

(b)(6)

MAR 8 2011

Dear

(b)(6)

This is in response to your February 2, 2011, letter to this Office in which you express concerns related to your child's special education needs. This Office administers the Family Educational Rights and Privacy Act (FERPA), which addresses issues that pertain to education records.

FERPA is a Federal law that gives parents the right to inspect and review 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. The term "education records" is defined as those records that contain information 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 guidance document and complaint form.

It does not appear that your concerns are addressed by FERPA. Rather, they may be addressed by Part B Individuals with Disabilities Education Act. Although Part B is a Federal law, it is administered by the States. For further information regarding Part B, you may contact:

Mary Watson  
North Carolina Department  
of Public Instruction  
Department of Exceptional Children  
301 N. Wilmington Street  
6th Floor  
Raleigh, NC 27601-2825

However, should you read the enclosed guidance document and still believe your concerns are addressed by FERPA, you may follow the directions on page 6 and 7 of the guidance document for filing a complaint. We will review the information you submit and take any appropriate action.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosures

(b)(6)

MAR 8 2011

Dear (b)(6)

This is to respond to your September 9, 2011, complaint form to this office in which you allege that rights afforded you under the Family Educational Rights and Privacy Act (FERPA) were violated by the (b)(6) (District) when it disclosed certain information about you to third parties without your prior consent. Specifically, you state that (b)(6) a school board member in the District, improperly disclosed on March 25, 2010, to The Independent, a local newspaper, the fact that you enrolled your children in the (b)(6) school open enrollment program. You appear to believe that (b)(6) learned that information from your children's education records and state that he disclosed that information without your prior written consent. You provided this office with a copy of the school's student directory which includes your directory information.

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 directly related to a student and 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 for additional information.

Under FERPA, a school may not generally disclose personally identifiable information from the education records of a student to a third party unless the school has received prior written consent from the parent. One exception to this general prohibition permits the nonconsensual disclosure of "directory information" that has been appropriately designated as "directory information." FERPA defines directory information as information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. Directory information could include information such as name, address, telephone listing, electronic mail address, major field of study, dates of attendance and the most recent educational agency or institution attended, among other items. Based on the information you provided this office, the District identifies both student and parent name, address, telephone, and email address as directory information. You have not indicated that you have opted out your or your child's information from being disclosed as directory information. Accordingly, the District would be permitted to share directory information to third parties, including school officials, without your prior written consent.

Also, FERPA applies to the disclosure of tangible records and of information derived from tangible records. FERPA does not protect the confidentiality of information in general, and, therefore, does not apply to the disclosure of information derived from a source other than education records, even if education records exist which contain that information. As a general rule, information that is obtained through personal knowledge or observation, and not from an education record, is not protected from disclosure under FERPA. You have not provided sufficient information for this office to determine that an improper disclosure from your children's education records occurred. After examining the information you provided to this office, it is not apparent that the information allegedly disclosed came from your children's education records, but may have been learned through personal knowledge, observation, or another public source. In many instances, information such as address is available in public records (i.e. local and State real estate records), which would probably include the school district for a particular address. Accordingly, no basis exists for this office to investigate your allegation that the District disclosed information from your children's education records.

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

Sincerely,

Bernard Cieplak  
Program Analyst  
Family Policy Compliance Office



Rev. Brian J. Stanley, O.P.  
President  
Providence College  
549 River Avenue  
Providence, Rhode Island 02918

MAR 7 2011

Dear Rev. Stanley:

This is in regard to a concern addressed to this Office by (b)(6) (Student), a student at Providence College (College) and president of the Student Conduct Advisory Organization at the College. The Student alleges that Providence College (College) has a practice of violating the Family Educational Rights and Privacy Act (FERPA) by disclosing information from student education records to third parties without the students' prior written consent. This Office administers FERPA which addresses issues that pertain to education records.

Specifically, the Student alleges that the College's Office of Student Conduct has a practice of holding internal conduct hearings for several students at one time. That is, if several students are cited for similar violations of College policies regarding conduct, the Office of Student Conduct may hold one hearing for all the students instead of holding an individual hearing for each student. According to the Student, a hearing official reads aloud the conduct violation for which a student has been cited at the beginning of the hearing. Afterwards, the student is permitted to make a statement and present evidence, and the hearing official may ask the student to respond orally to questions the hearing official may have. At the end of the hearing, the hearing official announces his or her ruling regarding the conduct violation for which the student was cited.

In the Student's letter to this Office, he states:

... Although these students were being charged with the same violation, possession of alcohol, each charge resulted from individual instances where they received their charge. Again, these students all received write-ups or citations, but they did not necessarily occur simultaneously, and are therefore treated as individual cases. Accordingly, as these hearings with multiple students were held, many students were not aware that the person sitting next to him or her was cited or received a write-up. As a result, each student was able to ascertain each other's citation or write up in addition to the facts surrounding them, without having given any consent.

... it is important to note that on the morning of December 7, 2010, I communicated my concerns about the group hearings to (b)(6) [associate dean of the Office of Student Conduct], as well as several other PC administrators via e-mail ... Although I



highlighted the issue that these hearings were in violation of FERPA, the OSC continued to hold group hearings . . .

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 who has not suffered an alleged violation. Thus, we require that a parent or eligible student have "standing," i.e., have suffered an alleged violation in order to file a complaint under FERPA. We are not initiating an investigation into the Student's allegation because the Student does not have standing under FERPA.

However, in addition to conducting investigations of alleged violations of FERPA, this Office also provides educational agencies and institution with technical assistance to ensure they comply with or come into compliance with FERPA. This letter is intended as technical assistance to the College with regard to its alleged practice of holding group conduct hearings on individual student conduct.

FERPA is a Federal law that gives 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. 20 U.S.C. § 1232g; 34 CFR Part 99. The FERPA regulations may be found at: [www.ed.gov/policy/gen/guid/fpco/index.html](http://www.ed.gov/policy/gen/guid/fpco/index.html).

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." 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.

Based on the information provided by the Student, it appears that in the group, internal conduct hearings, the College is improperly disclosing for each student, at a minimum: the conduct violation for which the student has been cited and the hearing official's ruling regarding the alleged conduct violation. Also, it is very likely that the hearing official may be disclosing additional information from a student's education records during any oral questioning of the student by the hearing official.

The College should ensure that its internal conduct hearings are held in compliance with FERPA. If the College wants to continue to hold group conduct hearings, it may do so only with the prior written consent of each student involved in the hearing for disclosure of information from his or her education records to all the other students. Otherwise, the College should discontinue holding the group conduct hearings for students.

I hope the above information is helpful in explaining the requirements of FERPA as it relates to the issues raised by the Student. If you have any questions or concerns regarding this technical assistance, you may contact Mr. Ricky Norment of my staff at 202-260-3887.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

(b)(6)

MAR 7 2011

Dear (b)(6)

This is in response to your January 31, 2010, letter to this Office in which you allege that (b)(6) (College) has a practice of violating the Family Educational Rights and Privacy Act (FERPA) by disclosing information from student education records to third parties without the students' prior written consent. Specifically, you allege that the College's Office of Student Conduct has a practice of holding internal conduct hearings for several students at one time and discloses information from each student's education records to the other students in the hearing. 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. Under FERPA, a school may not generally disclose personally identifiable information from a student's education records to a third party unless the student has provided written consent. Enclosed for your information is a FERPA guidance document.

This Office requires that a student have "standing," i.e., have suffered an alleged violation in order for us to initiate an investigation of an alleged violation of FERPA. Since you are not alleging that the College violated your rights with regard to the alleged disclosures of education record in the conduct hearings, you do not have standing with regard to your allegation. The statute does not provide for FERPA rights to be vested in a third party who has not suffered an alleged violation.

However, in addition to conducting investigations of alleged violations of FERPA, this Office also provides educational agencies and institutions with technical assistance to ensure they comply with or come into compliance with FERPA. Enclosed for your information is a copy of



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(b)(6)

a letter of technical assistance from this Office to the College regarding your concern.

I trust that this action is responsive to your concerns.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosure

Ms. Lynn Marie Firehammer  
Part C Coordinator  
Early Steps  
Children's Medical Services  
Florida Department of Health  
4052 Bald Cypress Way SE Bin # A06  
Tallahassee, Florida 32399-1707

**MAR 7 2011**

Dear Ms. Firehammer:

This is in response to your letter, dated February 14, 2011, regarding the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. § 1232g; 34 CFR Part 99. FERPA is a Federal law that applies to educational agencies and institutions that receive funds from any program administered by the Secretary of Education. 34 CFR § 99.1. FERPA protects the privacy of "education records" on "students" that attend such educational agencies and institutions. See the definitions of these terms in 34 CFR § 99.3.

