressional Affairs, concerning issues raised by your constituent (b)(6) (Student) under the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. § 1232g; 34 CFR Part 99. The Student stated that she has been improperly denied access to some of her education records at the University of South Dakota (University), and she asked for your assistance in correcting this situation.

Specifically, the Student stated that, when she reviewed her education records at the University in May 2008, she was not given access to two or three documents "regarding the unprofessional behavior [of the Student] submitted by several classmates and placed in [the Student's] file." Your January 2010 letter to this Office asked that we inform you of any options available to permit the Student to inspect and review those two or three documents at issue.

As we stated in our April 22 letter, we first needed to determine that the two or three documents in question were currently being maintained by the University. Kathleen Wolan of my staff conducted a series of telephone discussions on this matter with Ms. Jennifer Jobst, registrar of the University, and acting for the University in this matter. Ms. Jobst consulted with Ms. Joan Larson, associate dean of the University, and Dr. Brian Kaatz, dean of the health services division of the University. Through a series of telephone discussions, we have determined that the requested education records no longer exist at the University. It appears that those records were destroyed by the University at some time in 2008, although a specific destruction date is not available.

FERPA does not require a university to create or maintain education records, or to re-create lost or destroyed education records. Additionally, FERPA would not require a university to honor a student's request that education records not be destroyed. However, a university may not destroy education records if there is an outstanding request to inspect and review the records. FERPA does not otherwise address the destruction of education records by a university.

Due to the passage of time, we are unable to conclude whether the documents in question were maintained by the University when the Student requested access. Nonetheless, if the documents were maintained, it seems that the University may have originally misidentified the requested records as not being education records of the Student. As such, the University may have destroyed them before providing the Student an opportunity to inspect and review the records in accordance with FERPA. Due to this situation, this Office has provided the University with technical assistance regarding FERPA in order that it properly understands and complies with the requirements of FERPA.

As we stated in our previous letter, we are unable to assist the Student further in this matter since the requested education records are not currently maintained by the University. I regret the extended time period that has been required to resolve this matter, but trust that this is responsive to your inquiry. If you or the Student have any questions regarding this matter, you may contact this Office directly. The name, address, and telephone number are as follows:

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-8520  
Telephone: (202) 260-3887

Sincerely,

(b)(6)

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosure

DEC 20 2010

(b)(6)

Dear

(b)(6)

This is in response to your letter dated July 21, 2009, in which you allege that Harrison Township School District (District) violated the Family Educational Rights and Privacy Act (FERPA) when on February 2, 2009, a physical therapist from your child's school, Ms. Vicki Walters, contacted your child's private physician, Dr. Mihir Thacker, and shared information from your child's education records with Dr. Mihir without your prior written consent. In this regard, you provided a copy of the February 2 letter from Ms. Walters to Dr. Thacker and you provided a copy of a February 9, 2009, letter to you from the Superintendent, Dr. Patircia Hoey, explaining why information from your child's education records was shared with Dr. Mihir. This office administers FERPA which pertains to education records.

FERPA is a Federal law that affords parents the right to have access to their children's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of information from the records. Education records are those records that are directly related to a student and that are maintained by an educational agency or institution or a party acting for the agency or institution.

One of the exceptions to FERPA's general consent rule is for disclosures that are in connection with a health or safety emergency. FERPA permits school officials to disclose, without consent, education records, or personally identifiable information from education records, to appropriate parties in connection with an emergency, if knowledge of that information is necessary to protect the health or safety of the student or other individuals. See 34 CFR §§ 99.31(a)(10) and 99.36. Typically, law enforcement officials, public health officials, trained medical personnel, and parents (including parents of an eligible student) are the types of appropriate parties to whom information may be disclosed under this FERPA exception. This exception to FERPA's general prior consent requirement is temporally limited to the period of the emergency and generally does not allow for a blanket release of personally identifiable information from the student's education records.



Under the health or safety emergency provision, an educational agency or institution is responsible for making a determination whether to make a disclosure of personally identifiable information on a case-by-case basis, taking into account the totality of the circumstances pertaining to the threat. If the school district or school determines that there is an articulable and significant threat to the health or safety of the student or other individuals and that a party needs personally identifiable information from education records to protect the health or safety of the student or other individuals, it may disclose that information to such appropriate party without consent. 34 CFR § 99.36. This is a flexible standard under which the Department defers to school administrators so that they may bring appropriate resources to bear on the situation, provided that there is a rational basis for the educational agency's or institution's decisions about the nature of the emergency and the appropriate parties to whom information should be disclosed. FERPA requires that, within a reasonable period of time after a disclosure is made under this exception, an educational agency or institution must record in the student's education records the articulable and significant threat that formed the basis for the disclosure and the parties to whom information was disclosed. 34 CFR § 99.32(a)(5).

The letter from the Superintendent to you states that the disclosure was made under FERPA's health and safety exception and that contact was made because the child had had hand surgery by Dr. Thacker who subsequently contacted the school district to discuss his post-surgical care. According to the District, Ms. Walter's subsequent contact with Dr. Thacker was to protect the health and safety of your child. Please refer to the relevant highlighted portions of the two letters you provided which we will include in this response to you. Accordingly, there is no basis on which to initiate an investigation into your allegation. The District relied on FERPA's health and safety exception to disclose your child's education records and as such the disclosure was permissible under FERPA.

I trust that the above information and enclosures are helpful in explaining the scope and limitations of FERPA as it relates to your concern.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosures



(b)(6)

MAR 22 2011

Dear (b)(6)

This is in response to your January 1, 2011, letter to this Office in which you allege that the (b)(6) (University) violated your rights under the Family Educational Rights and Privacy Act (FERPA). This Office administers FERPA which addresses issues that pertain to education records.

FERPA is a Federal law that gives eligible students the right to have access to their education records, the right to seek to have the records amended, and the right to have some control over the disclosure of information from the records. The term "education records" means those records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed for your information are a FERPA fact sheet, guidance document, and complaint form. Please pay particular attention to the highlighted parts of the guidance document.

This Office investigates those timely complaints that contain specific allegations of fact giving reasonable cause to believe that a school has violated FERPA. A timely complaint is defined as one that is submitted to this Office within 180 days of the date that the complainant knew or reasonably should have known of the alleged violation. Also, please note that it is the responsibility of the complainant to clearly and succinctly state his or her allegation and to provide only relevant supporting evidence to this Office. We do not have the staff resources to review voluminous material to determine whether it contains an allegation of a violation of FERPA.

If you wish this Office to further consider your complaint, we need you to provide us with a specific allegation or allegations.

#### Allegation Regarding Access

If you believe that the University failed to comply with your request or requests for access to information in your education records, you need to provide us with the following specific information regarding each such request: the date you requested

access to your education records; the name of the school official to whom your request was made (a dated copy of any written request to the school should be provided); the response of the school official to whom your request was made, if any; and the specific nature of the information from your education records that you requested.

An example of an allegation regarding access to education records is as follows:

On November 7, 2010, I sent a letter to (b)(6) registrar at the University, requesting an opportunity to inspect and review any education records maintained by the University regarding my two senior year (Winter 2010 semester) architectural courses. In the student handbook, the College states that it generally maintains transcripts, exams, and other education records for three years. Forty-five days have passed since I submitted my request, and the College has not provided me an opportunity to inspect and review the requested education records. Enclosed, as evidence, is a copy of my November 7 letter to (b)(6)

#### Complaint Regarding Amendment

If you believe the University failed to comply with a request or requests by you for amendment of inaccurately recorded information in your education records or failed to offer you the opportunity for a hearing on the matter, please provide us with the following specific information regarding each such request: the date you requested amendment of the inaccurately recorded information in your education records; the name of the school officials to whom your request was made (a dated copy of any written request to the school should be provided); the response of the school official to your request for amendment, if any; the specific nature of the inaccurately recorded information for which amendment was requested; and your specific evidence provided to the school to support the assertion that such information is inaccurately recorded.

