



**UNITED STATES DEPARTMENT OF EDUCATION**

**OFFICE OF MANAGEMENT**

**Privacy, Information, and Records Management Services**

May 14, 2014

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

RE: FOIA Request No. 14-01135-F

Dear Ms. Barnes:

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

First, you specifically requested all complaints FPCO has received since January 8, 2009. Per your telephone conversation [with Gregory A. Smith, the Director of the FOIA Service Center, and Regina Miles, the FOIA Coordinator within FPCO] on Friday, May 9, 2014, you were informed that the Department began a preliminary search, and that there are 13,270 individual documents that will need to be searched, collected and reviewed. This does not include the total number of pages for each document. Generally, this type of request will require intensive searching, collecting, reviewing and processing of voluminous agency records in order to be responsive to your request. Under 34 C.F.R. § 5.21(e), this is deemed an unusual circumstance. Due to this unusual circumstance we are unable to process your request within the twenty working-day time limit required by 5 U.S.C. § 552(a)(6)(A). Moreover, the Department anticipates this request could take up to six months to complete processing, which may include releasing some documents in the interim.

The Department also discussed you narrowing the scope of your request in an effort to lessen the amount of potentially responsive records to review and to reduce the amount of time it will take the Department to process your request. As you were informed, a significant narrowing of your request might include specifically seeking complaints that FPCO has received in regards to schools disclosing education records without consent to third parties, such as a contractor, consultant, volunteer or a third party performing institutional services that were investigated by FPCO. You advised the Department that you would like the scope of the request to remain as it is written.

Second, you requested all records detailing the number of investigations FPCO has initiated in response to a complaint since January 8, 2009, as well as all investigations FERPA initiated on its own. Please be advised that FPCO does not readily have this type of information available, as a report will have to be created and, under FOIA, FPCO is not required to create a new record to comply with the Act.

Third, with regard to item 3 of your request for “[a]ll records related to completed investigations since January 8, 2009,” the Department has not yet commenced a search. We endeavor to process your request as promptly as possible and will keep you apprised of our progress. Should you decide to narrow the scope of your request, it may limit the number of potentially responsive records and speed its processing.

The Department has determined that portions of the records responsive to your request may be protected from disclosure pursuant to Exemption 6 of the FOIA, 5 USC § 552 (as amended by the OPEN Government Act of 2007), which pertains to personal privacy interests. Please note that this determination is based on information available to the Department at this time. The precise scope of the Department’s determination may change as we continue to process your request.

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

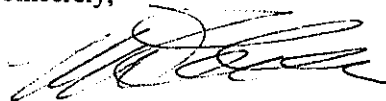
Appeal Address:

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

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

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

Sincerely,



Maria-Teresa Cueva  
FOIA Public Liaison, OM/PIRMS