In your letter, you ask several questions that relate to records that are subject to Part C of the Individuals with Disabilities Education Act (IDEA). As I noted in my February 15<sup>th</sup> email to you, Part C has its own confidentiality provisions which will apply to your inquiry. Because this office administers FERPA and not Part C of IDEA, we have referred your letter to the following official:

Jennifer Sheehy  
Director, Office of Policy and Planning  
Office of Special Education and Rehabilitative Services  
U. S. Department of Education  
(202) 245-7520  
[Jennifer.sheehy@ed.gov](mailto:Jennifer.sheehy@ed.gov)

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

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

(b)(6)

**MAR 7 2011**

Dear (b)(6)

This is in regard to your July 28, 2010, letter to the (b)(6) Department of Education, a copy of which you provided this Office. In your letter to us, you state that you are seeking to "appeal the decision of the (b)(6) School administration" and seeking to amend your child's education records under the Family Educational Rights and Privacy Act (FERPA). 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. When a student reaches the age of 18 or attends an institution of postsecondary education, that student is deemed "eligible" and all of the rights afforded by FERPA transfer from the parents to the student. Because your child is over 18 years of age, the rights under FERPA belong to him.

Nevertheless, the issues of concern to you relate to special education services of your child under Part B of the Individuals with Disabilities Education Act (Part B). Although Part B is a Federal law, it is administered by the states. Therefore, you were correct in directing your complaint to the Virginia Department of Education.

I regret that this Office cannot be of assistance to you regarding your concerns.

Sincerely,

Ingrid Brault  
Management and Program Analyst  
Family Policy Compliance Office



(b)(6)

MAR 7 2011

Dear (b)(6)

This is in response to your recent letter to this Office regarding the Family Educational Rights and Privacy Act (FERPA). You allege that the (b)(6) Department of Education in Maryland violated your rights when it did not provide you copies of video sessions of your child with the Department's speech language pathologist and his teacher of the deaf. You state that your child is two and a half years old. This Office administers FERPA which pertains to education records.

FERPA applies to educational agencies and institutions that receive Federal funds from programs administered by the U.S. Department of Education (Department). The term "student" is defined as any individual who is or has been in attendance at an educational agency or institution. It does not appear that your concern is addressed by FERPA. Rather, it appears that some of the concerns you have raised may be addressed by Part C of the Individuals with Disabilities Education Act (Part C). Although Part C is a Federal law, it is administered by the states. For further information regarding Part C, you may contact:

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

Sincerely,

Ingrid Brault  
Management and Program Analyst  
Family Policy Compliance Office

(b)(6)

MAR 2 2011

Dear (b)(6)

Thank you for your letter, which we received on February 23, 2011, concerning allegations that your rights under the Family Educational Rights and Privacy Act (FERPA) were violated.

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. Under FERPA, parents must provide a signed and dated written consent before an educational agency or institution discloses personally identifiable information from a student's education records, except as authorized by law. When a student reaches the age of 18 or attends an institution of postsecondary education, that student is deemed "eligible" and all of the rights afforded by FERPA transfer from the parents to the student.

This office investigates those timely complaints containing specific allegations of fact giving reasonable cause to believe that a violation of FERPA has occurred. A complaint is timely if it is submitted to this Office within 180 days of the alleged violation or of the date that the complainant knew or reasonably should have known of the alleged violation.

In your case, the rights under FERPA concerning your education records belong to your parents because you are not yet 18 years old. Therefore, your parent(s) would have to file a complaint with this office concerning an allegation that their rights under FERPA were violated when this disclosure took place. Enclosed are a complaint form and a guidance document for parents about FERPA. Should they decide to file a complaint on this matter, we will review the information they provide and take any appropriate action. Otherwise, in order to address your concern, we could provide the school with technical assistance in this matter.

Thank you again for your letter. We trust that this adequately explains the scope and limitations of FERPA as it pertains to your complaint.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosures

(b)(6)

MAR 2 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 January 24, 2011. In that complaint, you are alleging that (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 a 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. In this case, we will not open an investigation into your complaint because it is not clear that the information allegedly disclosed by the University is not appropriately designated directory information.

The provisions of 34 CFR Part 99, Subpart D of the FERPA regulations 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.

One such exception permits an institution to disclose information that has been appropriately designated as directory information. "Directory information" is defined as information included in the education records of a student which would not generally be considered harmful or an invasion of privacy if disclosed. Directory information includes, but is not limited to, a student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, dates of attendance, grade level, enrollment status (e.g., undergraduate or graduate, full-time or part-time), participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors and awards received, and the most recent educational agency or institution attended.

A school may disclose directory information to a third party without consent if it has given public notice of the types of information it has designated as directory information, a student's right to refuse to let the school designate any or all of that information about the student as directory information, and the period of time within which a student has to notify the school in writing that he or she does not want any or all those types of information about the student designated as directory information. A school is required to provide its notice regarding directory information annually to students in attendance.

If you wish this Office to further consider your allegation, we need to receive additional information from you. It appears you are alleging that the University nonconsensually disclosed to your employer, (b)(6), that "you were enrolled in the (b)(6) program and performing an internship as a requirement for this program." Please provide us with evidence that you opted out of directory information at the University or evidence that the University does not designate student name, dates of attendance, enrollment status, and major field of study as directory information. Please provide us with the requested information along with the name and address of the president of the College. We will review the information you submit and take any appropriate action.

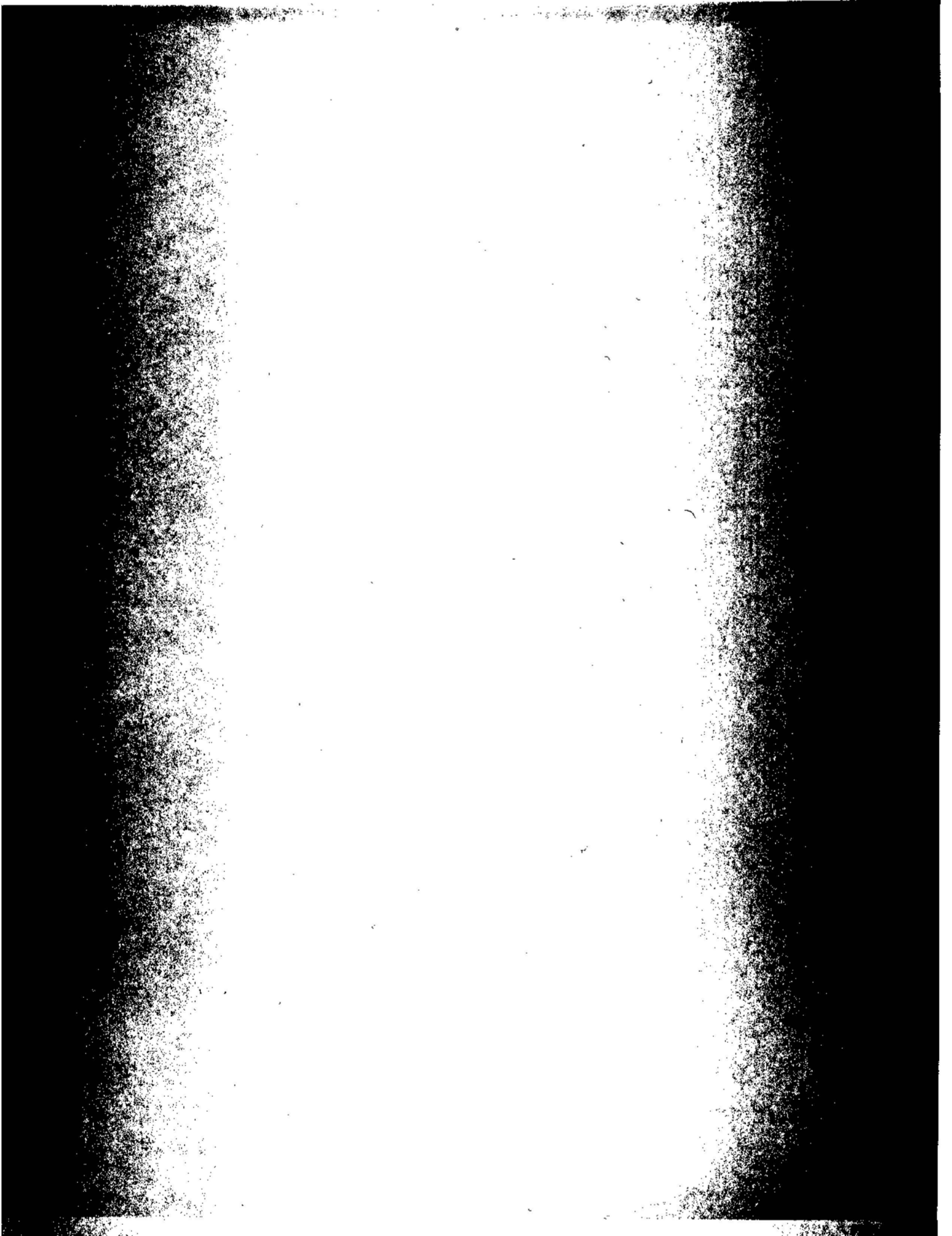
If you have questions regarding this matter, you may contact me as follows:

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

Enclosures







(b)(6)

JUN - 1 2011

Dear

(b)(6)

This is to respond to your November 11, 2010, letter to this office in which you allege that rights afforded you under the Family Educational Rights and Privacy Act (FERPA) were violated by (b)(6) (University) when it denied you access to your education records. This office administers FERPA, which addresses issues pertaining to education records.