An example of an allegation regarding amendment of education records is as follows:

On November 1, 2010, I sent a letter to (b)(6) dean of the School of Architecture, requesting that inaccurate information in my education records be amended or that I receive a hearing on the matter. I requested that my attendance record for my senior year architecture course (Winter 2010 semester) be amended to reflect that I missed only two classes instead of three. The attendance record states that I missed class on April 3, 2005. However, I attended class on that date, and took a classroom quiz which was graded and returned to me by (b)(6). Along with my February 1 letter to the College requesting amendment of the attendance record, I enclosed a copy of the April 3 quiz as evidence that the attendance record is inaccurate. Enclosed, as evidence, are copies of the February 1 letter and the April 3 quiz.



### Complaint Regarding Disclosure

If you believe that the University improperly disclosed personally identifiable information from your education records to a third party, please provide us with the following specific information regarding each such alleged disclosure: the date or approximate date the alleged disclosure occurred, or the date you learned of the alleged disclosure; the name of the school official who made the disclosure, if that is known; the third party to whom information was disclosed; the specific nature of the information from your education records that was disclosed; and evidence that the information was disclosed.

An example of an allegation regarding disclosure of education records is as follows:

On October 15, 2010, (b)(6) professor for my senior level architecture course (fall 2010 semester) at the College, disclosed information from my education records to two other students in the course (b)(6) Cox) without my prior written consent. (b)(6) sent an October 15, 2010, letter addressed to me and the two other students, stating that we had all three received a grade of "D" on our mid-term exams and that we should set up appointments with him to discuss extra credit work. Enclosed, as evidence, is a copy of (b)(6) October 15 letter.

We will review the information you submit regarding your allegation or allegations and take any appropriate action.

As stated, this Office administers FERPA. We have no authority to administer other laws or regulations and do not need to receive them as enclosures to a complaint. If this Office needed information or documents in addition to those specifically stated in the information above, we would request them from the student. Also, we have no authority to require a school to follow its own policies and procedures, unless such policies and procedures relate directly to the requirements of FERPA: providing a student access to education records; providing a student the opportunity to seek to amend education records; and prohibiting unauthorized disclosure of education records. For example, this Office has no authority to require a school to follow its own policies and procedures for carrying out a disciplinary hearing. However, records created during the disciplinary hearing that are directly related to the student would be part of the student's education records to which FERPA would provide the student the right to inspect and review.

I trust that the above information is helpful in explaining the scope and limitations of FERPA as it relates to filing a complaint with this Office. Enclosed are the materials that

you sent to us. They may be useful to you should you decide to resubmit your complaint.

Sincerely,

Ricky C. Norment  
Program Analyst  
Family Policy Compliance Office

Enclosures



(b)(6)

MAR 22 2011

Dear (b)(6)

This is to respond to your December 21, 2010, letter to this Office in which you allege that (b)(6) (College) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. § 1232; 34 CFR § 99. This Office administers FERPA which addresses issues that pertain to education records.

You allege that the above educational agency or institution did not comply with one of the following provisions of FERPA:

- ☐ FERPA's access provision.
- ☒ FERPA's disclosure provision.
- ☐ FERPA's amendment provision.

FERPA provides that an educational agency or institution that receives U.S. Department of Education funds may not have a policy or practice of denying parents or eligible students the right to:

- Inspect and review education records (34 CFR § 99.10).
- Seek to amend education records (34 CFR §§ 99.20, 99.21, and 99.22).
- Consent to the disclosure of personally identifiable information from education records except as specified by law (34 CFR §§ 99.30 and 99.31).

The term "education records" is defined as those records that are directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed for your information are a FERPA Guidance Document and complaint form.

Based on the information you provided this Office, we are unable to investigate your allegation(s) for the following reason(s):

- ☐ Your complaint is untimely. A complaint must be received by this Office within 180 days of the date of the alleged violation or of the date which the complainant knew or reasonably should have known of the alleged violation. (See highlighted portion of the enclosed guidance.)

(b)(6)

\_\_\_\_ While FERPA requires that a parent or eligible student be provided an opportunity to inspect and review education records, the law would only require that a school provide a copy of the records or make other arrangements for inspection of the records if certain circumstances exist. (See highlighted portion of the enclosed guidance.)

  X   FERPA permits educational agencies and institutions to disclose education records to school officials with legitimate educational interest and other specified parties without consent. (See highlighted portion of the enclosed guidance.)

  X   You have not provided sufficient information for this Office to determine that a violation of FERPA may have occurred. (See enclosed guidance.)

\_\_\_\_ Requests to modify a grade, opinions included in education records, and other substantive decisions are not subject to FERPA's amendment provision. (See highlighted portion of the enclosed guidance.)

It appears you are alleging that the University violated FERPA when (b)(6) associate manager for financial aid, disclosed to (b)(6) you program director, information regarding financial aid you had received. In your letter to this Office, you state:

... On or around 9/30/2010 I approached my program director, (b)(6) about the potential of my not being able to complete the semester as I had no monies to continue driving to and from school. I have sought help through the entire (b)(6) College system from the financial aid department all the way up to the president of the college, (b)(6) .. (b)(6) contacted the financial aid department herself to inquire as to if there was anything they could do for me. ... During their discussion as (b)(6) informed me later, (b)(6) divulged to her the amount of financial aid I received already. ...

Based on the information in your letter, it appears that (b)(6) your program director, contacted the financial aid department of the College at your request. Therefore, in this instance, it appears she would have a legitimate educational interest in obtaining the rationale for the College not providing you with additional financial aid.

Generally, a school official has a legitimate educational interest if the school official needs access to information in education records to carry out his or her professional responsibilities. However, the term "legitimate educational interest" is defined by each College in its annual notification of rights.

If you wish this Office to further consider your allegation, we need to receive additional information from you. Please provide us with evidence, such as the College's most recent annual notification in which it defines the terms "school official" and "legitimate educational interest." Also, please provide us with a statement regarding why you do not believe that (b)(6) would have a legitimate educational interest in obtaining access to information in your financial aid records based on (b)(6) position at the college, the situation of her contacting the financial aid office on your behalf, and the College's definitions of the terms "school official" and "legitimate educational interest" in its annual notification.

I trust this information adequately explains the scope and limitations of FERPA as it pertains to our concern.

Sincerely,

Ricky C. Norment  
Program Analyst  
Family Policy Compliance Office

Enclosures

(b)(6)

MAR 22 2011

Dear (b)(6)

This is to respond to your November 5, 2010, complaint to this Office in which you allege that rights afforded you under the Family Educational Rights and Privacy Act (FERPA) were violated. 20 U.S.C. § 1232; 34 CFR § 99. Specifically, it appears you are alleging that your school failed to provide you access to your education records in response your request, and it failed to amend your education records as requested or offer you the opportunity for a hearing on the matter.

You allege that your school did not comply with one of the following provisions of FERPA:

- ☒ FERPA's access provision.
- ☐ FERPA's disclosure provision.
- ☒ FERPA's amendment provision.

FERPA provides that an educational agency or institution that receives U.S. Department of Education funds may not have a policy or practice of denying parents or eligible students the right to:

- Inspect and review education records (34 CFR § 99.10).
- Seek to amend education records (34 CFR §§ 99.20, 99.21, and 99.22).
- Consent to the disclosure of personally identifiable information from education records except as specified by law (34 CFR §§ 99.30 and 99.31).

The term "education records" is defined as those records that are directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed for your information is a FERPA fact sheet, guidance document, and complaint form.