This office responded to concerns you raised in your May 5 and July 30, 2010, letters on November 4, 2010. In our response, we informed you that the University's refusal to provide you copies of your education records did not appear to be a denial of access. Rather, it appears that the University offered you an opportunity to inspect and review your education records as required by FERPA. In fact, by letter dated April 9, 2010, (b)(6), association university counsel, asked you to contact her paralegal to "schedule a mutually convenient date and time for you to inspect" your education records.

In the interim after our response was sent you to, it appears that you temporarily visited the United Kingdom and that you again requested the University to provide you with copies of your education records while you were overseas. In response, it appears that the University offered to provide you with access by scheduling an appointment for you to inspect and review your records upon your return to New York. In your November 11, 2010, letter to us, you indicated that the University violated your rights under FERPA when it failed to provide you with copies, because you state that you temporarily resided outside of commuting distance.

Under FERPA, a school is not required to provide copies of education records to a student unless a failure to do so would effectively prevent the student from exercising the right to inspect and review the records. For example, a school is required to provide copies, or make other arrangements for inspection and review, if the student does not live within commuting distance of the school.

Due to the passage of time, the fact that you are back in New York, and the fact that the University has asked that you contact them to make arrangements to inspect and review your education records, we are not initiating an investigation into your allegations. However, if in the future you write to the University and specify the records that you are seeking, and the University fails to provide you with access, you may complete the enclosed complaint form,

Page 2

(b)(6)

including a copy of your written request along with a response from the University, if any, and forward it to this office. If you are still not in commuting distance of the University and the University does not either provide you with copies or appropriately make arrangements for you to inspect and review the records, please clearly indicate that to us in your correspondence. Once we receive your complaint, we will consider the information and take any appropriate action.

I trust this addresses your concerns as they relate to the scope and limitations of FERPA.

Sincerely,

Bernard Cieplak  
Program Analyst  
Family Policy Compliance Office

Enclosure

(b)(6)

JUN - 3 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 20, 2007, and again on April 26, 2011. In that complaint, you are alleging that (b)(6) (b)(6) (University) violated the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g. You are an associate professor in the (b)(6) (b)(6) (COPHS) -- not a student.

In your letters, you state:

... I also allege that the action of the [University's] Administration, relative to this matter, is part of an on-going pattern of **intimidation, harassment, and retaliation** that is being perpetrated against me by COPHS Administrators and the Provost of [the University] since I participated in protected activities when I (a) sent a written testimony in support of a student's complaint (against COPHS) which was filed with the U.S. Department of Education, Office for Civil Rights (OCR) in Dallas, Texas; (b) filed a complaint of discriminatory practices and retaliation by COPHS with OCR in Dallas, Texas; and (c) wrote an expose on the mismanagement of education at the COPHS. ...

[Emphasis supplied.] These issues are not addressed by FERPA and will not be discussed in this letter.

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 colleges and other postsecondary institutions to achieve their voluntary compliance with FERPA's requirements. Following a review of the allegations and evidence submitted by a complainant, this Office may initiate an administrative investigation by sending the college and the complainant a notification letter about the allegation, and requesting a written response from the college concerning the allegation. If this Office then determines that a college is in violation of FERPA, the college and the complainant are so advised by a letter of finding which contains corrective actions to be taken by the college 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 college take punitive or disciplinary action against an individual as the result of a FERPA violation. This Office closes its investigation when the college has completed the required corrective actions.

In this case, we will not open an investigation into your complaint because your allegation does not meet FERPA's standing requirement described in (a), above. Only a parent or eligible student (as defined in 34 CFR §99.3) has rights protected by FERPA. FERPA does not vest these rights in any third party. An individual must have suffered an alleged violation of his own protected rights, in order to file a valid complaint under FERPA. The FERPA rights in the education records you describe belong to the students listed in the attachment to your May 9, 2007, memorandum.

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.

Notwithstanding the fact that you do not have standing under FERPA, you have not provided sufficient evidence to support your allegation. You allege that the University violated FERPA when it disclosed your May 9, 2007, memorandum and attachment to a female student in attendance in COPHS. In addition to the female student's name and several of her grades, your attachment to the memorandum contains the names and grades of a multitude of other students in attendance in COPHS.

As evidence to support your allegation, you provided this Office with a copy of a May 17, 2007, memorandum from (b)(6), an attorney for the female student, to (b)(6) of the (b)(6). However, (b)(6) letter only

mentions having received and viewed a copy of your May 9, 2007, memorandum – not the attachment. Thus, you did not provide specific evidence that the University provided the female student and her attorney with the attachment which includes the students' names and grades.

Since you do not have standing regarding your allegation, there is no basis for this Office to 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,

Ricky C. Norment  
Program Analyst  
Family Policy Compliance Office

JUN - 6 2011

Honorable Gary Miller  
Member, United States House of  
Representatives  
1800 East Lambert Road, Suite 150  
Brea, California 92821

Dear Mr. Miller:

This is in response to your May 19, 2011, correspondence regarding concerns raised by one of your constituents, (b)(6) under the Family Educational Rights and Privacy Act (FERPA). Your inquiry was referred to the Family Policy Compliance Office for response because, as you know, we administer FERPA.

Specifically, you asked for any assistance we could provide in resolving the issues raised by (b)(6) in his May 18, 2011, letter to you. Enclosed is a letter dated June 6, 2011, to him that outlines the scope and limitations of FERPA as it relates to his concerns.

I trust that this is responsive to your inquiry. If you have any questions, please do not hesitate to contact this office at 202-260-3887.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office



JUN - 6 2011

(b)(6)

(b)(6)

This is in response to your February 22 and March 22, 2011, letters to this office, your May 18, 2011, letter to Congressman Miller, and your May 18, 2011, letter to Secretary Duncan regarding the Family Educational Rights and Privacy Act (FERPA). Specifically, in your February 22 letter, you allege that the (b)(6) (District) denied you access to your daughter's education records. In your March 22 letter, you allege that the District improperly discloses education records of all its students. As you know, this office administers FERPA, a Federal law that 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. FERPA prohibits the improper disclosure of information derived from education records. Therefore, information that is based on opinion or hearsay and not specifically contained in education records would not be protected under FERPA.

With respect to your allegation that the District improperly discloses education records of all its students, you provided copies of newsletters that the District has released. However, any disclosures relative to students therein, all appear to fit FERPA's permissible disclosure as directory information. While FERPA generally prohibits the nonconsensual disclosure of information derived from education records, there are exceptions to the general prohibition, one of which permits the nonconsensual disclosure of "directory information" that has been appropriately designated as such by the educational agency or institution.

In this regard, FERPA defines directory information as information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. Directory information could include information such as the student's name; address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; grade level; enrollment status (e.g., undergraduate or graduate, full-time or part-time); dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors and awards received; and the most recent educational agency or institution attended.



A school may disclose directory information to third parties without consent if it has given public notice of the types of information which it has designated as "directory information," the parent's right to restrict the disclosure of such information, and the period of time within which a parent has to notify the school in writing that he or she does not want any or all of those types of information designated as "directory information." The means of notification could include publication in various sources, including in a newsletter, in a local newspaper, or in the student handbook. A school is not required to individually notify parents regarding directory information.

With respect to your allegation of denial of access to your daughter's education records, when a student reaches the age of 18 or attends an institution of postsecondary education at any age, that student is deemed "eligible" and all of the rights afforded by FERPA transfer from the parents to the student. In this regard, the age of your daughter is not clear to us. Even if your daughter is 18 years of age and receiving services under Part B of the Individuals with Disabilities Education Act (Part B), depending on certain circumstances, you may have additional rights under Part B. Although Part B is a Federal law, it is administered by the States. Regarding your allegation against the District that it denied you access to her education records relative to her Individualized Education Program, you should contact your State department of education at the following:

Dr. Alice D. Parker  
Assistant Superintendent of Public Instruction  
State Director of Special Education  
California Department of Education  
1430 N. Street, Suite 2401  
Sacramento, California 94244-2720  
Telephone: (916) 445-4602

Please note, this office investigates specific allegations of fact giving reasonable cause to believe that a violation of FERPA has occurred. Additionally, it is unclear whether or not you are taking legal action against the District or vice-versa. It is the policy of this office that if any of the issues in the litigation relate to FERPA, we need to know the decision of the court before we can further consider them. In this regard, if a party commences litigation in court involving the subject matter of an alleged FERPA violation, this office would not investigate that alleged violation prior to a decision by the court. Generally, once the allegation in question is no longer the subject of such litigation, this office will again consider the allegation upon request. The results of the litigation are considered in determining what action the Department will take. Thus, this office cannot fully consider your complaint until you have clarified whether any litigation is on-going between you and the District and whether such litigation involves your FERPA allegation. Therefore, please inform this office about the nature of any on-going litigation against the District. We will review the information you provide and take any necessary action.

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.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Ms. Meg Kieran  
Attorney  
Gartland, Nelson, McCleery, Wade & Walloch, P.C.  
44 Club Road  
Suite 200  
Eugene, Oregon 97401

**JUN 14 2011**

Dear Ms. Kieran:

This responds to your April 5, 2011, letter as legal representative for Lane Community College (College) asking for advice regarding the Family Educational Rights and Privacy Act (FERPA), as well as your June 6, 2011, telephone conversation with Ms. Kathleen Wolan of this Office. Specifically, you ask for answers to three questions "regarding the application of FERPA to the [Classified] Union's [(Union)] requests for student worker information." You have also requested that we advise whether the actions in the proposed Settlement Agreement (Agreement) would permit the College to fulfill the Union's information requests.

As you described in your telephone discussion with my staff, the Union has filed a complaint with Oregon's Employment Relations Board (Board) that asks the Board to compel the College to provide the Union with student name and employment information of student workers paid with work-study funds. The Union has requested it be supplied with student name, duties, supervisor, pay rate, hours worked, and number of terms enrolled for all student workers who are provided these positions as part of a financial aid package. These workers must be students of the College, and all are paid by college or federal work-study funds. The College has attempted to respond to the Union's request by providing the information using an "alpha-identifier" for each student in place of the student's name.

The proposed Agreement states that the College will provide the Union with the requested information without the consent of the student workers. The Agreement limits the persons within the Union that may have access to the names of the students. It also requires the documents containing this information be kept in a locked cabinet and destroyed two years after receipt.

We respond to your questions below. As you are aware, this Office administers FERPA and is responsible for providing technical assistance to educational agencies and institutions regarding issues related to education records.

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 are "education records" under FERPA. 34 CFR § 99.3 ("Education records.") The FERPA regulations specifically state that *those records relating to an individual in attendance at the agency or institution who is*

*employed as a result of his or her status as a student are education records.* Therefore, under FERPA, records of student employees whose employment at the University is contingent on their status as students, are "education records," and, as such, are subject to the FERPA provisions authorizing their disclosure or nondisclosure.

With regard to the disclosure of education records, FERPA generally provides that an educational agency or institution may only disclose a student's education record to a third party if the eligible student has given appropriate written consent. 34 CFR § 99.30. FERPA does provide that written consent is not needed if the disclosure concerns information the educational agency or institution has designated as "directory information," under the conditions described in 34 CFR § 99.37. See 34 CFR § 99.31(a)(11). Directory information could include information such as the student's name; address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; grade level; enrollment status (e.g., undergraduate or graduate, full-time or part-time); dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors and awards received; and the most recent educational agency or institution attended. Generally, directory information cannot be disclosed linked to other, non-directory information about a student. This is the case when a student is receiving need-based financial aid such as work-study funding.

Question 1: May the College provide student worker's names to the Union without the student's consent in response to the Union's requests for student worker information without violating FERPA?

In the circumstances you present, each worker is employed because he or she is a student. Thus, records about the student's employment are education records, and all information in those records is protected by FERPA and may only be disclosed in accordance with FERPA. No exception to consent under FERPA applies in the described circumstances. The exception to consent that permits disclosure of directory information does not apply in the described circumstances. There is no provision in FERPA that permits the requested disclosures to be made based on the conditions in the Agreement that the Union will provide restricted access to the information. It appears that the College must have the student's prior written consent before it may disclose any personally identifiable information from the student worker's education records to the Union.

Question 2: Is the answer to question number 1 the same if the student worker is working at the College pursuant to a federal financial aid work-study grant?

The circumstances are unchanged, and our answer remains the same. The College must have the student's prior written consent before it may disclose any information from the student worker's education records to the Union. No exception to the need for consent appears to apply in the described circumstances.



JUN 14 2011

(b)(6)  
Dear (b)(6)

We are writing to confirm our telephone discussion of May 6, 2011, in which you were informed 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 17, 2010. In that complaint you alleged that the (b)(6) (School) violated the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 CFR Part 99.

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>. As you requested, a copy of a Guidance Document for Parents and a FERPA complaint form are enclosed.

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.

FERPA specifies 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. The information you provided does not contain evidence that an improper disclosure of education records by the School actually occurred. Without such evidence, there is no cause for this Office to initiate an investigation of your allegation.

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 M. Wolan  
Program Analyst  
Family Policy Compliance Office

Enclosures

(b)(6)

JUN 14 2011

Dea

(b)(6)

This is to respond to your March 15, 2011, letter to this office in which you allege that rights afforded you under the Family Educational Rights and Privacy Act (FERPA) were violated by the (b)(6) (University) when it did not amend certain unidentified education records in regard to your February 25, 2011, written request. Specifically, you state that you have written to (b)(6) legal counsel at the University, and (b)(6) of the University, to request amendment. However, you have not provided this office with a copy of any letter to verify that the University received any such request. 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 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, whenever a student becomes eighteen years of age or attends a postsecondary institution, all rights once afforded to the parents transfer to the student. Enclosed is a copy of a FERPA fact sheet for additional information.

You have not provided this office with sufficient information for us to investigate your allegation. In order for this office to consider your allegation, additional information is needed from you. Specifically, you have not provided this office with a copy of your February 25, 2011, request to the University. Additionally, please identify which of your education records you identified in your February 2011 request to the University are subject to FERPA's amendment provision and explain why you believe those education records are subject to FERPA's amendment provision. Please provide the needed information to this office within 4 weeks after you receive this response. Once this office receives and reviews the above needed information, we will consider it and take any further appropriate action.

Sincerely,

Bernard Cieplak  
Program Analyst  
Family Policy Compliance Office

Enclosure



(b)(6)

**JUN 13 2011**

Dear

(b)(6)

This is to respond to your March 4, 2011, complaint form to this office in which you allege that rights afforded you under the Family Educational Rights and Privacy Act (FERPA) were violated by the (b)(6) (District) when it disclosed certain information from your education records to a third party. Specifically, you state that (b)(6) superintendent of the District, disclosed information to a military recruiter at the time when you were being processed by the Marine Corps in its early entry program. This office administers FERPA, which addresses issues pertaining 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" is defined as those records 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, whenever a student becomes eighteen years of age or attends a postsecondary institution, all rights once afforded to the parents transfer to the student. It appears that you are an eligible student (i.e. at least 18 years of age).

Under FERPA, a school may not generally disclose personally identifiable information from the education records of a student to a third party unless the school has received prior written consent of the party who holds rights under FERPA. As stated in this office's February 9, 2011, response, when an individual is accepted in the military's early entry program, applicants who are eligible students provide consent which allows for disclosures of education records. If consent was provided in this instance, no violation of FERPA occurred. It appears that you provided your consent to the military which allowed the District to disclose your education records as part of the recruitment process. You have provided no information to dispute this assertion. Accordingly, no basis exists for this office to investigate your allegation.

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

Sincerely,

Bernard Cieplak  
Program Analyst  
Family Policy Compliance Office



Mr. Bob Mosier  
Public Information Officer  
Anne Arundel County Public Schools  
2644 Riva Road  
Annapolis, Maryland 21401

JUN 14 2011

Dear Mr. Mosier:

This is to respond to your February 22, 2011, letter to this office in which you requested information regarding the Family Educational Rights and Privacy Act (FERPA). Specifically, you request guidance relating to FERPA, which permits schools to disclose certain student information as directory information to third parties. 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 directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed is a copy of a FERPA regulations and guidance document for parents.

Under FERPA, educational agencies and institutions must annually notify parents of their rights. In this regard, schools are required to notify parents of the right to inspect and review their child's education records and the procedure to do so; the right to seek amendment of records the parent believes are inaccurate and the procedure to do so; and the right to consent to disclosures of education records except to the extent FERPA authorizes disclosure without consent. The notification must also inform parents of their right to file a complaint with this office and it must include a specification of criteria for determining who are school officials and what constitutes a legitimate educational interest in education records. A school is not required to notify parents individually, but rather is required to provide the notice by any means that are reasonably likely to inform parents of their rights. These means could include publication in the school activities calendar, newsletter, or student handbook.