Based on the information you provided this Office, we are unable to investigate your allegation(s) for the following reason(s):

- ☐ Your complaint is untimely. A complaint must be received by this Office within 180 days of the date of the alleged violation or of the date which the complainant knew or reasonably should have known of the alleged violation. (See highlighted portion of the enclosed guidance.)
- ☒ While FERPA requires that a parent or eligible student be provided an opportunity to inspect and review education records, the law would only require that a school provide a copy of the records or make other arrangements for inspection of the records if certain circumstances exist.
- ☐ FERPA permits educational agencies and institutions to disclose education records to school officials with legitimate educational interest and other specified parties without consent. (See highlighted portion of the enclosed guidance.)
- ☒ You have not provided sufficient information for this Office to determine that a violation of FERPA may have occurred. (See enclosed guidance.)
- ☐ Requests to modify a grade, opinions included in education records, and other substantive decisions are not subject to FERPA's amendment provision. (See highlighted portion of the enclosed guidance.)

Please review the parts of the guidance document that address access to education records and amendment of education records. It appears that you live within commuting distance of your school. If this is true, the school is not required by FERPA to provide you with copies of your education records. Rather, the school is required to provide you with an opportunity to inspect and review your education records within 45 day of a request. Also, the focus of FERPA's amendment procedure is to permit a student to seek to amend inaccurately recorded information in his or her education records. Accordingly, a student may not seek to amend a grade, an opinion, or a substantive decision made by the school regarding the student.

If, after reviewing the guidance document you believe your school violated your rights under FERPA, you may complete the enclosed complaint form utilizing the guidance beginning at the bottom of page six of the enclosed guidance document. We will review the information you submit and take any appropriate action.

Page 3

(b)(6)

I trust this information adequately explains the scope and limitations of FERPA as it pertains to your concerns.

Sincerely,

Ricky C. Norment  
Program Analyst  
Family Policy Compliance Office

Enclosures

(b)(6)

**MAR 22 2011**

Dear (b)(6)

We are writing to inform you that the Family Policy Compliance Office (FPCO or this Office) is not initiating an investigation with regard to a complaint you filed with us on May 12, 2010. In that complaint, you are alleging that (b)(6) (School) violated the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g. Your son, (b)(6) (Student), is a student at the School. You also raise a couple of other issues in your letter, such as testing for and determining plagiarism in student research papers. These issues, as you have raised them, are not addressed by FERPA and will not be discussed below.

This Office investigates certain complaints alleging violation of FERPA if it:

- (a) Is filed by the "parent" of a minor student at a public elementary or secondary school or an "eligible student" who is at least 18 years of age or who attends or attended a postsecondary institution with FERPA rights in the education records which are the subject of the complaint;
- (b) Is filed within 180 days of the alleged violation or within 180 days after the complainant knew or reasonably should have known about the violation; and
- (c) Contains specific allegations of fact giving reasonable cause to believe that a FERPA violation has occurred.

The FERPA regulations (34 CFR Part 99) can be found on our website at <http://www.ed.gov/policy/gen/reg/ferpa/index.html>. Enclosed for your information is a FERPA guidance document.

This Office's enforcement process is intended to work cooperatively with schools and districts to achieve their voluntary compliance with FERPA's requirements. Following a review of the evidence and allegations submitted by a complainant, we may initiate an administrative investigation by sending the district and the complainant a notification letter about the allegation, and requesting a written response from the district concerning the allegation. If we then determine that a district is in violation of FERPA, the district and the complainant are so advised by a letter of finding which contains corrective actions to be taken by the district in order to come into compliance with FERPA. Such measures can include training of school officials or a memorandum advising school officials of the specific requirements at issue in the complaint. There is no basis under FERPA to require that a district take punitive or disciplinary action against an individual school official as the result of a FERPA violation. We close the investigation when the district has completed the required corrective actions.



In this case, we will not open an investigation into your complaint because it does not provide specific allegations of fact which give the Office reasonable cause to believe that a FERPA violation occurred. In order for the Office to initiate an investigation, a complaint must contain such specific allegations.

The provisions of 34 CFR Part 99, Subpart D specify the conditions under which information can be disclosed from student education records. Generally, FERPA prohibits disclosure of personally identifiable information from student education records unless the parent or eligible student has provided specific prior written signed consent for the disclosure. FERPA allows for limited disclosure of such records without consent under limited circumstances to specific persons and under specific conditions as detailed at 34 CFR § 99.31.

However, please note that FERPA does not protect the confidentiality of information in general and, therefore, does not apply to disclosure of information derived from a source other than education records, even if education records exist which contain that information. Rather, FERPA protects information derived from education records from improper disclosure. As a general rule, information obtained through personal knowledge or observation, and not from an education record, is not protected from disclosure under FERPA.

It appears that you are alleging that (b)(6) the Student's teacher in one of his classes at the School, disclosed to other students in one or more of her classes that the Student had plagiarized his research paper and was going to receive a failing grade. As evidence, you state that (b)(6) a student in one of (b)(6) classes stated to the Student: "You are going to fail your research paper. (b)(6) thinks you plagiarized your research paper."

If you wish this Office to further consider your allegation, we need to receive additional information from you. Please provide us with the name and address of the superintendent of the school district in which the School is located. Please verify that we have accurately captured your allegation above. Also, please provide us with the following information: the date of the alleged disclosure by (b)(6) to her class; the subject of the class in which (b)(6) allegedly made the disclosure; and the subject of the research paper (if it is different from the subject of (b)(6)). If possible, please provide us with a signed statement from (b)(6) or one or more of the other students who witnessed (b)(6) disclosure of information from the Student's education records.

If you believe (b)(6) nonconsensually disclosed other information recorded in the Student's education records, please inform us of the following: the date or approximate date of the disclosure (or the date you learned of the disclosure), the third party or parties to whom the information was disclosed; and the specific nature of the information disclosed. We will review the information you submit and take any appropriate action.



I trust that the above information is helpful in explaining the scope and limitations of FERPA as it relates to your concerns. If you have questions regarding this matter, you may contact me as follows:

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-8520  
(202) 260-3887

Sincerely,

Ricky C. Norment  
Program Analyst  
Family Policy Compliance Office

Enclosure

(b)(6)

MAR 16 2011

Dear

(b)(6)

This is in response to your recent letter to this Office regarding the Family Educational Rights and Privacy Act (FERPA). Due to staff limitations and resources, we are unable to review voluminous materials. Therefore, we are providing you with a guidance document on FERPA and a complaint form. Also, we are returning your incoming materials to you as they may be helpful to you for future use.

However, it appears that your allegation relates to the fact that you received education records of two students from the (b)(6) Board of Education when it responded to a request from you for 504 accommodations for your child. FERPA vests the rights it affords with the parent or eligible student and does not provide for these rights to be vested in a third party that has not suffered an alleged violation. Thus, an individual must have "standing," that is, have suffered an alleged violation, in order to file a complaint under FERPA. In this situation, the parents whose children's education records have been disclosed to you maintain the FERPA rights to file a complaint, so would need to mail a completed complaint form to us at the following address:

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-5920

Also, it appears that some of the concerns you have raised may be addressed by the Individuals with Disabilities Education Act (IDEA) rather than FERPA. Although IDEA is a Federal law, it is administered by the states. For further information regarding IDEA, you may contact:

Dr. Joshua Starr  
Superintendent  
Stamford Public Schools  
888 Washington Boulevard  
Stamford, Connecticut 06902

MAR 16 2011

Dear Dr. Starr:

This is in response to an allegation against Stamford Public Schools (District) made to this Office by (b)(6) (Parent). The Parent alleged that the District violated the rights of her son, (b)(6) Student), under the Family Educational Rights and Privacy Act (FERPA) when it disclosed personally identifiable information from the Student's education records to third parties without his prior written consent. Specifically, the Parent alleges that the District improperly disclosed the fact that the Student received special education services. This disclosure occurred on page eight of the District's 2010 yearbook. Enclosed for your review is a copy of page eight of the yearbook. This Office administers FERPA, which addresses issues that pertain to education records.

FERPA is a Federal law that gives parents the right to have access to their children's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of information from the records. 20 U.S.C. 1232g; 34 CFR Part 99. Enclosed is a copy of the FERPA regulations. Once a student turns 18 years of age or attends a postsecondary institution, he or she becomes an "eligible student," and all rights under FERPA transfer from the parent to the student. 34 CFR § 99.5. Based on the information provided by the Parent, the Student is over 18 years of age and, as such, rights under FERPA have transferred to him. Thus, the Parent does not have standing under FERPA to file a complaint with this Office. However, in addition to conducting investigations of alleged violations of FERPA, this Office also provides technical assistance to schools to ensure they are in compliance or come into compliance with FERPA. This letter is written as technical assistance relative to the Parent's allegation.

The term "education records" means those records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. CFR § 99.3 "Education records." Under FERPA, a school may not generally disclose personally identifiable information from an eligible student's education records to a third party unless the student has provided written consent. 34 CFR § 99.30. There are several exceptions to FERPA's general prohibition against nonconsensual disclosure of education records. However, none of FERPA's exceptions apply to the disclosure alleged by the Parent.



(b)(6)

MAR 16 2011

Dear (b)(6)

This is in response to your December 2, 2010, complaint form to this Office and subsequent communications in which you allege that (b)(6) District) violated the rights of your son, (b)(6) (Student), under the Family Educational Rights and Privacy Act (FERPA) when it disclosed personally identifiable information from the Student's education records to third parties without his prior written consent. Specifically, you allege that the District improperly disclosed the fact that the Student received special education services on page eight of the District's (b)(6) yearbook. This Office administers FERPA which addresses issues that pertain to education records.

FERPA is a Federal law that gives parents the right to have access to their education records, the right to seek to have the records amended, and the right to have some control over the disclosure of information from the records. The term "education records" means those records that are directly related to a student and maintained by an educational agency or institution or a party acting for the agency or institution. Under FERPA, a school may not generally disclose personally identifiable information from a minor student's education records to a third party unless the parent has provided written consent.

However, once a student turns 18 years of age, he or she becomes an "eligible student," and all rights under FERPA transfer from the parent to the student. Based on the information in your complaint form, the Student is over 18 years of age and, as such, rights under FERPP have transferred to him. We asked you to provide us with a signed statement from the Student giving you the right to act on his behalf in this matter. In response, you provided us with a court order giving you the right to act on the Student's behalf in a probate matter that does not appear to be related to his schooling. It does not appear that this document also permits you to act on the Student's behalf in a matter related to FERPA.

Please note that FERPA vests the rights it affords in the parents of minor students and in eligible students. The statute does not provide for these rights to be vested in a third party (such as the parent of an eligible student) who has not suffered an alleged violation. Thus, in order to file a complaint under FERPA, we require that you have "standing," i.e.,



have suffered an alleged violation. You do not have standing with regard to your complaint alleging that the District improperly disclosed information from the Student's education records in the yearbook

In addition to conducting investigations of alleged violations of FERPA, this Office also provides schools with technical assistance to ensure they are in compliance or come into compliance with FERPA. Attached is a copy of our letter of technical assistance to the District regarding your concern.

I trust that this is responsive to your concern. If you have any questions or concerns regarding this matter, you may contact Mr. Ricky Norment of my staff at 202-260-3887.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosure

(b)(6)

MAR 16 2011

Dear

(b)(6)

We are writing to inform you that the Family Policy Compliance Office (FPCO or this Office) is not initiating an investigation with regard to a complaint you filed with us on September 22, 2010. In that complaint, you are alleging that the (b)(6) (University) violated the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.

This Office investigates certain complaints alleging violation of FERPA if it:

- (a) Is filed by the "parent" of a minor student at a public elementary or secondary school or an "eligible student" who is at least 18 years of age or who attends or attended a postsecondary institution with FERPA rights in the education records which are the subject of the complaint;
- (b) Is filed within 180 days of the alleged violation or within 180 days after the complainant knew or reasonably should have known about the violation; and
- (c) Contains specific allegations of fact giving reasonable cause to believe that a FERPA violation has occurred.

The FERPA regulations (34 CFR Part 99) can be found on our website at <http://www.ed.gov/policy/gen/reg/ferpa/index.html>. Enclosed for your information are a FERPA guidance document and complaint form.

This Office's enforcement process is intended to work cooperatively with schools to achieve their voluntary compliance with FERPA's requirements. Following a review of the evidence and allegations submitted by a complainant, we may initiate an administrative investigation by sending the school and the complainant a notification letter about the allegation, and requesting a written response from the school concerning the allegation. If we then determine that a school is in violation of FERPA, the school and the complainant are so advised by a letter of finding which contains corrective actions to be taken by the school in order to come into compliance with FERPA. Such measures can include training of school officials or a memorandum advising school officials of the specific requirements at issue in the complaint. There is no basis under FERPA to require that a school take punitive or disciplinary action against an individual school official as the result of a FERPA violation. We close the investigation when the school has completed the required corrective actions.

In this case, we will not open an investigation into your complaint because it does not provide specific allegations of fact which give the Office reasonable cause to believe that a FERPA violation occurred. In order for the Office to initiate an investigation, a complaint must contain such specific allegations.

Specifically, it appears you are alleging that the University violated your rights under FERPA when it failed to provide you with access to certain of your education records in response to your request. Please note that this Office does not have the staff resources to view voluminous documents to determine whether there is a specific allegation of fact regarding a violation of FERPA. It is the responsibility of the complainant to state his or her allegation as clearly and succinctly as possible, and to provide only relevant supporting information.

The term "education records" means those records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. 34 CFR § 99.3 "Education records." The provisions of 34 CFR Part 99, Subpart B of the regulations detail the right of inspection and review of education records. Generally, FERPA requires that educational agencies and institutions provide parents or eligible students access to education records within a reasonable period of time, but not more than 45 days after the request.

Also, a school is required to provide a student with copies of education records, or make other arrangements, if a failure to do so would effectively prevent the student from obtaining access to the records. A case in point would be a situation in which the Student parent does not live within commuting distance of the school. Based on the information in your letter, it appears that you live within commuting distance of the University. Therefore, the University is required by FERPA to provide you with an opportunity to inspect and review your education records. The University is not required to provide you with copies of the records, though it is permitted to do so.

FERPA provides that if the education records of a student contain information on more than one student, each student may inspect and review or be informed of only the specific information in the record about him or her. 34 CFR § 99.12. Also, please note that under certain specified circumstances a school may deny a student access to certain information in his or her education records based on the claim of attorney-client privilege.

If you wish this Office to further consider your allegation, we need to receive additional information from you. Please complete the enclosed complaint form and include the following information: (1) the date you requested access to your education records under FERPA; (2) the name of the official to whom your request was made; (3) the response of that official, if any; and (4) the specific nature of the education records requested. Also, if possible, please include a dated copy of your request for access to your education records under FERPA. It appears that

you are alleging that the University provided you with several redacted e-mails, and you believe the redacted information is directly related to you. Please note that if the redacted information is directly related to another student, the University would generally be prohibited by FERPA from providing you the opportunity to inspect and review the information absent the other student's written consent. Also, as stated above, under certain circumstances, a school may deny access to certain information based on a claim of attorney-client privilege.