Under FERPA, a school may not generally disclose personally identifiable information from the education records of a student to a third party unless the school has received prior written consent from the parent. One exception to this general prohibition permits the nonconsensual disclosure of "directory information." FERPA defines directory information as information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. Directory information could include information such as name, address, telephone listing, electronic mail address, major field of study, dates of attendance and the most recent educational agency or institution attended, among other items.

Page 2-- Mr. Bob Mosier

This office has reviewed the District's annual notice of FERPA that was included in its 2010-2011 Parent Handbook. Based on this document, student telephone number is not included as a directory information item. Therefore, in order for the District to disclose telephone numbers to a third party in compliance with FERPA, the District would be required to obtain a parent's prior written consent as discussed above or designate telephone number as directory information in the District's annual notice of FERPA. As discussed with you previously, you may also wish to consult appropriate State officials to determine if any statutes or policies affect the District's ability to comply with third party requests for student information.

I trust that this addresses the issues you raised as they relate to FERPA.

Sincerely,

Bernard Cieplak  
Program Analyst  
Family Policy Compliance Office

Enclosures

JUN 13 2011

(b)(6)

Dear (b)(6)

This is to respond to your April 19, 2011, letter to this office in which you allege that the (b)(6) (b)(6) (District) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA) when it disclosed information to the parent of your children without your prior written consent. Specifically, you learned since March 28, 2011, that the District superintendent disclosed information from your children's education records based on a Facebook transcript of (b)(6) the parent of your children. This office administers FERPA, which addresses issues pertaining to education records.

FERPA is a Federal law that gives custodial and noncustodial parents alike the right to have an opportunity to inspect and review 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. The term "education records" is defined as those records 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 is a FERPA guidance document for parents. You may also find more information regarding FERPA on our website at: <http://www2.ed.gov/policy/gen/guid/fpco/index.html>.

You have provided no information to indicate that (b)(6) parental rights have been severed by the court as discussed above. In fact, information which you provided to this office states that both you and (b)(6) "shall have access to all information relating to their children including but not limited to, school records...." See page 17, paragraph 10 of the July 26, 2006, Parenting Plan which you provided to this office. In this instance, the District is required by FERPA to provide (b)(6) a parent, with her children's education records. Accordingly, no basis exists for this office to investigate your allegation that the District improperly disclosed your children's information to her. Finally, (b)(6) decision to post information about your children on Facebook is not addressed by FERPA.

Page 2-

(b)(6)

I trust this addresses the scope and limitations of FERPA as it relates to your allegation.

Sincerely,

Bernard Cieplak  
Program Analyst  
Family Policy Compliance Office

Enclosure



Mr. Mel Sheldon, Jr.  
Chairman  
Tulalip Tribes  
6406 Marine DR  
Tulalip, Washington 98271

**JUN 15 2011**

Dear Mr. Sheldon:

This is in response to your letter, dated May 19, 2011, addressed to Secretary Duncan, in which you provided comments on the proposed regulations for the Family Educational Rights and Privacy Act (FERPA). The Secretary forwarded your letter to this office, the Family Policy Compliance Office, for response because we administer FERPA.

We appreciate your taking the time to provide comments on the proposed changes to the FERPA regulations. Unfortunately, we did not receive your letter in time to include it in the comments that we are considering in our regulatory process. You may review other comments that we received on [www.regulations.gov](http://www.regulations.gov). Thank you again for contacting us about this important matter.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

(b)(6)

**JUN 27 2011**

Dear

(b)(6)

This is in response to your undated letter which this Office received on April 26, 2011, in which you allege that (b)(6) (District) violated your rights under the Family Educational Rights and Privacy Act (FERPA). This office administers FERPA, a Federal law that pertains to education records.

Specifically, you state that on March 16, 2011, a juvenile probation officer contacted you about your son (b)(6) who attends (b)(6) High School). The probation officer said the vice principal of the High School brought up your son's name came up a lot and said that he was "high risk." You explain that the disclosure by the principal occurred at the High School's monthly meeting that is held in conjunction with juvenile services and various other social service agencies. You further explain that no consents exist that would allow for the disclosure of education records by the High School to these agencies under FERPA. In your specific case, you state that "these meetings took place prior to juvenile probation getting a referral on my son." Finally, you allege that on April 21, 2011, the juvenile probation officer asked if your son abused drugs, and that the officer indicated that the High School is disclosing to the community that your son is abusing drugs. You assert which your son has not abused drugs.

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 prohibits the improper disclosure of information derived from education records. Therefore, information that is based on opinion or hearsay and not specifically contained in education records would not be protected under FERPA. It is not clear what, if any, of your son's education records were disclosed to the probation officer or to the local school community.

Accordingly, if you wish to pursue this complaint, please complete the enclosed complaint form and state concisely which of your son's education records were disclosed, on what date and to whom. We will review the information you provide and take any necessary action.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosure

(b)(6)

JUN 27 2011

Dear I

(b)(6)

This is to respond to your February 11, 2011, complaint form to this office in which you state that the (b)(6) (SEA) to which you have written has violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). Specifically, you state that you have made multiple requests to (b)(6) superintendent of public instruction in (b)(6), to provide you with the names of specific school districts at which your children attended but have received no recent response from him. You provide a copy of a November 5, 2009, response from (b)(6) at the SEA in which she advised you to provide her office with legal documentation which verifies that your parental rights remain intact.

As a preliminary matter, a school or department of education is not required by FERPA to provide or create records that are not maintained in response to a parent's request. It is not clear whether or not the SEA maintains your children's education records. Furthermore, as stated in this office's February 15, 2011, response to you (see attached), FERPA affords certain rights to custodial and noncustodial parents alike, records unless there is a court order or other legally binding document which revokes a particular parent's right to those records. In that response, we discussed the scope and limitations regarding a parent's right to access education records of one's children, particularly in circumstances where a school district or in this instance, a State educational agency, believes that an individual may be a risk.

Also, you have not provided this office with sufficient information (i.e. recent court order) which verifies that you are the parent or whether your parental rights have been terminated. Nor have you provided this office with a copy of a recent request you made to the SEA and its response, if any. In order to exercise rights you may have under FERPA if your rights have not been severed by the courts, you should follow the guidance provided in our February 15 response, and write again to the SEA. You should provide the SEA with a copy of the most recent court order or other legally binding document which verifies that your parental or FERPA rights have not been terminated. If the SEA maintains records regarding your children and fails to respond or otherwise denies your request, you may write to this office again. At such time, please provide this office with a dated copy of your request to the SEA which has denied you access, along with a completed complaint form (see enclosed), and copy, if any, of the SEA's response. Once this office receives the needed information, we will take any appropriate action. Without receiving such information from you, this office will be unable to provide you with further assistance in this matter.



Page 2

(b)(6)

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

Sincerely,

Bernard Cieplak  
Program Analyst  
Family Policy Compliance Office

Enclosure

(b)(6)

**JUN 27 2011**

Dear N (b)(6)

This is in response to your letter, dated March 10, 2011, in which you seek access to your child's records maintained by the Head Start program for the 2010-2011 school year at Anacoco Elementary in (b)(6) (District). In this regard you state that on February 15, 2011, you went to the Head Start Building to obtain a copy of your son's Head Start file. However, when you reviewed the file, you state that several incident reports that you had signed during the year were missing. Therefore, you contacted an individual at the Head Start Office who informed you that all the information that the District maintains on your son was in his file to which you had been provided access. This Office administers the Family Educational Rights and Privacy Act (FERPA), which pertains to education records. The other issues you raise in your letter are not addressed by FERPA and, as such, will not be discussed in this letter.

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. Under FERPA, parents must also provide a signed and dated written consent before an educational agency or institution discloses personally identifiable information from a student's education records, except as authorized by law. Enclosed is a guidance document on FERPA for parents.

FERPA applies to educational agencies and institutions that receive Federal funds from programs administered by the U.S. Department of Education (Department). In general, Head Start programs usually receive funds from the Department of Health and Human Services and do not receive funds from programs administered by the Department and are, therefore, not subject to FERPA. However, where a Head Start program is run by a school or school district that is subject to FERPA, any records on a student that the school maintains would be subject to FERPA. As such, a parent would have the right to inspect and review those "education records."

With respect to your request for access to your son's education records, FERPA requires that schools comply with a parent's request for access to his or her children's education records within 45 days of receipt of the request. Additionally, a school 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, a school could be required to provide copies, or make other arrangements, if the parent does not live within commuting distance of the school.

FERPA does not require schools to create or maintain education records, or to re-create lost or destroyed education records. Additionally, FERPA does not require a school to keep education records in any particular file or location. Finally, FERPA would not require a school district to honor a request that education records not be destroyed. However, a school 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 school.