All this Office needs to further consider your allegation is: 1-4 above on the complaint form; a dated copy of your request to the school for access to records under FERPA; copies of the e-mails (if they are the focus of your allegation; and, if possible, the University's rationale for redacting the e-mails. I am returning the information you submitted to this Office because it may be useful should you decide to resubmit your complaint. If you do, we will review the information you submit and take any appropriate action.

If you have questions regarding this matter, you may contact me at the address or telephone number below:

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-8520  
(202) 260-3887

Sincerely,

Ricky C. Norment  
Program Analyst  
Family Policy Compliance Office

Enclosures



(b)(6)

MAR 15 2011

Dear (b)(6)

We are writing to inform you that the Family Policy Compliance Office (FPCO or this Office) is not initiating an investigation with regard to a complaint you filed with us on November 4, 2010. In that complaint, you are alleging that the (b)(6) District) violated the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g. Specifically, you allege that the District did not provide you with copies of the education records of your daughter, (b)(6) Student), in response to your freedom of information law request (FOIL).

This Office investigates certain complaints alleging violation of FERPA if it:

- (a) Is filed by the "parent" of a minor student at a public elementary or secondary school or an "eligible student" who is at least 18 years of age or who attends or attended a postsecondary institution with FERPA rights in the education records which are the subject of the complaint;
- (b) Is filed within 180 days of the alleged violation or within 180 days after the complainant knew or reasonably should have known about the violation; and
- (c) Contains specific allegations of fact giving reasonable cause to believe that a FERPA violation has occurred.

The FERPA regulations (34 CFR Part 99) can be found on our website at <http://www.ed.gov/policy/gen/reg/ferpa/index.html>. Enclosed for your information are a FERPA guidance document and complaint form.

This Office's enforcement process is intended to work cooperatively with schools and districts to achieve their voluntary compliance with FERPA's requirements. Following a review of the evidence and allegations submitted by a complainant, we may initiate an administrative investigation by sending the district and the complainant a notification letter about the allegation, and requesting a written response from the district concerning the allegation. If we then determine that a district is in violation of FERPA, the district and the complainant are so advised by a letter of finding which contains corrective actions to be taken by the district in order to

come into compliance with FERPA. Such measures can include training of school officials or a memorandum advising school officials of the specific requirements at issue in the complaint. There is no basis under FERPA to require that a district take punitive or disciplinary action against an individual school official as the result of a FERPA violation. We close the investigation when the district has completed the required corrective actions.

In this case, we will not open an investigation into your complaint because it does not provide specific allegations of fact which give the Office reasonable cause to believe that a FERPA violation occurred. In order for the Office to initiate an investigation, a complaint must contain such specific allegations.

The provisions of 34 CFR Part 99, Subpart B detail the right of inspection and review of education records. Generally, FERPA requires that educational agencies and institutions provide parents or eligible students with access to education records within a reasonable period of time, but not more than 45 days after the request. A school is required by FERPA to provide a parent with copies of education records, or make other arrangements, if a failure to do so would effectively prevent the parent from obtaining access to the records. A case in point would be a situation in which the parent does not live within commuting distance of the school. Based on the information in your letter, it appears that you live within commuting distance of the student's school. Therefore, the school is required by FERPA to provide you with an opportunity to inspect and review the Student's education records. The school is not required by FERPA to provide you with copies of the records, though it is permitted to do so. However, any arrangement between you and the District regarding copies of education records and any fee charged by the District for such copies are outside the scope of FERPA.

In order to exercise your right under FERPA, I suggest you write again to the appropriate official at the school and request, under FERPA, an opportunity to inspect and review the specific education records to which you are seeking access. Though it is not required, you may want to include a copy of this letter along with your request. If the school fails to provide you an opportunity to inspect and review the requested education records or fails to contact you within 45 days, you may write to this Office again. At such time, please provide us with a dated copy of your request to the School, any response from the School, and a completed copy of the enclosed complaint form. We will review the information you submit and take any appropriate action.

Page 3 --

(b)(6)

If you have questions regarding this matter, you may contact me as follows:

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-8520  
(202) 260-3887

Sincerely,

Kathleen Wolan  
Program Analyst  
Family Policy Compliance Office

Enclosure

Mr. Matthew S. Wolf  
Attorney  
Pappas & Wolf, LLC  
423 White Horse Pike  
Haddon Heights, New Jersey 08035

**MAR 15 2011**

Dear Mr. Wolf:

We are writing to inform you that the Family Policy Compliance Office (FPCO or this Office) is not initiating an investigation with regard to February 19 and 22, 2010, complaints filed by you on behalf of your clients, (b)(6) (Parents). In that complaint, the Parents are alleging that the (b)(6) (District) violated the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g. Specifically, the Parents allege that the District improperly disclosed information from the education record of their son, (b)(6) Student), a student who receives special education services.

This Office investigates certain complaints alleging violation of FERPA if it:

- (a) Is filed by the "parent" of a minor student at a public elementary or secondary school or an "eligible student" who is at least 18 years of age or who attends or attended a postsecondary institution with FERPA rights in the education records which are the subject of the complaint;
- (b) Is filed within 180 days of the alleged violation or within 180 days after the complainant knew or reasonably should have known about the violation; and
- (c) Contains specific allegations of fact giving reasonable cause to believe that a FERPA violation has occurred.

The FERPA regulations (34 CFR Part 99) can be found on our website at <http://www.ed.gov/policy/gen/reg/ferpa/index.html>.

This Office's enforcement process is intended to work cooperatively with schools and districts to achieve their voluntary compliance with FERPA's requirements. Following a review of the evidence and allegations submitted by a complainant, we may initiate an administrative investigation by sending the district and the complainant a notification letter about the allegation, and requesting a written response from the district concerning the allegation. If we then determine that a district is in violation of FERPA, the district and the complainant are so advised by a letter of finding which contains corrective actions to be taken by the district in order to



come into compliance with FERPA. Such measures can include training of school officials or a memorandum advising school officials of the specific requirements at issue in the complaint. There is no basis under FERPA to require that a district take punitive or disciplinary action against an individual school official as the result of a FERPA violation. We close the investigation when the district has completed the required corrective actions.

In this case, we will not open an investigation into your complaint because it does not provide specific allegations of fact which give the Office reasonable cause to believe that a FERPA violation occurred. In order for the Office to initiate an investigation, a complaint must contain such specific allegations.

The provisions of 34 CFR Part 99, Subpart D specify the conditions under which information can be disclosed from student education records. Generally, FERPA prohibits disclosure of personally identifiable information from student education records unless the parent or eligible student has provided specific prior written signed consent for the disclosure. FERPA allows for limited disclosure of such records without consent under limited circumstances to specific persons and under specific conditions as detailed at 34 CFR § 99.31. This Office will not consider further the Parent's allegation regarding improper disclosure of information from the Student's education record by Mrs. Tracey Dunn because this allegation does not meet FERPA's threshold requirement for timeliness.

The other allegation of an improper disclosure concerns a letter written by (b)(6) superintendent of the District, to the (b)(6) a local newspaper. In the letter, Dr. Lynch explains the reason he believes the (b)(6) failed to make adequate yearly progress under the Federal No Child Left Behind (NCLB) Act for the 2009-2010 school year. In his letter to the local newspaper, (b)(6)s that not enough of the students in the "subgroup labeled special education" met the NCLB guidelines for proficiency in mathematics.

"Personally identifiable information" includes, but is not limited to: the student's name; the name of the student's parent or other family member; the address of the student or student's family; a personal identifier, such as the student's social security number, student number or biometric record; other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name; other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty. 34 CFR § 99.3 "Personally identifiable information."