While a school district would be required to conduct a reasonable search for education records, it is the responsibility of the parent to clearly specify the records to which he or she is seeking access. If a parent makes a "blanket" request for a large portion of her child's education records and the parent believes that she has not been provided certain records which were encompassed by that request, she should submit a follow-up request clarifying the additional records she believes exist.

We suggest you write a follow-up letter to the District describing the education records of your son that you believe are maintained by the District but to which you have not been provided access. Once the District responds to you relative to the outstanding records to which you believe you have been denied access, you may contact this Office again. At such time, you may complete the enclosed complaint form and provide the letter you sent to the District and any response received. We will review the information you provide and take any necessary action.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosures

(b)(6)

JUN 27 2011

Dear

(b)(6)

We are writing to confirm our April 28, 2011, telephone conversation in which we informed 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 August 20, 2010. In that complaint you alleged 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) and the Guidance Document for Eligible Students can be found on our website at <http://www.ed.gov/fpc>.

This Office's enforcement process is intended to work cooperatively with postsecondary institutions to achieve their voluntary compliance with FERPA's requirements. Following a review of the allegations and evidence submitted by a complainant, we may initiate an administrative investigation by sending the institution and the complainant a notification letter about the allegation, and requesting a written response from the institution concerning the allegation. If we determine that a postsecondary institution is in violation of FERPA, the institution and the complainant are so advised by a letter of finding which contains corrective actions to be taken by the institution 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 postsecondary institution take punitive or disciplinary action against an individual school official as the result of a FERPA violation. We close the investigation when the institution has completed the required corrective actions.



In this case, we will not open an investigation into your complaint that the University improperly disclosed your education records to third parties when your records from the University's disability office were disclosed to school officials of the University. Your complaint does not provide specific allegations of fact which give this Office reasonable cause to believe that a FERPA violation occurred. In order for this Office to initiate an investigation, a complaint must contain such specific allegations.

FERPA specifies 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. Given the facts alleged, the disclosure you described would generally be authorized because FERPA permits educational agencies and institutions to disclose education records to school officials with legitimate educational interest and other specified parties without consent. (See page 3 of the guidance document on our website.)

As we discussed in our telephone conversation, disability records are education records subject to the privacy protections of FERPA. FERPA does not require extraordinary protection be provided for disability records. You may wish to review a November, 2, 2004, letter from this Office to the (b)(6) (available on our website under "On-Line Library") that discusses the proper handling of disability records under FERPA.

We will not open an investigation into your complaint that the University failed to provide you access to your education records in accordance with FERPA. Your allegation does not meet the FERPA timeliness requirement described in (b), above. The complaint clearly indicates that the alleged violation(s) occurred in 2008. This Office received your complaint in 2010, which was two years after the alleged violation. (34 CFR § 99.64).

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,

Kathleen M. Wolan  
Program Analyst  
Family Policy Compliance Office

(b)(6)

**JUN 27 2011**

Dear

(b)(6)

This is in response to your June 13, 2011, email to Secretary Duncan in which you attach a letter to Congressman Gary Miller that concerns your allegations under the Family Educational Rights and Privacy Act (FERPA). Congressman Miller's office also contacted us on your behalf. Specifically, you were responding to our June 6<sup>th</sup> letter to you which we wrote in response to your allegation that (b)(6) (District) denied you access to your daughter's education records. You also state that the District improperly disclosed personally identifiable information from your daughter's education records.

We have reviewed your allegation that District is violating FERPA when it discloses non-directory type information when it publishes its weekly student recognition bulletin and have determined that specific allegations of fact alleging giving reasonable cause to believe that your rights under FERPA have been violated exist. Accordingly, we will contact the District setting forth your allegation on this matter.

With regard to your allegation that the District has denied you access to your daughter's education records, we need to receive additional information from you before we can contact the District. You state that on several occasions you have demanded your child's records. In this regard, you specify that on September 2010, you asked for all audio recordings of your daughter's IEP meetings and that, on May 9, 2011, you requested a copy of your daughter's transcripts from the District. You also indicate that the District has an ongoing practice of denying you access to your child's education records.

FERPA requires that schools comply with a parent's request for access to his or her children's education records within 45 days of receipt of the request. While a district would be required to conduct a reasonable search for education records, it is the responsibility of the parent to clearly specify the records to which he or she is seeking access. If a parent makes a "blanket" request for a large portion of his child's education records and the parent believes that he has not been provided certain records which were encompassed by that request, he should submit a follow-up request clarifying the additional records he believes exist.

A school 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, a school could be required to provide copies, or make other arrangements, if the parent does not live within commuting distance of the school.

In order to assist you regarding your allegation that the District has violated your rights under FERPA because it refuses to provide you access to your child's education records within 45 days of your request, please provide this office a copy of the most recent request(s) you have made for access to your daughter's education records. For example you can provide this Office with a copy of the May 9 request to the District that you reference, and any response received. We will review the information you provide and take any necessary action. If the information you provide sets forth specific allegation of fact giving reasonable cause to believe that your rights under FERPA have been violated, we will contact the District setting forth your allegation on this matter as well.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

cc: Congressman Gary Miller



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

(b)(6)

SEP 3 2010

Dear (b)(6)

This is in response to your August 2, 2010, letter to this Office in which you allege that (b)(6) (Academy) violated the Family Educational Rights and Privacy Act (FERPA) when it disclosed personally identifiable information from the education records of the son of your clients, (b)(6) and (b)(6). This Office administers FERPA which addresses issues that pertain to education records.

FERPA is a Federal law that applies to educational agencies and institutions that receive funds from programs administered by the U.S. Department of Education. Private and parochial schools at the elementary and secondary level do not receive such funding and are, therefore, not subject to FERPA. Because the Academy is a private school, it does not appear that it is subject to FERPA. Consequently, there is no basis for this Office to assist you with this matter. Enclosed for your information is a FERPA guidance document.

I trust that the above information is helpful in explaining the scope and limitations of FERPA as it applies to your situation.

Sincerely,

(b)(6)

Ricky C. Norment  
Program Specialist  
Family Policy Compliance Office

Enclosure





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

SEP 9 2010

(b)(6)

Dear (b)(6)

This is in response to your August 12, 2010, letter to this office and in follow-up to telephone conversations that you have had with Regina Miles of my staff regarding the Family Educational Rights and Privacy Act (FERPA). Specifically, you believe that your rights under FERPA have been violated because (b)(6) (College) refuses to provide you with an opportunity to copy your transcript or to transfer your education records, including your transcript, to another school.

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 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 an eligible student with an opportunity to inspect and review his or her education records within 45 days of a request. However, a school is only required to provide *copies* of education records, or make other arrangements for a student to inspect and review his records, if a failure to do so would effectively prevent the student from obtaining access to the records. In order for this office to determine if the College violated your rights under FERPA concerning a request to inspect and review your education records, you will need to provide this office with the following information: 1) A copy of your written request to the school, requesting to inspect and review your education records and 2) a copy of the school's response, if any. We will review the information you submit and take any appropriate action.

As for your request that the College transfer your education records, FERPA does not require that a school forward education records to another school where the student intends to transfer. The exception in FERPA allows a school to transfer education records to a school where a student seeks or intends to enroll but it does not require it. Thus, a school may refuse to transfer education records to another school due to money owed.

Enclosed for your reference is a guidance document on FERPA, as well as a complaint form. You may also find more information regarding FERPA on our website at: <http://www2.ed.gov/policy/gen/guid/fpcg>.

Sincerely,

(b)(6)

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosure

(b)(6)

SEP 9 2010

Dear

(b)(6)

This is to respond to your November 8, 2009, complaint form to this Office in which you allege that (b)(6) (School) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. § 1232; 34 CFR Part 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.)

  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.)

Under FERPA, a school is required to provide a parent with access to his or her child's education records within 45 days of the receipt of a request. A school is not required to provide a parent access to education record immediately upon request. Also, a school is not required to automatically or periodically provide a parent with access to education records, though many schools do provide such access. For example, many schools provide parents automatic and periodic access to student report cards and results of achievement tests. However, as stated, this is not a requirement of FERPA. Rather, FERPA requires a school to comply with each individual request by a parent for access to education records.

In order to exercise your rights under FERPA, I suggest you write to the School and request the specific education records to which you are seeking access. If the school does not provide you with the requested access or fails to contact you within 45 days, you may contact this office. At such time you should provide us with a dated copy of your request to the School, any response from the School, and a completed copy of the 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 client's concerns.

Sincerely,

Ricky C. Norment  
Program Analyst  
Family Policy Compliance Office

Enclosures



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

(b)(6)

SEP 10 2010

Dear

(b)(6)

This is to respond to your November 8, 2009, complaint form to this Office in which you inquire whether (b)(6) (School) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. § 1232; 34 CFR Part 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 is a FERPA guidance document.

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.)
- 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.)

The principal of the School and the superintendent are correct. Once a student turns 18 years of age or attends a postsecondary school, he or she becomes an "eligible student," and all rights under FERPA transfer from the parent to the eligible student. Since your daughter is 18, all rights under FERPA have transferred to her. The School is generally prohibited by FERPA from providing you with access to your daughter's education records unless your daughter provides the School with written consent.

Please see the highlighted portions of the enclosed guidance document for additional information on FERPA as it relates to your concern, including FERPA's dependent student exception. However, as stated in the guidance document, disclosures of information from education records by a school under the dependent student exception are permissive and not required.

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



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

(b)(6)

SEP 10 2010

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 February 9, 2010. In that complaint, you alleged 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>.

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 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. If you wish this Office to further consider your allegation, we need to receive additional information from you.

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.

If you wish this Office to further consider your allegation that (b)(6) head coach of the women's crew team, and (b)(6) assistant coach of the women's crew team, improperly disclosed information from your education records on September 12 and September 15, 2009, please provide us with the following information: the third party to whom your education records were disclosed and the specific nature of the information disclosed from your education records. We will review the information you submit and take any appropriate action.

If you wish this Office to further consider your allegation that (b)(6) "may be sharing confidential information . . . with crew members," please provide us with the date you learned of the alleged disclosure of information from your education records and evidence that such disclosure occurred, such as a signed statement from a member of the crew team to whom such information was disclosed. We will review the information you submit and take any appropriate action.

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 access to education records within a reasonable period of time, but not more than 45 days after the request.

With regard to your allegation that the University failed to provide you access to several e-mails in response to your requests, (b)(6) senior counsel for the University, stated that the University does not maintain the e-mails at issue in his December 17, 2009, letter to your mother. Please provide us with any additional evidence you may have that such e-mails were maintained by the University at the time of your request. We will review the information you submit and take any appropriate action.

Page 3 -

(b)(6)

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,

(b)(6)

Ricky C. Norment  
Program Analyst  
Family Policy Compliance Office



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

(b)(6)

SEP 15 2010

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 December 29, 2009. In that complaint, it appears you are alleging that (b)(6) (School) 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>.

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. It not clear from the information you have provided which aspect



of the District's amendment procedure you are alleging is not in compliance with FERPA and caused the District to violate your rights.

Sections 99.20 – 99.22 of the FERPA regulations describe the process for requesting amendment of education records. Generally, parents or eligible students have the right to request that a school correct education records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a hearing. After the hearing, if the school decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information. As such, a school is not required to follow the requirements of the FERPA amendment process when the item is not amendable under FERPA. For example, a school is not required to respond to a request by a parent who is seeking to amend an opinion that a school official has written about his or her child or provide a hearing regarding such an amendment request. The FERPA amendment procedure may be used to challenge facts that are inaccurately recorded. However, it may not be used to challenge a grade, an opinion, or a substantive decision made by a school about a student. FERPA requires only that schools conform to fair recordkeeping practices. It does not provide a means to override the accepted standards and procedures for making academic assessments, disciplinary rulings, or placement determinations.

If you wish this Office to further consider your complaint, we need to receive additional information from you. Please state in a paragraph or two specifically which aspect of the District's amendment procedure you are alleging is not in compliance with FERPA and caused the District to violate your rights. We will review the information you submit and take any appropriate action.

If you have questions regarding this matter, you may contact Ricky Norment of my staff. 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,

(b)(6)

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosure





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

Mr. John P. Welch  
Superintendent  
Highline Public Schools  
15675 Ambaum Boulevard, SW  
Burien, Washington 98166

**SEP 15 2010**

Complaint No. (b)(6)  
Family Educational Rights  
and Privacy Act

Dear Mr. Welch:

This is to inform you that we are closing the investigation of this complaint against the Highline Public Schools (District) by (b)(6) (Parent). The Parent alleged that the District violated the Family Educational Rights and Privacy Act (FERPA).

By letter dated March 16, 2010, this Office informed you that the District violated FERPA when it disclosed personally identifiable information from the education records of the Parent's son to a third party without the Parent's prior written consent. In that letter, we informed you that this office would close the investigation of this complaint upon receipt of evidence and assurance that the District had informed appropriate officials of the requirements of FERPA as it relates to the matters in this complaint. You provided us such assurance by letter dated April 2, 2010. Accordingly, we are closing the investigation of this complaint and will so inform the Parent by copy of this letter.

Sincerely,

(b)(6)

Ellen Campbell

Director

Family Policy Compliance Office

cc: Parent



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

(b)(6)

SEP 16 2010

Dear

(b)(6)

This letter is in response to your July 22, 2010, correspondence to the U.S. Department of Education, Family Policy Compliance Office (FPCO) wherein you expressed concerns about the failure of your child's school to provide you with access to your son's education records. FPCO administers the Family Educational Rights and Privacy Act (FERPA), which affords parents and eligible students certain rights with regard to education records.

FERPA is a Federal law that gives custodial and noncustodial parents alike the right to have an opportunity to inspect and review 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. The term "education records" is defined as 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 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, only 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.

While a school is required to comply within 45 days with each individual request for access, it is not required by FERPA to honor standing requests, to provide immediate access to records, or to send out grades to parents at the end of marking periods. Further, a school is not required to provide information that is not maintained or to create records that do not exist.

Additionally, FERPA would not require a school to provide parents documents such as school calendars, updates, or notices of parent/teacher conferences because such documents are generally not directly related to individual students. Also, FERPA does not address who will attend parent/teacher conferences – such decisions are made at the discretion of local and State officials.

Page 2-

(b)(6)

Enclosed for your information are a FERPA guidance document for parents and complaint form. Please refer to the highlighted text in the enclosed document. You may also find additional information regarding FERPA on our website at: <http://www2.ed.gov/policy/gen/guid/fpcr/>.

We suggest that you write a letter to the appropriate official at your child's school, specifying the particular records to which you are seeking access. If the school fails to provide you access to the requested education records or fails to contact you within 45 days, you may contact this office again. At such time, please complete the enclosed complaint form and also provide us with a dated copy of your request to the school along with any response from the school. We will review the information you submit and take any appropriate action.

Sincerely,

(b)(6)

Bernard Cieplak  
Program Analyst  
Family Policy Compliance Office

Enclosures

Page 2—(b)(6)

I trust this addresses the scope and limitations of FERPA as it relates to your concerns.

Sincerely

(b)(6)

Bernard Cieplak  
Program Analyst  
Family Policy Compliance Office

Enclosure





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

SEP 17 2010

(b)(6)

Dear

(b)(6)

This is in response to your August 20, 2010, letter in which you request that this Office discontinue its consideration of your complaint against the (b)(6) District under the Family Educational Rights and Privacy Act (FERPA). Per your request, this Office has discontinued its consideration of your complaint.

Sincerely,

(b)(6)

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

cc: Margo Olson  
Director of Special Education



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

SEP 20 2010

(b)(6)  
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, due to staff limitations and resources, we are unable to review the quantity of materials you provided. Thus, we are returning the documentation to you.

You indicate in your letter that you have been a student in the Medical Doctoral program at the University of (b)(6) Medical School (University). You also express concern that your rights under FERPA were violated. Specifically you allege: (1) the University did not allow you to start your third year of studies in 2008, (2) put you on mandatory immediate medical leave and required that you have a physical and psychiatric evaluation, (3) suspended you from school in 2009, (4) gave you an arbitrary and capricious grade in your neurology course, and (5) dismissed you from the University in 2010.

FERPA affords parents and eligible students the opportunity to seek amendment of their child's or their education records which they believe contain information that is inaccurate or misleading. While a school is not required to amend a record in accordance with the parent or eligible student's request, it is required to consider the request for amendment of an education record, to inform the parent or eligible student of its decision, and if the request is denied, to advise the parent or eligible student of the right to a hearing on the matter. If, as a result of a hearing, a school decides not to amend the record, then the parent or eligible student has the right to insert a statement in the record setting forth his or her views. That statement must remain with the record for as long as the record is maintained.

This right is not unlimited, however, and a school is not required by FERPA to afford a parent or eligible student the right to seek to change substantive decisions made by school officials, such as grades or other evaluations of a student. This fact is indicated in the legislative history of FERPA. The primary source of legislative history regarding FERPA is contained in the "Joint Statement in Explanation of Buckley/Pell Amendment," Volume 120 of the Congressional Record, pages 39862-39866. The Joint Statement states that FERPA was "not intended to overturn established standards and procedures for the challenge of substantive decisions made by an educational institution." (Emphasis added.) FERPA was intended to require only that educational agencies and institutions

(b)(6)

conform to fair recordkeeping practices and not to override the accepted standards and procedures for making academic assessments, disciplinary rulings, or placement determinations. Thus, while FERPA affords parents or eligible students the right to seek to amend education records which contain inaccurate information, this right cannot be used to challenge a grade or an individual's opinion. Because it appears that the records you are seeking to amend pertain to substantive decisions of the University as discussed above, FERPA's amendment provision does not apply in this instance. Accordingly, no basis exists for FPCO to investigate your allegation that the University failed to consider your request for a hearing to seek to amend your education records.