Based on the information provided to us, (b)(6) did not disclose the name of the Student or the names of any of the other students in his letter to the (b)(6) nor did he disclose any information that is linked or linkable to the Student or any student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the Student or any other students with reasonable certainty. As such, there is no basis for this Office to further assist you regarding your concern.

If you have questions regarding this matter, you may contact me. The name, address, and telephone number of the Office are:

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-8520  
(202) 260-3887

Sincerely,

Kathleen Wolan  
Program Analyst  
Family Policy Compliance Office

Mr. Michael P. Meotti  
Commissioner, Connecticut Department of Higher Education  
University of Connecticut Health Center  
Center for Public Health and Health Policy  
99 Ash Street MC7160  
East Hartford, Connecticut 06108

MAR 15 2011

Dear Mr. Meotti:

This is in response to your letter, dated April 11, 2010, regarding the Family Educational Rights and Privacy Act (FERPA). Specifically, you ask about the applicability of FERPA to your proposed approach to sharing education data through the Connecticut Health Information Network (CHIN). We are sending an identical response to the cosigners of your letter.

The Department of Education is working very hard to address the issues that you raise in your letter and similar issues relating to databases. We are unable to provide you with the technical assistance that you are requesting at this time. However, we are in the process of developing a Notice of Proposed Rulemaking (NPRM) that we expect will respond to some of these questions. Once the NPRM is published in the *Federal Register*, we will notify you so that you may review the proposed changes to FERPA and provide comments on the proposals.

We realize that these issues are of great importance to you and we appreciate your patience and understanding as we work in addressing them.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Mr. Robert H. Aseltine, Jr., PhD  
Professor, University of Connecticut Health Center  
Director, Connecticut Health Information Network  
University of Connecticut Health Center  
Center for Public Health and Health Policy  
99 Ash Street MC7160  
East Hartford, Connecticut 06108

MAR 15 2011

Dear Dr. Aseltine:

This is in response to your letter, dated April 11, 2010, regarding the Family Educational Rights and Privacy Act (FERPA). Specifically, you ask about the applicability of FERPA to your proposed approach to sharing education data through the Connecticut Health Information Network (CHIN). We are sending an identical response to the cosigners of your letter.

The Department of Education is working very hard to address the issues that you raise in your letter and similar issues relating to databases. We are unable to provide you with the technical assistance that you are requesting at this time. However, we are in the process of developing a Notice of Proposed Rulemaking (NPRM) that we expect will respond to some of these questions. Once the NPRM is published in the *Federal Register*, we will notify you so that you may review the proposed changes to FERPA and provide comments on the proposals.

We realize that these issues are of great importance to you and we appreciate your patience and understanding as we work in addressing them.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office



Mr. Mark K. McQuillan  
Commissioner, Connecticut State Department of Education  
University of Connecticut Health Center  
Center for Public Health and Health Policy  
99 Ash Street MC7160  
East Hartford, Connecticut 06108

MAR 15 2011

Dear Mr. McQuillan:

This is in response to your letter, dated April 11, 2010, regarding the Family Educational Rights and Privacy Act (FERPA). Specifically, you ask about the applicability of FERPA to your proposed approach to sharing education data through the Connecticut Health Information Network (CHIN). We are sending an identical response to the cosigners of your letter.

The Department of Education is working very hard to address the issues that you raise in your letter and similar issues relating to databases. We are unable to provide you with the technical assistance that you are requesting at this time. However, we are in the process of developing a Notice of Proposed Rulemaking (NPRM) that we expect will respond to some of these questions. Once the NPRM is published in the *Federal Register*, we will notify you so that you may review the proposed changes to FERPA and provide comments on the proposals.

We realize that these issues are of great importance to you and we appreciate your patience and understanding as we work in addressing them.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Mr. John P. Sheahan  
Attorney  
Law Offices of Guercio & Guercio, LLP  
77 Conklin Street  
Farmingdale, New York 11735

MAR 15 2011

Dear Mr. Sheahan:

This is in response to your July 22, 2010, letter to this Office in which you request guidance on the Family Educational Rights and Privacy Act (FERPA). Specifically you ask whether a public school district in New York may non-consensually disclose information from student education records to the New York State Education Department's (NYSED) Office of Vocational and Educational Services for Individuals with Disabilities (VESID).

Specifically, you state:

One of our clients, a public school district on Long Island, has decided to discontinue its pre-school program for three-year old students. Although no complaint has been filed by any of the parents of the aforementioned three-year old students, a Regional Associate from [VESID] of [NYSED] has requested the names, services provided and school district of residence for certain pre-school special education students in relation to the district's decision. . . .

You further explain that VESID believes that they may receive this information "under the exception for disclosure to a 'law enforcement agency.'"

FERPA is a Federal law that gives parents the right to have access to their children's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of information from the records. 20 U.S.C. 1232g; 34 CFR § 99. The term "education records" is defined as those records that are directly related to a student and that are maintained by an educational agency or institution or by a party acting for the agency or institution. 34 CFR § 99.3 "Education records." Records on students receiving services under Part B of the Individuals with Disability Education Act (IDEA) are also protected under FERPA as "education records." Accordingly, the information requested by VESID would be information from the students' education records.

Under FERPA, a school may not generally disclose personally identifiable information from a student's education records to a third party unless the parent or eligible student has provided written consent. 34 CFR § 99.30. However, there are several exceptions to FERPA's general prohibition against non-consensual disclosure of education records.

School districts and their constituent schools most often disclose education records to State educational authorities, such as a State department of education, under §§ 99.31(a)(3) and 99.35 of the FERPA regulations, which permit disclosures without written consent to "authorized representatives of ... State and local educational authorities," provided the disclosure is in connection with:

- An audit or evaluation of Federal or State supported education programs; or
- Enforcement of, or compliance with, Federal legal requirements that relate to such programs.

While there is no specific exception in FERPA for a "law enforcement agency," the VESID is the office in the NYSED that administers the provisions of IDEA. While IDEA is a Federal law, it is administered by the States.

Based on the limited information provided in your letter, it appears that the disclosure to VESID of the requested information would fall under the exception to consent described above.

I trust that the above information is responsive to your inquiry.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Mr. Joel T. Gomez  
Attorney  
The Gomez Law Group, PLLC  
14135 Midway Road, Suite 250  
Addison, Texas 75001

MAR 15 2011

Dear Mr. Gomez:

This is in response to your December 8, 2010, letter in which you ask about the applicability of the Family Educational Rights and Privacy Act (FERPA) to the disclosure of information from the education records of approximately 300 students that you represent. The students attended several different for-profit schools in the State of Texas. This Office administers FERPA and provides technical assistance to educational agencies and institutions to ensure compliance with the statute and regulations, which are codified at 20 U.S.C. § 1232g and 34 CFR Part 99 respectively.

You state the students have retained you to investigate and possibly pursue claims against the for-profit schools for misrepresentations regarding the outcome of their courses of study at the schools. You further relate that one of the complaints raised against the schools by your clients relates to representations made to them by admissions representatives concerning job placement outcomes of student graduates. In order to investigate these matters, you seek to review certain forms submitted by the schools to the Texas Work Force Commission (TWC) and other agencies. The forms identify specific graduates of the schools and the employers that allegedly hired student graduates after they completed their programs of study. Accordingly, you ask whether the "identity and job placement outcomes of former students disclosed on TWC form PS072 constitute 'alumni information,' as defined by [§ 99.3 of the FERPA regulations] and, thus, are not protected from disclosure by FERPA." As explained more fully below, the personally identifiable information on students contained in the forms you enclosed is information that is considered "education records" under FERPA and does not fall into the "alumni" exception that you reference.