Thank you for contacting us about this matter.

Sincerely,

(b)(6)

Dann Brittenham  
Management and Program Analyst  
Family Policy Compliance Office

Enclosure



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

(b)(6)

SEP 24 2010

Dear (b)(6)

This is in response to your letter, dated August 9, 2010, addressed to this office, about your daughter's student loans. Please note that we administer the Family Educational Rights and Privacy Act (FERPA). It appears that your concerns would be addressed by the Department's Student Aid Ombudsman, not FERPA. For your information, enclosed is a fact sheet on FERPA.

The Federal Student Aid Ombudsman helps resolve disputes and solve other problems with federal student loans. You may contact the Office of Ombudsman at this address and telephone number:

U.S. Department of Education  
FSA Ombudsman  
830 First Street, NE  
Fourth Floor  
Washington, DC 20202-5144  
1-877-557-2575

You may also go to their website for information: <http://www.ombudsman.ed.gov/>

I trust this information is helpful to you.

Sincerely,

(b)(6)

Ellen Campbell  
Acting Director  
Family Policy Compliance Office





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

(b)(6)

SEP 24 2010

Dear (b)(6)

This is in response to your letter, dated June 29, 2010, as well as your follow-up letter of September 1, 2010, in which you allege that (b)(6) School violated the Family Educational Rights and Privacy Act (FERPA) when a school official disclosed information about your son (b)(6), without your prior written consent. This Office administers FERPA, which addresses issues that pertain to education records. 20 U.S.C. § 1232g; 34 CFR Part 99.

Please note that FERPA applies to educational agencies and institutions that receive funding under any program administered by the U.S. Department of Education. The school your child attends appears to be a "DOD Section 6 school," which means it is funded solely by the Department of Defense under 10 U.S.C. section 2164, and not from program appropriations administered by the Department of Education. Accordingly, FERPA does not apply to your son's education records that are maintained by the DOD school.

Your concern may be addressed by the Department of Defense Education Activity office. The official to whom you may write is noted below:

Mr. Mike Lynch  
Chief, Legislation and Policy  
Department of Defense Education Activity  
4040 North Fairfax Drive  
Webb Building  
Arlington, Virginia 22203

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

Sincerely,

(b)(6)

Ellen Campbell  
Acting Director  
Family Policy Compliance Office



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

SEP 24 2010

(b)(6)

Dear (b)(6)

This letter is in response to your letter, dated September 20, 2010, that you sent to the U.S. Department of Education, 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 attends failed to provide you with copies of your child's education records. You also raise a number of issues relating to your child's special education services and records. FPCO administers FERPA, a Federal law that affords parents and eligible students certain rights with regard to education records.

Under FERPA, parents have the right to have access to their child's 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 with 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 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. Please note that, under FERPA, a school is not required to provide a parent's attorney with access (or copies) of the student's education records; rather, the school is only required to provide the parent with an opportunity to inspect and review his or her child's education records.

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 education records but, rather, has denied you *copies* of those records. Because a school is not generally required to provide a parent or eligible student with copies of education records, it appears that the school has complied with FERPA's access provisions. If this is not the case and the school has not provided you with an opportunity to inspect and review the records in response to a request from you, then you may contact this office again.

(b)(6)

It does not appear that all of your concerns are addressed by FERPA. Rather, they may be addressed by Part B Individuals with Disabilities Education Act (Part B). Although Part B is a Federal law, it is administered by the States. For further information regarding Part B, you may contact:

Ms. Bambi Lockman  
Chief  
Bureau of Exceptional Education and Student Services  
Florida Department of Education  
325 West Gaines Street, Suite 614  
Tallahassee, Florida 32399-0400  
Telephone: (850) 245-0475

If, after a review of the enclosed guidance document you continue to believe your rights have been violated under FERPA, you should follow the directions on page 6 and 7 of the guidance document for filing a complaint. (A complaint form is also enclosed.) 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/fpco>.

Sincerely,

(b)(6)

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosures





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

(b)(6)

SEP 2 2010

Dear

(b)(6)

This is to respond to your August 30, 2010, email in which you request this office to investigate your allegation which you believe pertains to the Family Educational Rights and Privacy Act (FERPA). This office administers FERPA, which addresses issues pertaining to education records.

As you know, this office responded to a June 4, 2010, letter from you on June 28, 2010, which informed you that your request to amend your child's grades, opinions of school officials, and other substantive decisions are not subject to FERPA's amendment provision. In response to your July 25, 2010, email, I spoke with you by telephone on August 2, 2010, and informed you that the information needed for this office to investigate your allegation is currently incomplete and that further information is needed. Specifically, this office needs to receive copies of correspondence between you and your child's school as it pertains to your alleged April 1, 2010, request for access. To date, you have not provided such information to this office. Please provide this necessary information to this office within 2 weeks after you receive this response. Without such information, this office is unable to investigate your allegation and no further action will be taken by this office.

Due to privacy concerns, we do not conduct investigations via email. Therefore, you should transmit the above information and any future inquiries by U. S. mail to the following address:

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



(b)(6)

AUG 11 2010

Dear (b)(6)

This is in response to your June 2, 2010, letter to this Office in which you express concerns related your child's special education needs. This Office administers the Family Educational Rights and Privacy Act (FERPA), which addresses issues that pertain to education records.

FERPA is a Federal law that gives parents the right to inspect and review 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. 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 guidance document on FERPA.

The concerns you raise may be more appropriately addressed by Part B of the Individuals with Disabilities Education Act (Part B). Although Part B is a Federal law, it is administered by the States. For further information regarding Part B, you may contact:

Kathy Clayton  
Director  
Texas Education Agency  
Special Education Unit  
W.B. Travis Building, Room 6-127  
1701 N Congress Avenue  
Austin, TX 78701-1494

I trust that the above information is helpful to you.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosure

(b)(6)

AUG 11 2010

Dear

(b)(6)

This is to respond to your March 11, 2010, faxed correspondence to the U.S. Department of Education, Family Policy Compliance Office (FPCO) in which you express concerns 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. Specifically, you state that a teacher at the District violated FERPA when she stated to a third party that "[she] destroyed your [son's] innocence long ago and because of it none of [his siblings] took [the Advance Placement English Literature course]." 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.

Under FERPA, parents must provide written consent before personally identifiable information is disclosed from their children's education records, unless one of the exceptions to this general consent rule applies. However, FERPA does not protect the confidentiality of information in general; rather, FERPA prohibits the improper disclosure of information derived from education records. Therefore, if a school official disclosed information about a student that is a result of the official's personal knowledge, observation, or hearsay, then that information would not be protected under FERPA. It appears that the information disclosed by was based on opinion and hearsay, not information derived from your son's education records. As such, there is no basis for this office to initiate an investigation into this allegation.

Sincerely,

Bernard Cieplak  
Program Analyst  
Family Policy Compliance Office

Enclosure

(b)(6)

**AUG 11 2010**

Dear (b)(6)

This is in response to your July 19, 2010, letter to this Office in which you express concerns related to your child's special education needs. This Office administers the Family Educational Rights and Privacy Act (FERPA), which addresses issues that pertain to education records.

FERPA is a Federal law that gives parents the right to inspect and review 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. The term "education records" is defined as those records that contain information 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 guidance document and complaint form.

It does not appear that your concerns are addressed by FERPA. Rather, they may be addressed by Part B Individuals with Disabilities Education Act (IDEA). Although Part B is a Federal law, it is administered by the States. For further information regarding Part B, you may contact:

Rebecca Cort  
New York State Education Department  
Vocational and Education Services for Individuals with  
Disabilities  
One Commerce Plaza  
Room 1606  
Albany, NY 12234

However, should you read the enclosed guidance document and still believe your concerns are addressed by FERPA, you may follow the directions on page 6 and 7 of the guidance document for filing a complaint. We will review the information you submit and take any appropriate action.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosures



(b)(6)

AUG 11 2010

Dear Ms. Yano:

This is to respond to your March 7 and June 2, 2010, letters sent to the U.S. Department of Education, Family Policy Compliance Office (FPCO) in which you express concerns that the (b)(6) (College) 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):

- X   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,

Kathleen M. Wolan  
Program Analyst  
Family Policy Compliance Office

Enclosure