Postsecondary institutions subject to FERPA may not have a policy or practice of permitting the disclosure of "education records, or personally identifiable information contained therein" without the written consent of eligible students. 20 U.S.C. § 1232g(b)(1) and (b)(2); 34 CFR § 99.30(a). (An "eligible student" is one who is at least 18 years of age or attends a postsecondary institution. See 34 CFR § 99.3.) Under FERPA, "education records" means those records that are:



- (a) Directly related to a student; and
- (b) Maintained by an educational agency or institution or by a party acting for the agency or institution.

34 CFR § 99.3 “Education records.”

Excluded from the definition of “education records” and, thus, from the protection of FERPA are:

- (b)(5) Records created or received by an educational agency or institution after an individual is no longer a student in attendance and that are not directly related to the individual’s attendance as a student.

This provision was added in 2008 and we discussed this clarification in the preamble to the final FERPA regulations published on December 9, 2008 (73 FR 74806, 74811). Specifically, we noted the following:

It has long been the Department’s interpretation that records created or received by an educational agency or institution on a former student that are directly related to the individual’s attendance as a students are not excluded from the definition of “education records” under FERPA, and that records created or received on a former student that are not directly related to the individual’s attendance as a student are excluded from the definition and, therefore, are not “education records.” The proposed regulations in paragraph (b) (5) were intended to clarify the use of this exclusion, not to change or expand its scope.

This type of information, which we informally refer to as “alumni records,” means the type of personally identifiable information related solely to a student’s activities as an alumnus of an educational institution. The exclusion to “education records” is intended to cover records that concern an individual or events that occur after the individual is no longer a student in attendance, such as alumni activities. The exclusion is not intended to cover records that are created and matters that occur after an individual is no longer in attendance but that are directly related to his or her previous attendance as a student, such as a settlement agreement that concerns matters that arose while the individual was in attendance as a student.

We do not believe that the type of information that you are seeking falls into the “alumni records” exclusion in FERPA. Form PS-072A (“Completer Follow-Up Survey”) that you provided contains the type of personally identifiable information on a student that is not excluded from “education records,” such as the student’s name, graduation date, program name, and social security number. In this case, the student provides consent for the information to be provided to the TWC. Forms PS-072B and PS-072C do not appear to contain personally identifiable information on students. Form PS-072D does include personally identifiable

information on students, including social security number and wage information. Historically, even before the change to the FERPA regulations in 2008, the Department has viewed “alumni records” as the type of information that an alumni association of a school might maintain, such as the fact that the student is serving in the military, is the new vice-president of a company, or is head of the alumni fundraising organization. The information that you are seeking appears to be too closely aligned with the student’s attendance at the institution, especially attendance at a for-profit institution that has as part of its mission placing students in jobs. Further, we do not believe that information contained in a record that can only be disclosed to a third party with consent of the student would be considered an “alumni record.”

While some of the information contained in these forms could be designated as “directory information” under FERPA (34 CFR § 99.31(a)(11)), social security number may not be so designated. Further, the institution could only disclose properly designated directory information on a student who has not opted out of the disclosure of directory information. *See* 34 CFR § 99.37.

One exception to the general consent requirement in FERPA that might apply to your situation would be the provision that permits an educational agency or institution to disclose personally identifiable information from students’ education records in compliance with a judicial order or lawfully issued subpoena. In general, a postsecondary institution must make a reasonable effort to notify the student of the subpoena or judicial order before complying with it in order to allow the student to seek protective action, unless certain exceptions apply. 34 CFR § 99.31(a)(9).

I trust this explains the scope and limitations of FERPA as it relates to your inquiry.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

(b)(6)

MAR 15 2011

Dear (b)(6)

This is to respond to your June 9, 2010, letter to this Office in which you allege that the (b)(6) (District) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. § 1232; 34 CFR § 99.

You allege that the above educational agency or institution did not comply with one of the following provisions of FERPA:

- ☐ FERPA's access provision.
- ☒ FERPA's disclosure provision.
- ☐ FERPA's amendment provision.

FERPA provides that an educational agency or institution that receives U.S. Department of Education funds may not have a policy or practice of denying parents or eligible students the right to:

- Inspect and review education records (34 CFR § 99.10).
- Seek to amend education records (34 CFR §§ 99.20, 99.21, and 99.22).
- Consent to the disclosure of personally identifiable information from education records except as specified by law (34 CFR §§ 99.30 and 99.31).

The term "education records" is defined as those records that are directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed for your information are a FERPA Guidance Document and complaint form.

Based on the information you provided this Office, we are unable to investigate your allegation(s) for the following reason(s):

- ☐ Your complaint is untimely. A complaint must be received by this Office within 180 days of the date of the alleged violation or of the date which the complainant knew or reasonably should have known of the alleged violation. (See highlighted portion of the enclosed guidance.)

\_\_\_\_ While FERPA requires that a parent or eligible student be provided an opportunity to inspect and review education records, the law would only require that a school provide a copy of the records or make other arrangements for inspection of the records if certain circumstances exist. (See highlighted portion of the enclosed guidance.)

☒ FERPA permits educational agencies and institutions to disclose education records to school officials with legitimate educational interest and other specified parties without consent. (See highlighted portion of the enclosed guidance.)

☒ You have not provided sufficient information for this Office to determine that a violation of FERPA may have occurred. (See enclosed guidance.)

\_\_\_\_ Requests to modify a grade, opinions included in education records, and other substantive decisions are not subject to FERPA's amendment provision. (See highlighted portion of the enclosed guidance.)

Under FERPA, a school may not generally disclose personally identifiable information from a minor student's education records to a third party unless the student's parent has provided written consent. However, there are several exceptions to FERPA's general prohibition against nonconsensual disclosure of education records.

One such exception permits a school to nonconsensually disclose information from a student's education records in connection with a health or safety emergency. A school may nonconsensually disclose education records under this exception if knowledge of the information is necessary to protect the health or safety of the student or other individuals.

Specifically, it appears you are alleging that the District disclosed personally identifiable information from the education record of your sons to the local police department without your prior written consent. Further it appears the specific information disclosed were "essay-style tests" which your sons' had taken.

Attached is a December 1, 2009, article which appeared at (b)(6) (your local News 10 television station Website) concerning the increased presence of police officers at (b)(6) Junior Senior High School (School) regarding a written threat that was found on the school campus. Based on the article, the threat was a hand written note in which someone claimed they would come into the school with a gun. The article appeared around the time of the alleged November 29, 2010, disclosure of your sons' education records to the local police.



It appears that the District may have disclosed your sons' written-style essay tests (along with the essay tests of all the other students at the School) to the local police in an effort to determine whether one of the students wrote the threatening note. Please inform us, to the best of your knowledge, whether this is accurate.

I trust this information adequately explains the scope and limitations of FERPA as it pertains to your concerns.

Sincerely,

Ricky C. Norment  
Program Analyst  
Family Policy Compliance Office

Enclosures

(b)(6)

MAR 10 2011

Dear (b)(6)

This is in response to your recent letter to this Office regarding the Family Educational Rights and Privacy Act (FERPA) in which you allege that Fitchburg Public Schools violated your rights when it denied you access to your child's performance criteria relative to his Individualized Education Plan. This Office administers FERPA which pertains to education records. However, it appears that some of the concerns you have raised may be addressed by the Individuals with Disabilities Education Act (IDEA). Although IDEA is a Federal law, it is administered by the states. For further information regarding IDEA, you may contact:

Ms. Marcia Mittnacht  
State Director of Special Education  
Special Education Planning and Policy  
Development Office  
Massachusetts Department of Education  
350 Main Street  
Malden, Massachusetts 02148-5023  
Telephone: (781) 338-3388

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

(b)(6)

MAR 10 2011

Dear (b)(6)

This letter is in response to the correspondence you sent to the U.S. Department of Education, Family Policy Compliance Office (FPCO). FPCO administers the Family Educational Rights and Privacy Act (FERPA), which affords parents and eligible students certain rights with regard to education records. Unfortunately the information you provided is not sufficient to determine if there has been a violation of your rights under FERPA.

Enclosed for your reference are a FERPA guidance document and a complaint form. If, after carefully reviewing the guidance document, you believe you do have a timely allegation of a school's failure to comply with your rights under FERPA, please complete the complaint form and return it to FPCO at the following address:

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202 - 8520

Along with the complaint form, please also include the relevant back-up documentation (such as written correspondence received from the school in response to your concern). Please help us assist you in a more timely manner by outlining the relevant facts clearly and succinctly. Please ensure that any handwritten documentation is legible and easy to understand. We will review the information you submit and take any appropriate action. You may also find more information regarding FERPA on our website at: <http://www2.ed.gov/policy/gen/guid/fpc/index.html>.

Please note that due to the large amount of correspondence FPCO receives, we currently have a backlog we are working to resolve. However, your concerns are very important to us and, once we receive additional information, one of our caseworkers will provide you with a response as soon as possible.

Thank you for your patience and understanding.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

(b)(6)

MAR 10 2011

Dear

(b)(6)

This letter is in response to the correspondence you sent to the U.S. Department of Education, Family Policy Compliance Office (FPCO). FPCO administers the Family Educational Rights and Privacy Act (FERPA), which affords parents and eligible students certain rights with regard to education records. Unfortunately the information you provided is not sufficient to determine if there has been a violation of your rights under FERPA.

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Along with the complaint form, please also include the relevant back-up documentation (such as written correspondence received from the school in response to your concern). Please help us assist you in a more timely manner by outlining the relevant facts clearly and succinctly. Please ensure that any handwritten documentation is legible and easy to understand. We will review the information you submit and take any appropriate action. You may also find more information regarding FERPA on our website at: <http://www2.ed.gov/policy/gen/guid/fpc/index.html>.

Please note that due to the large amount of correspondence FPCO receives, we currently have a backlog we are working to resolve. However, your concerns are very important to us and, once we receive additional information, one of our caseworkers will provide you with a response as soon as possible.

Thank you for your patience and understanding.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosures



(b)(6)

Dear (b)(6)

MAR 10 2011

This letter is in response to the correspondence you sent to the U.S. Department of Education, Family Policy Compliance Office (FPCO). FPCO administers the Family Educational Rights and Privacy Act (FERPA), which affords parents and eligible students certain rights with regard to education records. Unfortunately the information you provided is not sufficient to determine if there has been a violation of your rights under FERPA.

Enclosed for your reference are a FERPA guidance document and a complaint form. If, after carefully reviewing the guidance document, you believe you do have a timely allegation of a school's failure to comply with your rights under FERPA, please complete the complaint form and return it to FPCO at the following address:

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202 - 8520

Along with the complaint form, please also include the relevant back-up documentation (such as written correspondence received from the school in response to your concern). Please help us assist you in a more timely manner by outlining the relevant facts clearly and succinctly. Please ensure that any handwritten documentation is legible and easy to understand. We will review the information you submit and take any appropriate action. You may also find more information regarding FERPA on our website at: <http://www2.ed.gov/policy/gen/guid/fpc/index.html>.

Please note that due to the large amount of correspondence FPCO receives, we currently have a backlog we are working to resolve. However, your concerns are very important to us and, once we receive additional information, one of our caseworkers will provide you with a response as soon as possible.

Thank you for your patience and understanding.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosures

(b)(6)

MAR 10 2011

Dear

(b)(6)

This letter is in response to the correspondence you sent to the U.S. Department of Education, Family Policy Compliance Office (FPCO). FPCO administers the Family Educational Rights and Privacy Act (FERPA), which affords parents and eligible students certain rights with regard to education records. Unfortunately the information you provided is not sufficient to determine if there has been a violation of your rights under FERPA.

Enclosed for your reference are a FERPA guidance document and a complaint form. If, after carefully reviewing the guidance document, you believe you do have a timely allegation of a school's failure to comply with your rights under FERPA, please complete the complaint form and return it to FPCO at the following address:

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202 - 8520

Along with the complaint form, please also include the relevant back-up documentation (such as written correspondence received from the school in response to your concern). Please help us assist you in a more timely manner by outlining the relevant facts clearly and succinctly. Please ensure that any handwritten documentation is legible and easy to understand. We will review the information you submit and take any appropriate action. You may also find more information regarding FERPA on our website at: <http://www2.ed.gov/policy/gen/guid/fpc/index.html>.

Please note that due to the large amount of correspondence FPCO receives, we currently have a backlog we are working to resolve. However, your concerns are very important to us and, once we receive additional information, one of our caseworkers will provide you with a response as soon as possible.

Thank you for your patience and understanding.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosures

(b)(6)

MAR 10 2011

Dear (b)(6)

This letter is in response to your June 6, 2010, complaint form and information which you sent to the U.S. Department of Education, Family Policy Compliance Office (FPCO). FPCO administers the Family Educational Rights and Privacy Act (FERPA), which affords parents and eligible students certain rights with regard to education records. Unfortunately the information you provided is not sufficient to determine if there has been a violation of your rights under FERPA.

FERPA is a Federal law that gives parents the right to have access to their minor child's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of information from the records. The term "education records" is defined as those records that are directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed is a copy of a FERPA fact sheet.

This Office investigates those timely complaints that contain specific allegations of fact giving reasonable cause to believe that a school has failed to comply with FERPA. A timely complaint is defined as one that is submitted to this office within 180 days of the date that the complainant knew or reasonably should have known of the alleged failure to comply with FERPA. While it appears that you believe the information disclosed about your child came from his education records, you have not provided sufficient information for this office to determine what specific information from your child's education records was disclosed to a third party or if the information disclosed came from education records and not from hearsay or personal knowledge. Without further specific information, this office is unable to investigate your allegation.

Sincerely,

Bernard Cieplak  
Program Analyst  
Family Policy Compliance Office

Enclosure



(b)(6)

MAR 8 2011

Dear (b)(6)

This is in response to your August 31, 2010, complaint form in which you allege that (b)(6) (b)(6) (District) violated your rights under the Family Educational Rights and Privacy Act (FERPA). Specifically, you allege that on March 29, 2010, you made a request for access to all of your child's education records maintained by the District. Those records included a December 8, 2008, Independent Communication Assessment, all correspondence from you requesting that your child remain in kindergarten, and the District's 2009 hearing decision on the matter. You also allege that the District did not maintain certain records which it promised it would maintain. Finally, you explain that after you filed a complaint with the Maryland Department of Education (MDE) that you were denied access to your child's education records and the issue of records management by the District, the MDE suggested you file a complaint with this Office. This Office administers FERPA which addresses issues that pertain to education records.

FERPA is a Federal law that affords parents the right to have access to their children's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of information from the records. Education records are those records that are directly related to a student and that are maintained by an educational agency or institution or a party acting for the agency or institution. FERPA does not require a school to keep education records for any particular length of time.

While the records to which you are seeking access meet the definition of education records under FERPA (if maintained), they also relate to matters under the Part B of the Individuals with Disability Education Act (Part B). Although it is a Federal law, Part B is administered by the States. While the Part B and FERPA are similar, there may be provisions beyond FERPA that apply to your situation under Part B. Therefore, your complaint would be more appropriately



handled if you file it under Part B with MDE at the below address:

Carol Ann Heath, Ed.D.  
Assistant State Superintendent  
Division of Special Education/  
Early Intervention Services  
Maryland State Department of Education  
200 West Baltimore Street  
Baltimore, Maryland 21201-2595  
Telephone: (410) 767-0238

You can include a copy of this letter with your complaint to the State.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office